DON A. SMITH*
ROBERT Y. COHEN, II
MATTHEW HORAN
STEPHEN C. SMITH
ERIC L. PENDERGRASS*

*ALSO LICENSED IN OKLAHOMA

SMITH, COHEN & HORAN, PLC

ATTORNEYS AT LAW

October 26, 2011

Mr. Carlos A. Sanchez
Chief, AR/TX Section
Region 6, Superfund Division (6 SF-RA)

sanchez.carlos@epa.gov
(214) 665-8507

RE: Arkwood, Inc.

Mr. Sanchez:

Your e-mails of October 6, 2011 addressed to Ms. Mescher of McKesson have been forwarded to me for review and response. Your e-mail states that "Mr. Grisham needs access to conduct general site visits." What reason(s) did Mr. Grisham (herein "Bud Grisham") give as a basis for his "need" to conduct general site visits? Your letter does not explain how he would conduct these site visits nor does it provide for the protection of the public, the USEPA or McKesson.

Your letter did not suggest any kind of control over Bud Grisham should he be given a key and therefore access to the site. Is he allowed to take people to the site? Is he required to accompany those people, or can he give them a key for access to the site? Is he allowed to have people inspect McKesson's buildings or equipment? (McKesson is operating equipment at the site at a cost of $100,000.00 per year with equipment that has a value in excess of $150,000.00.) Do you contemplate requiring him to carry liability insurance, and if so, in what amount, and will you require that McKesson be named as an additional insured? Do you contemplate requiring an indemnification bond, and if so, in what amount and what would be the terms of such a bond? Is Bud Grisham allowed to take equipment on the site which could disturb the top soil and the cap? Is Bud Grisham required to notify McKesson when he is going to visit the site, and is McKesson going to be reimbursed for the expense incurred in inspecting the site after Bud Grisham departs to insure that the site is secure and there has been no disturbance of the equipment and the property? Do you contemplate providing Bud Grisham a list of acceptable actions that he might take while upon the site, and if so, what is the contemplated penalty should he violate those allowed actions? Should Bud Grisham and all persons he allows to go upon the site claim injury, damage or contamination, will the USEPA hold McKesson harmless and indemnify it?

Attached to this letter are four (4) exhibits to which reference will be made. **Exhibit "1"-** Ormond Group/McKesson Settlement Agreement of December 31, 1987 ("Agreement"). **Exhibit "2"** - Record of Decision ("ROD") excerpts. **Exhibit "3"** - September 13, 2010 letter of

1206 GARRISON AVENUE ■ POST OFFICE BOX 10205 ■ FORT SMITH, AR 72917-0205
TELEPHONE: 479.782.1001 WWW.SCHFIRM.COM FACSIMILE: 479.782.1279

9364195

Don A. Smith to Bud Grisham with the agreed Deed Restriction ("Restriction"). **Exhibit "4"** - Deed Notice ("Notice") prepared by Bud Grisham and filed with the Boone County Circuit Court Clerk on August 30, 2010, without notice or approval of McKesson.

Bud Grisham and his son, Curt Grisham, have demonstrated that they will make agreements, and then fail to observe the provisions of such agreements. McKesson, in April, 2010, sent to Bud Grisham a letter regarding the obligation to record the Restriction for the Arkwood, Inc. property ("property") as provided in the Agreement, **Exhibit "1"** . Although the terms of the required Restriction had been agreed upon, Bud Grisham did not cause that Restriction to be recorded. See also **Exhibit "2"** , the ROD excerpts which required the filing of the Deed Restriction.

On September 13, 2010, **Exhibit "3"** with the