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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. SPRINGS INDUSTRIES, INC., Defendant.	Civil Action No. D:89-1900-8

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CHARLESTON, S. C.

CONSENT DECREE

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DEPARTMENT OF JUSTICE
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DIVISION
RECORD 42

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ATTACHMENT

RECORD OF DECISION

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IN THE UNITED STATED DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. SPRINGS INDUSTRIES, INC., Defendant.	)	Civil Action No.

CONSENT DECREE

INTRODUCTION

This Consent Decree ("Decree") is made and entered into by and between Plaintiff, United States of America ("Plaintiff"), acting at the request of and on behalf of the Administrator of the EPA, and the Defendant, SPRINGS INDUSTRIES, INC. ("Settlor");

WHEREAS, Plaintiff, United States of America, on behalf of the Administrator of the United States Environmental Protection Agency ("EPA") has filed a complaint against the Settlor pursuant to Sections 104(a) and (b), 106 and 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), 42 U.S.C. Section 9604(a) and (b), 9606 and 9607(a), as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA");

WHEREAS, Plaintiff and Settlor have determined that the remedial actions required by this Decree are necessary to protect the public health, welfare and the environment;

WHEREAS, EPA and Settlor have determined that the actions mandated by this Decree are in accordance with Section 121 of CERCLA, 42 U.S.C. Section 9621, and with the National Contingency Plan ("NCP"), 40 C.F.R. Part 300;

WHEREAS, EPA has determined that the past, present and potential migration of hazardous substances, pollutants or contaminants from the site constitutes an actual or threatened release as defined in 42 U.S.C. Section 9601(22);

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WHEREAS, EPA has determined that the Settlor is qualified to perform these actions and that if these actions are performed in accordance with this Decree, they will be done promptly and properly by the Settlor;

WHEREAS, the Parties, acting in good faith to resolve any potential environmental concerns arising from the Wamchem Site ("the Site") recognize that the public interest is served by this settlement which avoids prolonged and complicated litigation and facilitates expeditious Site remediation;

NOW, THEREFORE, without trial, adjudication or admission of any issue of law, fact, liability or responsibility by Settlor, and without this Decree being admissible as evidence in any proceeding except in a proceeding to enforce the terms of this Decree or as otherwise specifically provided in this Decree, it is hereby ORDERED, ADJUDGED AND DECREED that:

I. STATEMENT OF PURPOSE

The purposes of this Decree are to: (a) protect the public health and welfare and the environment from the release or threatened release of hazardous substances at or from the Site; (b) implement the remedial measures identified in the Record of Decision ("ROD"), and set forth in the Remedial Design/Remedial Action Work Plan ("RD/RA Work Plan"); (c) further the public interest by expediting cleanup at the Site and by avoiding protracted litigation between the Parties; (d) recover costs expended by the United States in response action at the Site, in accordance with Sections XIV and XV of this Decree; and (e) encourage the early and equitable resolution of claims by the United States against the Settlor.

II. JURISDICTION

This Court has jurisdiction over this matter and has personal jurisdiction over all Parties to this Decree pursuant to 28 U.S.C. Section 1345 and 42 U.S.C. Section 9613. Venue is proper in the District of South Carolina because the Settlor resides in and does business in this District and the cause of action arose in this District. The Complaint states a claim on which relief can be granted. The Parties agree to be bound by the terms of this Decree. The Parties further agree not to dispute, challenge or litigate the validity or enforceability of the terms and conditions of this Decree, including its Attachments.

III. PARTIES BOUND

This Decree applies to and is binding upon the Settlor, its officers, directors, agents, employees, successors and assigns and upon the United States and its agencies, including the EPA.

Further, all persons, contractors and consultants acting for or under either Settlor or EPA, on the work required by this Decree, are required to perform such work in accordance with the terms of this Decree. Each undersigned representative of each Party to this Decree certifies that he or she is fully and duly authorized by the Party or Parties whom he or she represents to execute and enter into this Decree and legally bind that party to it. The Settlor shall provide a copy of this Decree to its Contractor(s), and require the Contractor(s) to provide a copy thereof to any subcontractors retained to perform any remedial work. All work and contracts for work undertaken pursuant to this Decree shall be expressly conditioned upon compliance with the terms of this Decree.

IV. DEFINITIONS

The following definitions shall apply to this Decree:

A. Wamchem Site or "the Site" is located in Beaufort County, South Carolina, on U.S. Highway 21 approximately seven miles northwest of Beaufort, South Carolina. The Site means any areas of contamination identified or confirmed in the RI/FS, including any areas subsequently found to include Site generated contaminants.

B. CERCLA means the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601, et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986, Public Law 99-499.

C. Construction means the activities undertaken by Settlor to build, assemble and construct the remedial action.

D. Data Quality Objectives (DQO) for remedial response activities are qualitative and quantitative statements that specify the quality of the data required to support EPA decisions during remedial response activities.

E. Days means calendar days unless otherwise specified herein.

F. Engineering Support Branch Standard Operating Procedures and Quality Assurance Manual means the manual that contains operating and field quality control procedures ("SOP") to be followed during field operations.

G. EPA means the United States Environmental Protection Agency and any of its employees, authorized representatives, agents, consultants, contractors and their subcontractors.

H. Field Studies or Field Work means the activities undertaken by Settlor and/or contractor(s) to (1) obtain data and other information for the design and implementation of the remedial action including, but not limited to, sampling and analysis of surface waters, groundwater, soils and sediments on and around the Site, surveying and checking elevation; (2) drill additional wells and prepare the Site (e.g., grading, installation of roads, fences).

I. Hazardous Substances means any hazardous substance as defined by Section 101(14) of CERCLA, 42 U.S.C. Section 9601(14).

J. The National Contingency Plan ("NCP") means the plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. Section 9605, and codified at 40 C.F.R. Part 300 as amended.

K. Operation and Maintenance or "O & M" means the requirements for continued performance of activities, as necessary, at the Site, after completion of the remedial action to ensure the sustained effectiveness of the remedy.

L. Oversight means the United States' and EPA's inspection and overview of the Remedial Design and Remedial Action activities undertaken by the Settlor and verification of the adequacy of performance of activities and reports of the Settlor as required under the terms of this Decree.

M. Parties means all parties who are signatories to this Decree.

N. Person means any person as defined by Section 101(21) of CERCLA, 42 U.S.C. Section 9601(21).

O. Plaintiff means the United States of America and any of its agencies and departments, including EPA.

P. RCRA means the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Section 6901, et seq., as amended by the Hazardous and Solid Waste Amendments of 1984.

Q. Record of Decision ("ROD") means the document signed by the EPA Region IV Regional Administrator on June 30, 1988, which describes the Remedial Action to be conducted at the Site, and is herein attached as Attachment A, and is incorporated as an enforceable part of this Decree.

R. Release shall be used as the term is defined in Section 101(22) of CERCLA, 42 U.S.C. Section 9601(22).

S. Remedial Action ("RA") means the implementation of the Remedial Design in accordance with the NCP, the ROD and the

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Superfund Remedial Design and Remedial Action Guidance, dated June 1986, including on-site construction, treatment processes, removals, groundwater remediation and monitoring, and any other tasks necessary to effectuate cleanup of the Site.

T. Remedial Action Implementation Plan ("RA Implementation Plan") means the detailed plan and schedule of activities necessary to perform the Remedial Design and Remedial Action. The Remedial Design shall be incorporated into the RA Implementation Plan.

U. Remedial Design ("RD") means all work undertaken to design the technical aspects of the remedial activities to be implemented at the Site which shall be consistent with the ROD, the NCP and the Superfund Remedial Design and Remedial Action Guidance, dated June 1986.

V. Response means "remove, removal, remedy and remedial action" as defined in Section 101(25) of CERCLA, 42 U.S.C. Section 9601(25).

W. Response Costs means all costs including, but not limited to administrative, enforcement, investigative, oversight, remedial, indirect and removal costs, including attorneys fees, incurred by EPA in connection with response activities taken by EPA at the Site pursuant to Sections 104, 106 and 107 of CERCLA, 42 U.S.C. Sections 9604, 9606, and 9607.

X. RPM means "Remedial Project Manager" designated by EPA.

Y. RAC means "Remedial Action Coordinator" designated by Settlor.

Z. Settlor means Springs Industries, Inc. and any other person who hereafter becomes a defendant in this action and a signatory to this Decree.

AA. Settlor's Contractor means the engineering and design consultants, companies and firms and their officers, employees, agents, successors, assigns and subcontractors hired by the Settlor to design and/or implement the remedial action required under this Decree.

BB. Work means all design and construction activities and field studies and O & M undertaken by the Settlor to implement the Remedial Action required under this Decree, including any schedules or plans required to be submitted pursuant thereto.

CC. Work Plan means the detailed description and schedule of actions that will be conducted to implement the Remedial Action delineated in the ROD.

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All terms not defined herein shall have the definitions set forth in CERCLA or, if not therein, other applicable statutes and/or regulations, and if not defined therein, they shall have their ordinary meaning.

V. GENERAL PRINCIPLES

A. The Attachments to this Decree are incorporated in and made part of this Decree. The plans, reports and schedules prepared as required in this Decree and approved modifications thereof shall, upon their approval by EPA, be incorporated in and made an enforceable part of this Decree.

B. Nothing in this Decree limits or shall be construed to limit the response authority of Plaintiff under Sections 104 and 106 of CERCLA, 42 U.S.C Sections 9604 and 9606, or Section 7003 of RCRA, 42 U.S.C. Section 6973, or under any other federal response authority.

C. Settlor agrees to pay for and perform the Work as defined in Section VI of this Decree and as described in the ROD.

D. The work shall be completed in accordance with all the performance standards, specifications, time periods and other requirements set forth in the ROD, RD/RA Work Plan, RA Implementation Plan and this Decree.

VI. WORK TO BE PERFORMED

A. Plans and Reports

1. Settlor agrees to implement the remedy set forth in the ROD, and to meet the cleanup and performance standards as set forth in the ROD.

2. All remedial design work to be performed by the Settlor pursuant to this Decree shall be under the direction and supervision of a qualified professional architect, geologist or engineer. Prior to the initiation of remedial design work for the site, the Settlor shall notify EPA in writing, of the name, title, and qualifications of any engineer, geologist or architect proposed to be used in carrying out the remedial design work to be performed pursuant to this Decree. Selection of any such architect, geologist or engineer shall be subject to approval by EPA.

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3. All remedial action work to be performed by the Settlor pursuant to this Decree shall be under the direction and supervision of a qualified professional engineer. Prior to the initiation of remedial action work at the site, the Settlor shall notify EPA in writing, of the name, title, and qualifications of the proposed engineer, and the names of principal contractors and/or subcontractors (including laboratories) proposed to be used in carrying out the work to be performed pursuant to this Decree.

Selection of any such engineer or contractor and/or subcontractor shall be subject to approval by EPA.

4. The United States is not and shall not be considered to be a party to any contracts between Settlor and any person retained to perform any work under this Decree.

5. Within sixty (60) days of the effective date of this Decree, Settlor shall submit to EPA a Remedial Design and Remedial Action Work Plan ("RD/RA Work Plan") for the Site. The RD/RA Work Plan shall be developed in accordance with the ROD, and EPA Superfund Remedial Design and Remedial Action Guidance.

The RD/RA Work Plan shall describe how the Settlor will design and implement the remedy and shall provide a schedule for completion of the various components of the pre-design, design, and implementation of work and a schedule for submittal of the Remedial Design Report.

6. Settlor shall submit a Remedial Design Report ("RD Report") to EPA for review and approval in accordance with the schedule set forth in the RD/RA Work Plan. The completed Remedial Design Report will explain in detail the design and how the Remedial Action will be implemented, and contain a schedule for submittal of the RA Implementation Plan. Within forty-five (45) days of receipt of the RD Report, EPA shall notify Settlor in writing of EPA's approval or disapproval of the RD Report or any part thereof. If EPA disapproves the RD Report in whole or part, EPA shall specify in writing the deficiencies and any EPA recommended modifications to the RD Report. The Settlor shall have thirty (30) days to submit a revised RD Report.

7. The RA Implementation Plan shall include: (1) a project operations plan that specifies the sampling and analysis plan; (2) a health and safety contingency plan; (3) a plan for satisfaction of permitting requirements; (4) a quality assurance/quality control project plan consistent with the requirements of Section X of this Decree; (5) a groundwater monitoring plan; and (6) an operation and maintenance plan consistent with the requirements of Section VII of this Decree. The RA Implementation Plan shall also include a schedule for implementation of the RA tasks and submittal of the Final Remedial Action Report. Settlor agrees to implement the RA Implementation Plan in accordance with the standards, specifications and schedules contained therein, and the schedule(s) set forth in this Decree.

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8. The RD/RA Work Plan, the RA Implementation Plan and other required plans, documents and schedules shall be subject to review, and approval by EPA. Within forty-five (45) days after receipt of all plans and reports, EPA's Remedial Project Manager (RPM) shall notify Settlor in writing of approval or disapproval of

the Plan or any of its parts. In the event of any disapproval, EPA shall specify in writing any deficiencies and required modifications to the Plan. Within thirty (30) days after receipt of notice from EPA of any Plan disapproval, Settlor shall submit a revised Plan to EPA which addresses the modifications required by EPA. If EPA disapproves the revised Plan, EPA retains the right to conduct a complete RD/RA not inconsistent with the NCP and to seek cost recovery from Settlor for all response costs not inconsistent with the NCP which are incurred by EPA.

9. Upon approval by EPA, the RD/RA Work Plan, the RD Report, and the RA Implementation Plan shall be attached to and incorporated into this Decree.

10. The Parties acknowledge and agree that EPA's approval of the RD/RA Work Plan and the RA Implementation Plan does not constitute a warranty or representation of any kind by Plaintiff that the RD/RA Work Plan and/or the RA Implementation Plan will achieve the performance goals and standards set forth in the ROD and shall not foreclose Plaintiff from seeking performance of all the terms and conditions of this Decree and the ROD.

11. EPA shall not be arbitrary or capricious in making any determinations under this Section, or this Decree.

B. Implementation of RA Remedial Work

Within thirty (30) calendar days after EPA's approval of the RA Implementation Plan, Settlor shall begin work on the Remedial Action. Settlor shall implement the Remedial Action in accordance with the schedules and requirements of the RA Implementation Plan. All work shall be conducted in accordance with the National Contingency Plan, EPA's Superfund Remedial Design and Remedial Action Guidance and the requirements of this Decree, including standards, specifications and schedules contained in the ROD and the RA Implementation Plan.

C. Failure to Implement of Remedial Work

If EPA determines that a particular phase of the RA Implementation Plan has not been completed in conformity with the standards and specifications set out in the RA Plan, in this Decree and in accordance with the requirements of the NCP and CERCLA, EPA shall inform the Settlor in writing what measures must be undertaken to satisfactorily complete that phase, referencing the specific, applicable portion(s) of the RA Implementation Plan, this Decree and CERCLA and proposing a schedule for completion. If Settlor does not object to the measures proposed by EPA within thirty (30) days after receipt of EPA's notice, Settlor shall

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expeditiously undertake and complete such measures in accordance with EPA's proposed schedule of completion. If Settlor objects to such proposed measures or schedules, Settlor shall, within thirty (30) days after receipt of notice from EPA, notify EPA in writing of its objections and the reasons therefor. Any dispute over whether any particular phase of the RA Plan has been satisfactorily completed shall be resolved pursuant to the Dispute Resolution Section (Section XXIII) of this Decree.

D. Deed Restrictions

1. Settlor, in accordance with state law, shall record, within thirty (30) days after the entry of this Decree, in the appropriate real property registry, a notation on the deed to the Site property, or on some other instrument which is normally examined during title search, that will in-perpetuity notify any potential purchaser of the property that:

A. The Site property contains hazardous substances as defined by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Section 9601; and

B. Use of the Site in a manner which would disturb any component of the treatment system, or the function of any monitoring system on the Site is prohibited, unless the EPA Regional Administrator determines that the disturbance is (a) necessary to the proposed use of the property and will not increase the potential hazard to human health or the environment, or (b) is necessary to reduce a threat to human health or the environment.

2. Upon issuance by EPA of a certificate of completion, Settlor, in accordance with state law, shall record, within thirty (30) days after issuance of the certificate, in the appropriate real property registry, a notation on the deed to the Site property, or on some other instrument which is normally examined during title search, that will in-perpetuity notify any potential purchaser of the property that:

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A. Hazardous substances were found at the Site;

B. Settlor performed a Remedial Action pursuant to an argreement with EPA; and

C. A certificate of completion of the Remedial Action was issued by EPA.

3. Within thirty (30) days after entry of this Decree, Settlor shall submit a copy of the proposed notice to EPA for review and approval. If EPA determines that said notice is deficient the Agency shall provide the Settlor with a written

notice which sets forth the specific deficiencies. Settlor shall then revise and resubmit the notice to EPA within fifteen (15) days after receipt of EPA's deficiency determination.

E. Conveyance of Property and Continuing Site Access

Settlor agrees not to convey or transfer any title, ownership, leasehold, easement, or any other interest in the Site, or any portion thereof, or any appurtenances thereto, unless such conveyance or transfer includes a covenant that shall run with the whole of the land comprising the Site and (1) permits Plaintiff, EPA and the Settlor and their respective authorized representatives to enter upon the Site for purposes of effectuating and monitoring all terms of this Decree, performing any implementation required under this Decree and the ROD, and performing the O & M Activities; (2) requires the transferee(s) to agree not to interfere with or disturb the Plaintiff's, EPA's or the Settlor's performance of any implementation pursuant to this Decree and the O & M Activities; and (3) requires the transferee(s) to agree to inform any person or entity that acquires any title, ownership, leasehold, easement, or other interest in the Site, or any portion thereof, or appurtenances thereto, of the requirements, conditions, and operative effect of this Section VI.

At least ninety (90) days before executing conveyance or transfer documents subject to this Section VI.E. or as soon as Settlor is reasonably aware of a possible purchaser of the Site or portions thereof, Settlor shall notify, by registered mail, EPA's RPM that Settlor intends to execute such conveyance or transfer documents. The notice shall state the proposed wording of the covenant required under this provision of Section VI.E.

The restrictions and obligations set forth in this Paragraph shall run with the land and shall be binding upon any and all persons, companies or entities and their successors and assigns who now or may hereafter acquire any title, ownership, leasehold easement, or other interest in the Site or any portion thereof, or any appurtenance(s) thereto, in accordance with applicable state law.

VII. OPERATION AND MAINTENANCE

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A. Upon satisfactory completion of the implementation of the RA Implementation Plan, the operation and maintenance ("O & M") period will begin.

B. Settlor is responsible for designing, conducting and funding O & M activities for the Site. Settlor shall prepare an O & M Plan that ensures the long-term effectiveness of the remedial activities required by the ROD and this Decree.

C. In accordance with the schedule set forth in the RA Implementation Plan, the Settlor shall prepare an O & M Plan that is consistent with Section 121 of CERCLA and the applicable requirements of RCRA, and which ensures the effectiveness of the remedial activities required by this Decree.

VIII. REMEDIAL ACTION PROGRESS REPORTS

A. Settlor shall submit or cause its contractors or agents to provide EPA with written monthly progress reports that shall describe the actions that the Settlor and others, acting on its behalf, have taken toward achieving compliance with this Decree during the previous month including: (1) a summary of all results of sampling and tests and all other data received by the Settlor during the course of the work; (2) a general description of all plans, activities and procedures completed under the RD and the RA Implementation Plan during the previous month; and (3) a description of any problems that have been encountered or are anticipated by the Settlor that may affect the future schedule for implementation of the RA Implementation Plan, and a description of efforts made or which will be made to mitigate those delays or anticipated delays. Each monthly progress report shall also include a general description of all actions, data and plans which are scheduled for the next month and any other pertinent information relating to the progress of the remedial action.

B. The Settlor shall submit these monthly progress reports to EPA by the fifteenth (15th) day of every month following the effective date of this Decree. Monthly progress reports shall be submitted until all on-Site construction activities are completed by Settlor and approved by EPA.

C. After Settlor has completed all on-Site construction activities and such activities have been approved by EPA, the Settlor shall submit to EPA quarterly reports of O & M for Site maintenance (e.g. maintenance of extraction wells, groundwater treatment system, etc.) and for the groundwater monitoring on the 15th of April, July, October, and January of each year until this Decree is terminated pursuant to Section XXVII of this Decree. Such quarterly reports shall be submitted until the completion of the O & M.

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D. EPA shall provide the Settlor a written notice which sets forth the nature and scope of any deficiencies in a progress report within thirty (30) days of receipt of such report. The Settlor or its contractors or agents shall then make the necessary changes and resubmit the progress report within fifteen (15) days of receipt of EPA's notice. If EPA determines that a resubmitted progress report fails to address previously identified deficiencies, the Settlor shall be deemed to be out of compliance

with this Decree. Any dispute between EPA and Settlor concerning an out-of-compliance determination shall be resolved in accordance with the provisions of the Dispute Resolution Section (Section XXIII) of this Decree.

E. Upon the occurrence of any event during performance of the Work which, pursuant to Section 103 of CERCLA, requires reporting to the National Response Center, the Settlor shall orally notify the EPA RPM within 24 hours, or in the event of the unavailability of the RPM, the EPA Region IV Emergency Response Section in addition to complying with the reporting requirements of Section 103. Within 14 days of the onset of such an event, the Settlor shall furnish EPA with a written report setting forth the events which occurred and the measures taken, and to be taken in response. Within 30 days of the conclusion of such an event, the Settlor shall submit a report setting forth all actions taken to respond thereto.

IX. APPOINTMENT AND DUTIES OF REMEDIAL PROJECT MANAGER AND REMEDIAL ACTION COORDINATOR

A. EPA has appointed a Remedial Project Manager ("RPM") and the Settlor has appointed a Remedial Action Coordinator ("RAC") to act on their behalves to oversee completion of the Remedial Design and Remedial Action ("RD/RA").

B. EPA's RPM will observe and monitor the progress of the RD/RA being performed pursuant to this Decree. The RPM and any RPM designated representative shall have the authority vested by 40 C.F.R. Section 300, et seq., 50 Fed. Reg. 47950 (November 20, 1985), and other applicable federal laws and regulations, as well as any and all authority vested in the OSC.

C. EPA's RPM has the authority, pursuant to 40 C.F.R. Part 300, et seq., to halt, conduct or direct any tasks required by this Decree when he or she determines that conditions may present an immediate risk to public health or welfare or the environment.

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D. In situations where Settlor discontinues work because (1) the approval or concurrence of EPA's RPM is necessary for continuation or completion of a particular item of work, or (2) there is, or appears to be, an immediate risk of harm to public health or the environment or to Site workers, Settlor shall notify EPA's RPM or other designated EPA representative by phone as soon as possible that work has been discontinued. Further, within twenty-four (24) hours after work is discontinued, Settlor shall submit to EPA a written explanation of why work was discontinued. Any dispute between EPA and Settlor concerning the validity of Settlor's decision to discontinue work shall be resolved in accordance with the provisions of the Dispute Resolution Section (Section XXIII) of this Decree.

E. Should EPA or the Court agree with the Settlor concerning the correctness of the Settlor's decision to discontinue work, the Parties shall modify the RA Implementation Plan to provide such additional time as may be necessary to allow the completion of the specific phase of work and/or any succeeding phase of the work affected by such delay, with such additional time not to exceed the actual duration of the delay.

F. Neither the absence of the EPA RPM from the site nor the lack of availability of an EPA representative by telephone shall be cause for stoppage of work, except for reasons which are set forth above.

G. EPA has the right to change its RPM and, when possible, shall give the Settlor fifteen (15) days prior written notice of such a change. The Settlor has the right to change its RAC, subject to EPA approval, and shall accomplish this change by notifying EPA in writing at least fifteen (15) days prior to the proposed change.

X. QUALITY ASSURANCE

Settlor shall use the quality assurance, quality control and chain of custody procedures set forth in the EPA Region IV Environmental Services Division Engineering Support Branch Standard Operating Procedures and Quality Assurance Manual dated April 1, 1986, as amended, throughout all sample collection and analysis activities. This manual has been provided to Settlor by EPA. EPA agrees to provide Settlor any future amendments to the manual at the time such amendments are issued. To provide quality assurance and maintain quality control regarding all samples collected pursuant to this Decree, Settlor shall ensure that:

1. EPA personnel and/or EPA authorized representatives are allowed reasonable access during business hours and with advance notice, during non-business hours to the laboratories and personnel utilized by Settlor for analyses.

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2. The laboratories utilized by Settlor for analyses perform such analyses according to EPA Contract Laboratory Program (CLP) protocol. Upon EPA's request, and if necessary for data validation, Settlor shall submit to EPA all protocols used for analysis.

3. The laboratories utilized by Settlor for analyses participate in a quality assurance/quality control program equivalent to that which is followed by EPA and is consistent with EPA document QAMS-005/80 ("Interim Guidelines and Specifications for Preparing Quality Assurance Project Plans"), a copy of which has been provided to Settlor by EPA. As part of such a program,

and upon reasonable request by EPA, such laboratories shall perform analyses of samples provided by EPA to demonstrate the quality of each laboratory's analytical methods and data.

XI. SAMPLING, ACCESS, DATA/DOCUMENT AVAILABILITY AND PUBLIC ACCESS TO INFORMATION, AND CLAIM OF CONFIDENTIALITY

A. SAMPLING

Settlor shall submit to EPA in monthly progress reports (as required by Section VIII of this Decree), the verified results of all sampling and/or tests or other data generated by Settlor, or on the Settlor's behalf, with respect to the implementation of this Decree. Upon EPA's request, Settlor shall allow split or duplicate samples to be taken by EPA and/or its authorized representatives, of any samples collected by the Settlor pursuant to the implementation of this Decree. Settlor shall notify EPA in writing not less than thirty (30) days in advance of any proposed sample collection activity and not less than three (3) working days before commencing sampling activities. The RPM and RAC may agree in writing to a shorter notification period. In addition, EPA shall have the right to take any additional samples that it deems necessary.

B. DATA/DOCUMENT AVAILABILITY

Upon EPA's request, Settlor shall provide copies to EPA of all records, reports, documents and information generated by Settlor in performing the Remedial Design/Remedial Action which are required by the terms of this Decree, including, but not limited to, sampling and analysis records, laboratory log books, field sheets and field notes, project log books, engineering logs, chain of custody records, contracts, bills of lading, trucking logs and non-privileged correspondence. Additionally, Settlor's employees, or representatives with knowledge of relevant facts concerning the performance of the RD/RA and O & M activities shall be made available to EPA upon reasonable notice and at reasonable times and places to provide information concerning the performance of these activities.

C. PUBLIC ACCESS TO INFORMATION AND CLAIM OF CONFIDENTIALITY

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All data, factual information and documents submitted by Settlor to EPA pursuant to this Decree shall be subject to public inspection unless Settlor asserts a confidentiality claim, covering part or all of the information relating to this Decree, pursuant to 40 C.F.R. Section 2.203(b). Such an assertion must be adequately substantiated at the time the assertion is made. Settlor will waive its right to claim that the particular information is confidential if a claim of confidentiality is not made and substantiated at the time the information is submitted.

Information determined to be confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no confidentiality claim accompanies the information when it is submitted to EPA, it may be made available to the public by EPA without further notice to the Settlor. The Settlor shall not assert a confidentiality claim regarding any analytical, hydrogeological or chemical data generated as a result of or as part of the Remedial Design or Remedial Action, including O & M activities. Nor shall Settlor assert a confidentiality claim with respect to any data or any other scientific or engineering tests generated as a result of or submitted in support of a remedial proposal required by this Decree.

No sampling and analytical data reports, books, and logs or other records, reports, documents and information which Settlor generates in performing the Remedial Design/Remedial Action, which are required by this Decree may be withheld by Settlor or claimed to be subject to the attorney-client privilege, the attorney work-product privilege or any other privilege. The parties agree that Plaintiff retains the right to request the court to conduct an in camera review of documents withheld by Settlor on the basis of privilege and to determine whether any such documents are, in fact, exempt from disclosure by the asserted privileges.

XII. SITE ACCESS

A. During and after the effective period of this Decree, the United States, and/or any of its authorized representatives, including contractors, shall have access to all property and all areas of the Site at all times for purposes of conducting any activity authorized by CERCLA or RCRA, including but not limited to:

1. Monitoring the Settlor's progress in carrying out the terms of this Decree;

2. Reviewing or verifying any data or information developed by the Settlor or the Settlor's contractors, including the data or information submitted with respect to the RD/RA or the Site;

3. Conducting investigations relating to contamination at or near the Site;

4. Conducting any such tests as EPA or the RPM deem necessary;

5. Obtaining samples at the Site;

6. Inspecting and copying records, files, sampling and monitoring data, operating logs, contracts, photographs or other documents related to the Site or required to assess the Settlor's compliance with this Decree;

7. Inspecting sampling procedures and sampling collected by Settlor at the site;

8. Using a camera, sound recording or other such types of equipment used for documentation; and

9. Conducting O & M activities.

B. To the extent access to or use of property other than the Site is required for the proper and complete performance of this Decree and where such other property is owned by persons that are not parties to this Decree, Settlor shall use its best efforts to gain access to or use of such property, including the payment of reasonable sums to obtain such agreements. Where the Settlor is unable to obtain access to property which is not its own, provides in writing details of the steps taken in the attempt to obtain access and embodies such information in a sworn affidavit, the Plaintiff will assist the Settlor in obtaining such access or use. Settlor agrees to reimburse the Plaintiff for all costs the Plaintiff incurs in assisting the Settlor to obtain access.

C. Plaintiff's right of access under this Decree is in addition to and not substitution for, and shall not affect in any manner any right of entry or access Plaintiff has pursuant to applicable laws, regulations or permits.

XIII. OVERSIGHT COSTS

A. The parties acknowledge that the Plaintiff and its oversight contractor will incur costs at the Site after December 3, 1988 for oversight of the Remedial Design work and the Remedial Action, including O & M, to be performed by the Settlor. Settlor shall fully reimburse the Plaintiff for all such costs which are not inconsistent with the NCP. Plaintiff shall send Settlor an annual demand for payment along with an accounting and documentation of any such costs incurred by Plaintiff. Settlor's payment shall be due within twenty-five (25) days after receipt of the demand for payment and the accounting by check payable to "EPA Hazardous Substances Superfund". The check must reference the name of this action and be mailed to:

U.S. EPA - Region IV
ATTN: SUPERFUND ACCOUNTING
P. O. Box 100142
Atlanta, GA 30384

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A Copy of the check shall be mailed to:

Ms. Giezelle S. Bennett
Remedial Project Manager
U.S. EPA, Region IV
345 Courtland Street, NE
Atlanta, Georgia 30365

B. EPA's failure to issue a demand for payment for a particular year shall not prevent EPA from seeking recovery of those costs in a subsequent year.

XIV. COST REIMBURSEMENT

The Settlor shall reimburse Plaintiff for past response costs in the amount of one hundred and thirty - one thousand, seven hundred sixty - eight dollars and eleven cents ($131,768.11), which Plaintiff incurred in connection with this Site, and which are apart from the oversight costs described in Section XIII. Said payment shall be made by the Settlor within ninety (90) days of the receipt of demand by EPA and shall be by a check made payable to the "EPA Hazardous Substances Superfund", which shall specifically reference the Site, and shall be sent to:

U.S. EPA - Region IV
Attn: Superfund Accounting
P.O. Box 100142
Atlanta, Georgia 30384

with a copy to the RPM:

Ms. Giezelle S. Bennett
Remedial Project Manager
U.S. Environmental Protection Agency
345 Courtland Street, NE
Atlanta, Georgia 30365

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XV. COMMUNITY RELATIONS

Settlor shall cooperate with EPA in providing RD/RA information to the public. As requested by EPA, Settlor shall participate in the preparation of all appropriate information disseminated to the public and in public meetings which may be held or sponsored by EPA to explain activities at or concerning the Site.

XVI. INSURANCE

A. The Settlor shall purchase and maintain in force comprehensive general liability insurance policies that shall protect the United States and the public against any and all

liability arising out of the Settlor's and the Settlor's contractors and other agents' acts or omissions in the performance of the work under this Decree. Prior to the commencement of the work at the Site, the Settlor shall provide EPA with the certificates of insurance and copies of the insurance policies, for EPA's approval. Such policies shall have limits of at least $3,000,000 per occurence, combined single limit.

B. Settlor shall maintain such insurance or require its contractor(s) to maintain such insurance in force until EPA issues a Certificate of Completion for all on-site construction Remedial Action activities;

C. Annually after starting any on-Site work, Settlor shall submit to Plaintiff the certificates of insurance and copies of those policies maintained in compliance with this Section.

D. In no event is Settlor relieved of its obligation to implement in a timely fashion the Remedial Design Work and Remedial Action under this Decree by reason of any inability to obtain or failure to maintain in force any insurance policies required in this Section, or by reason of any dispute between the Settlor and any of its insurers concerning any claim arising out of the design, construction, implementation, or operation of the remedy, or arising out of any other activity required under this Decree.

XVII. INDEMNIFICATION AND OTHER CLAIMS

A. Settlor agrees to indemnify and save and hold harmless the Plaintiff, its agencies, departments, agents and employees and contractors from any and all claims or causes of action arising from or on account of acts or omissions of the Settlor or its employees, agents, contractors or subcontractors in carrying out activities under this Decree.

B. Plaintiff is not to be construed as a party to, and does not assume any liability for, any contract involving Settlor with respect to the Site and in carrying out the activities pursuant to this Consent Decree.

C. Settlor agrees that the acts or omissions of Settlor or its agents, contractors, employees, successors and assigns in performing any activity pursuant to this Decree are not and shall not in any manner be considered to be the acts or omissions of, and shall not be attributed to, Plaintiff. The proper completion of the work under this Decree is solely the responsibility of Settlor.

D. Settlor waives any right to assert any claims against the Hazardous Substances Trust Fund under CERCLA that are related to any past costs or costs incurred in the work performed pursuant to this Decree. Nothing in this Consent Decree shall be construed as EPA's pre-authorization of a claim, within the meaning of Section 106(b)(2) and Sections 111 of CERCLA and 40 C.F.R. Section 300.25(d), against the Hazardous Substances Trust Fund.

XVIII. COVENANT NOT TO SUE

A. In consideration of actions which will be performed and payments which will be made by the Settlor under this Decree, and except as otherwise specifically provided in this Decree, the Plaintiff covenants not to sue the Settlor for Covered Matters. Covered Matters shall include any and all civil liability to the United States for causes of action under Sections 106 and 107(a) of CERCLA and Section 7003 of RCRA for claims arising from or relating to the Site. With respect to future liability, this covenant not to sue shall take effect upon certification by EPA of the completion of the remedial action (excluding O&M) concerning the Site. A determination regarding certification of completion of the activities will be made within one year of successful completion of the activities described in the RD/RA Work Plan.

B. "Covered Matters" does not include:

(1) Liability arising from hazardous substances removed from the Facility;

(2) Natural Resource damages;

(3) Criminal liability;

(4) Claims based on a failure by the Settlors to meet the requirements of this Consent Decree;

(5) Liability for violations of Federal law which occur during implementation of the remedial action;

(6) Liability arising from the past, present or future disposal, release or threat of release of hazardous substances outside of the Site and not attributable to the Site;

C. Notwithstanding any other provision in this Consent Decree, (1) the United States reserves the right to institute proceedings in this action or in a new action or to issue an Order seeking to compel the Settlor to perform any additional response work at or adjacent to the Site or (2) the United States reserves the right to institute proceedings in this action or in a new action seeking to reimburse the United States for its response costs undertaken by the Plaintiff under CERCLA, relating to the Site, if:

1. For proceedings prior to EPA certification of completion of the remedial action concerning the Site,

(a) conditions at the Site, previously unknown to the United States, are discovered after the entry of this Consent Decree, or

(b) information is received, in whole or in part, after the entry of this Consent Decree, and these previously unknown conditions or this information indicates that the remedial action is not protective of human health and the environment;

2. For proceedings subsequent to EPA certification of completion of the remedial action concerning the Site,

(a) conditions at the Site, previously unknown to the United States, are discovered after the certification of completion by EPA,

(b) information is received, in whole or in part, after the certification or completion by EPA, and these previously unknown conditions or this information indicates that the remedial action is not protective of human health and the environment.

D. Notwithstanding any other provision in this Consent Decree, the Covenant Not To Sue set forth in this Paragraph shall not relieve the Settlor of its obligation to meet and maintain compliance with the requirements set forth in this Decree, including the conditions in the ROD, and the United States reserves its right to take response actions at the Site in the event of a breach of the terms of this Consent Decree and to seek recovery of costs incurred after entry of this Decree: 1) resulting from such a breach; 2) relating to any portion of the Work funded or performed by the United States; or 3) as a result of having to seek judicial assistance to remedy conditions at or adjacent to the Site.

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E. Nothing in this Decree shall constitute or be construed as a release or a covenant not to sue regarding any claim or cause of action against any person or other entity not a signatory to this Consent Decree for any liability it may have arising out of or relating to the Site. Plaintiff and Settlor expressly reserve their right to sue any person or other entity other than the Settlor, in connection with the Site.

XIX. FINANCIAL ASSURANCE OF ABILITY TO COMPLETE WORK

Plaintiff and the Settlor agree that for purposes of demonstrating financial assurance to the Plaintiff that sufficient funds are and will be available to perform the work required under

this Decree, the Settlor may rely on the financial assurance mechanisms provided for in RCRA at 40 C.F.R. Sections 264.143 and 264.151. Within thirty (30) days after Plaintiff signs this Decree, the Settlor shall submit to EPA the documentation required under Section 264.143 and 264.151. The Settlor shall comply with all requirements of these two Sections of RCRA; however, the language of the documents required by these Sections may be modified, if necessary, to meet the particular circumstances of this Decree. EPA shall review the documents and advise the Settlor within thirty (30) days after receipt as to their acceptability. If EPA determines that the documents do not comply with the requirements of 40 C.F.R. Sections 264.143 and 264.151, the Settlor shall revise the documents as requested by Plaintiff and submit the revised documents within twenty (20) after receipt of Plaintiff's comments. The approved financial assurance documents shall be deemed incorporated into this Decree.

XX. COMPLIANCE WITH LAWS

A. The Settlor shall undertake all activities required by this Decree in compliance with all applicable local, state and federal laws and regulations, and this Decree shall in no way relieve the Settlor of its obligation to comply with such laws and regulations governing its performance of the RD/RA.

B. If the Settlor or its contractor(s) arrange for the storage, treatment, disposal, or transportation for disposal, of any Hazardous Substances at locations other than the Site, Settlor will obtain EPA's prior approval for the use of any off-Site facility. The facility selected by Settlor for treatment, storage, or disposal must be in compliance with applicable local, state and federal laws and regulations including the provisions of RCRA, pertaining to such treatment, storage of disposal. Settlor will notify Plaintiff in writing of any proposed off-Site facility and Plaintiff will notify Settlor in writing as to whether or not the facility is in compliance and is acceptable.

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C. The Settlor shall include in all contracts, and/or subcontracts entered into for work required under this Decree, provisions stating that such contractors and/or subcontractors, including their agents and employees shall perform all activities required in compliance with all applicable laws and regulations.

D. All permits or other approvals required to implement the RD/RA will be identified in the RA Implementation Plan which is developed pursuant to Section VI.A of this Decree. This Decree is not, nor shall it act as, nor is it intended by the Parties to be, a permit issued pursuant to any federal, state, or local statute or regulation.

XXI. COMPLETION OF REMEDIAL CONSTRUCTION WORK

A. When the Settlor determines that it has completed all work required by the RA Implementation Plan, except for O & M, it shall submit to EPA a Notice of Completion and a final Remedial Action report as required by the RA Implementation Plan. The final report must summarize the work performed, any modification to the RA Implementation Plan, and the performance levels achieved. The summary shall include or reference any supporting documentation.

B. All Remedial Action tasks shall be deemed to have been finally completed when EPA issues a Certificate of Completion in conformity with Section 122(f)(3), of CERCLA, certifying in writing that all of the elements set forth in the RA Implementation Plan (except O & M) have been satisfactorily completed. Upon receipt of the Notice of Completion from the Settlor, EPA shall review the accompanying report and any other supporting documentation. Prior to the issuance of a Certificate of Completion, EPA shall undertake a review of the Remedial Action (except O & M) under Paragraph VI (Performance of the Work by Settlor) of this Decree. EPA shall issue a Certificate of Completion upon its determination that (1) the Settlor has satisfactorily completed the work and has achieved standards of performance required under the ROD and this Decree; (2) that no corrective action under Subparagraph C of this Paragraph is necessary; and (3) that all stipulated penalties and other monies required to be paid under this Decree have been paid in full by the Settlor.

C. Should EPA determine that all of the elements set forth in the RD and the RA Implementation Plan (except O & M) have not been completed in accordance with the standards and specifications set out in the RD, the RA Implementation Plan, the ROD, and this Decree, it shall notify the Settlor in writing of what it believes must be done to complete the construction, referencing the specific portion(s) of the RD/RA Work Plan and the RA Implementation Plan and proposing a schedule for completion. If the Settlor does not, within thirty (30) days after such notification, object to the measures proposed by EPA, the Settlor shall expeditiously undertake and complete such measures in accordance with the proposed schedule of completion. If the Settlor objects to such proposed measures, the Settlor shall, within thirty (30) days of receipt of the notice from EPA, notify EPA in writing of the objections and the reasons therefor. In the event the parties cannot resolve any dispute with respect to whether the construction phase of the RA Implementation Plan for each designated task has been fully completed, such dispute shall be resolved pursuant to the Dispute Resolution Section (Section XXIII) of this Decree.

XXII. FORCE MAJEURE

A. A "Force Majeure", for the purpose of this Decree, is defined as any event arising from causes beyond the control of the Settlor, including its officers, directors, agents, employees, contractors, subcontractors, successors and assigns, which delays or prevents the performance of any obligation under this Decree, provided that the delay could not have been overcome by the exercise of due diligence. An increase in costs incurred by the Settlor in performing the RD/RA or changes in economic circumstances shall not constitute a Force Majeure.

B. If Settlor believes that circumstances have occurred, are occurring or will occur which may delay the completion of any phase of the RD/RA or delay access to the Site or to any property on which any part of the RD/RA is to be performed, whether or not due to a Force Majeure event, the Settlor shall promptly notify the RPM by telephone or in the event of the absence or unavailability of the RPM, the RPM's Unit or Section Chief. Within five (5) days of the beginning of the event or circumstances which the Settlor contends is responsible for the delay, or as soon as the Settlor becomes aware of the event or circumstances, the Settlor shall submit to EPA a written explanation of the reason(s) for and anticipated duration of such delay, the measures taken and to be taken by the Settlor to prevent or minimize the delay, and the timetable for implementation of such measures. Settlor's failure to provide the RPM with oral notice and/or to submit a written explanation to EPA within the required time frame shall constitute a waiver of any claim of Force Majeure. EPA shall notify Settlor in writing as to whether or not EPA agrees that a delay is or was attributable to a Force Majeure.

C. If EPA agrees that a delay is or was attributable to a Force Majeure event, the parties may modify this Decree pursuant to Section XXV to provide such additional time as may be necessary to compensate for the delay caused by the Force Majeure, with such additional time not to exceed the actual length of the delay itself. Stipulated penalties shall not accrue for the period of the agreed upon delay.

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D. If EPA and the Settlor cannot agree that a delay in Settlor's compliance with this Decree, including Settlor's failure to submit any report or document, has been or will be caused by a Force Majeure, or cannot agree on a schedule of completion of the delayed activities, the dispute shall be resolved in accordance with the provisions of the "Dispute Resolution" Section (Section XXII) of this Decree. The Settlor has the burden of proving Force Majeure as a defense to non-compliance with this Decree.

XXIII. DISPUTE RESOLUTION

A. Any dispute which arises under or with respect to this Decree shall initially be the subject of informal negotiations between EPA's RPM and the Settlor's RAC for up to twenty (20) days from the time EPA and/or the Settlor give notice of the existence of the dispute. The period for negotiations shall not be extended beyond twenty (20) working days unless the parties agree otherwise.

B. If the Parties cannot resolve a dispute by informal negotiations under Paragraph A of this Section, then Plaintiff's decision or interpretation is considered binding unless, within fifteen (15) days after the end of the twenty (20) day informal negotiations period, Settlor files a petition with this Court setting forth the matter in dispute and the relief requested. Except as otherwise agreed to by the Parties, the filing of a petition asking the Court to resolve a dispute shall not serve to extend or postpone the Settlor's obligations to perform any work required under this Decree. Settlor's payment of stipulated penalties for matters which are the subject of, or directly related to, the dispute shall be stayed pending resolution of the dispute. Should Settlor prevail in a dispute, the schedule for the performance of work delayed by the dispute shall be modified, if necessary, for a period not to exceed the actual delay resulting from the dispute. If Settlor does not prevail in the dispute, and the dispute involves a matter for which stipulated penalties may be assessed, then Plaintiff may assess and require Settlor to pay all stipulated penalties which may have accrued prior to and during the dispute resolution process. However, should Settlor prevail in the dispute, Plaintiff shall not assess any stipulated penalties for the matter disputed.

C. In any dispute resolution proceeding involving matters covered by Section 113(j)(2) of CERCLA, 42 U.S.C. Section 9613(j)(2), the Court shall apply the standards and provisions of Section 113(j)(2). For any other dispute arising under the Decree, the standard of review shall be arbitrary and capricious based on the Administrative Record. In all disputes covered by this Section, the burden of proof shall rest with the Settlor.

XXIV. STIPULATED PENALTIES

A. Except as provided in Section XXI (Force Majeure), and Section XXIII (Dispute Resolution) Settlor is liable to Plaintiff for each day during which it fails to comply with the terms, conditions or requirements of this Decree as follows:

Period of Failure to Comply/Penalty Per Violation Per Day

8th through 14th day	$1,500
15th through 44th day	$2,500
45th day and beyond	$5,000

B. Upon EPA's determination that Settlor has failed to comply with any requirement of this Decree, EPA shall provide Settlor with written notice which describes the noncompliance and states the amount of penalties due.

C. Subject to the Dispute Resolution process (Section XXIII), all penalties owed to EPA under this section shall be payable upon demand by EPA within fifteen (15) days of receipt of the notification of noncompliance. Such penalties shall be paid by a check made payable to "EPA Hazardous Substances Superfund", shall specifically reference the site, and shall be sent to:

U. S. EPA - Region IV
ATTN: SUPERFUND ACCOUNTING
P.O. Box 100142
Atlanta, GA 30384

with a copy to EPA's RPM:

Ms. Giezelle S. Bennett
Remedial Project Manager
U.S. Environmental Protection Agency
345 Courtland Street, NE
Atlanta, Georgia 30365

D. All penalties begin to accrue on the eighth day after a violation occurs, or on the eighth day following the Settlor's failure to comply with any schedule or deadline contained in this Decree. Stipulated penalties shall continue to accrue until Settlor's violation ends or until Settlor complies with the particular schedule or deadline. Nothing herein shall prevent the simultaneous accrual of penalties for separate violations of the Decree.

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E. Settlor may dispute EPA's right to the stated amount of penalties by filing a petition with the Court in accordance with Section XXIII ("Dispute Resolution") herein, within fifteen (15) days of receipt of EPA's notification of noncompliance. Penalties shall accrue, but will not be demanded during this period. Unless the Court determines that EPA is not entitled to such penalties, EPA has the right to collect all penalties which accrued prior to and during the period of dispute including interest thereon.

F. Subject to Dispute Resolution, if Settlor refuses to pay stipulated penalties, EPA may institute contempt proceedings in this Court for relief. However, nothing in this Section shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Settlor's violation of this Decree or of the statutes and regulations upon which it is based.

G. This Section shall remain in full force and effect for the term of the Decree.

H. Neither the filing of a petition to resolve a dispute nor the payment of penalties shall alter in any way the Settlor's obligation to complete the performance required by this Decree.

XXV. FAILURE TO IMPLEMENT THE REQUIREMENTS OF THE DECREE

A. Settlor is obligated to take all steps necessary to ensure that the RD/RA is completed according to this Decree. If Settlor fails to comply with any performance date or other requirement of this Decree and such delay is not caused by Force Majeure, Settlor shall be deemed to be out of compliance with this Decree.

B. If EPA determines that Settlor has failed without good cause to timely implement the RD/RA, or any portion thereof, EPA may, after giving Settlor written notification of its determination, and subject to the Dispute Resolution process of Section XXIII, perform any or all portions of the RD/RA that remain incomplete and/or pursue any other remedies available to Plaintiff at law or in equity, including, but without limitation, compelling Settlor's specific performance. If EPA performs all or portions of the RD/RA because of the Settlor's failure to comply with its obligations under this Decree, Settlor shall reimburse EPA for the costs of doing such work within thirty (30) days of receipt of demand for payment of such costs. EPA's demand letter shall contain an accounting of the costs incurred.

XXVI. MODIFICATION

A. No modification shall be made to this Decree without written approval of the Parties to this Decree and the Court; provided, however, the Parties may agree in writing to modify time schedules for completion of work found in the Attachments to this Decree without seeking the Court's approval. No oral modification of this Decree shall be effective.

XXVII. EFFECTIVE AND TERMINATION DATES

A. This Decree shall be effective upon the date of its entry by the Court.

B. This Decree terminates only after EPA issues a Certificate of Completion as set forth in Section XXI, and upon completion of all Remedial Action activities (including O&M) as set forth in the Implementation Plan, which is developed pursuant to Section VI of this Decree. Termination of this Decree shall not affect (i) the right of the Plaintiff to collect sums which would otherwise be due under this Decree, which shall remain in effect between the Parties, (ii) the Settlor's obligations under Section XIII or Section XIV of this Decree.

XXVIII. RETENTION OF JURISDICTION

A. This Court shall retain jurisdiction over this matter for the purposes of (1) interpreting, implementing, modifying, enforcing and/or terminating the terms of this Decree and (2) adjudicating disputes between the Parties under this Decree.

B. Plaintiff retains the right to enforce the terms of this Decree and take any action authorized by federal or State law not inconsistent with the terms and conditions of this Decree.

C. Plaintiff reserves all claims, demands and causes of action, past or future, judicial or administrative, in law or equity, including but not limited to, cost recovery and injunctive relief and natural resource damages, against any person or entity including Settlor, for any matters not covered under this Decree. Any claim or defense which the Plaintiff or Settlor may have against any other person or entity not a party to this Decree, including but limited to, claims for indemnity or contribution, is expressly reserved.

#3 ~~XXIX.~~ NOTICES, ADDRESSES FOR DUE DATES FOR NOTICE IN THE EVENT OF HOLIDAY

A. Whenever the date for submission of any item or notification required by this Decree falls on a weekend or state or federal holiday, the time period for submission of that item or notification is extended to the next working day following the weekend or holiday.

B. Whenever, under the terms of this Decree, written notice must be given or a report or other document must be forwarded by one Party to another, it shall be directed to the individuals at the addresses specified below, unless those

individuals or their successors give notice in writing to the other parties that notice is to be directed to another individual. Written notice to the individuals listed below constitutes complete satisfaction of any written notice requirement of the Decree with respect to the Plaintiff (United States), the Remedial Project Manager (on behalf of EPA), and the Remedial Action Coordinator (on behalf of the Settlor), respectively.

As to the United States or EPA:

To: R. Wayne Lee
Assistant Regional Counsel
U.S. Environmental Protection Agency
345 Courtland Street, NE
Atlanta, Georgia 30365

and

To: Ms. Giezelle S. Bennett
Remedial Project Manager
U.S. Environmental Protection Agency
345 Courtland Street, NE
Atlanta, Georgia 30365

and

As to the Settlor:

To: R. Nick Odom
Director, Environmental Services
Springs Industries, Inc.
P.O. Box 70
Fort Mill, South Carolina 29715

Christopher S. Barnard
Senior Attorney
Springs Industries, Inc.
P. O. Box 70
Fort Mill, S.C. 29715

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XXX. DISCLAIMER OF LIABILITY

Notwithstanding any approvals which EPA and/or other governmental entities, may grant, Plaintiff is not and will not be liable for any injuries or damages to persons or property resulting from any acts or omissions of the Settlor, its officers, employees, agents, receivers, trustees, successors, assigns, contractors, subcontractors, or any other person acting on its behalf in carrying out any activities pursuant to this Decree.

XXXI. RETENTION OF RECORDS

A. The Settlor shall preserve and retain all records and documents and information of whatever kind, nature or description now in its possession or control or in the possession of its employees, agents, accountants, contractors or attorneys, that relate in any manner to the Site, for a minimum of five (5) years after the completion of the Remedial Action, including O&M, despite any document retention policy to the contrary.

B. After this five (5) year period, the Settlor shall notify EPA at least ninety (90) days prior to the destruction of any such documents. Upon request by EPA, the Settlor and/or its contractors shall make available to EPA such records or copies of such records. Additionally, if EPA requests that some or all documents be preserved for a longer period, Settlor shall comply with such request.

XXXII. OTHER PROVISIONS

The Parties hereby consent to all the terms of this Decree, and hereby knowingly, willingly, and with advice of counsel, waive any and all rights to appeal this Decree. Further, the Parties agree not to file any such appeal, or to dispute, challenge or litigate the validity and enforceability of this Decree.

XXXIII. ADMISSIBILITY OF DATA

For the purposes of any proceeding to resolve a dispute concerning the implementation of this Decree, the Parties waive any evidentiary objection to the admissibility into evidence of data gathered or evaluated in accordance with this Decree.

XXXIV. SERVICE OF PROCESS

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The Settlor hereby agrees that, except as otherwise set forth herein, service of notice or any legal process on the Settlor for any purpose under this Decree, including its enforcement, may be made by mailing a copy by first class mail to the attorney identified in Section XXVIII above. The United States agrees that service of legal notice or any legal process on the United States for any purpose under this Decree including any dispute resolution action may be made by mailing a copy by first class mail to representatives of the United Stated identified in Section XXVIII and to:

Karen S. Dworkin,
Environmental Enforcement Section
Land and Natural Resources Division
United States Department of Justice
P.O. Box 7611
Ben Franklin Station
Washington, DC 20044

XXXV. LODGING OF DECREE WITH THE COURT AND PUBLIC COMMENT

As required by the provisions of 28 C.F.R. Section 50.7, this Decree shall be lodged with the Court for a period of thirty (30) days for public comment, and it shall be submitted to the Court for entry only after the expiration of that period. Plaintiff reserves the right to withdraw or withhold its consent to a judgement based on this Decree if the comments, views, and allegations concerning the Decree disclose facts or considerations which indicate that the Decree is inappropriate, improper, or inadequate. All Parties reserve the right to oppose an attempt by any person to intervene in this action.

Comments on this Decree shall be submitted to:

Donald A. Carr
Acting Assistant Attorney General
Land and Natural Resources Division
U.S. Department of Justice
Washington, DC 20530

R. Wayne Lee
Regional Counsel
U.S. Environmental Protection Agency
Region IV
345 Courtland Street, NE
Atlanta, GA 30365

Plaintiff and Settlor, by their duly authorized representatives, agree to this Decree, subject to the Department of Justice public notice requirements, set forth at 28 C.F.R. Section 50.7 and CERCLA public notice requirements which are set forth at 42 U.S.C. Section 4622 (i).

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THE UNITED STATES OF AMERICA

Department of Justice

Donald A. Carr
Acting Assistant Attorney General
Land and Natural Resources Division
Washington, D.C. 20530

Assistant United States Attorney
District of South Carolina
Department of Justice

Karen S. Dworkin
Environmental Enforcement Section
Land and Natural Resources Division
P. O. Box 7611
Ben Franklin Station
Washington, D.C. 20044

Environmental Protection Agency

James H. Sargent
Regional Counsel
EPA - Region IV

R. Wayne Lee
Assistant Regional Counsel
EPA - Region IV
Atlanta, Georgia 30365

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SETTLOR

Springs Industries, Inc.

By: CIB RNO Julius Lasnick

Jules Lasnick

Title: Executive Vice President

Christopher S. Barnard

Christopher S. Barnard, Senior Attorney
Springs Industries, Inc.
Fort Mill, South Carolina 29715

ENTERED this 17th day of January 1980

Charleston, So. Car.

Joe Kaplan Jr.

UNITED STATES DISTRICT JUDGE

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A TRUE COPY
Attest: Ann A. Birch, Clerk
By: Judith M. McDowell
Deputy Clerk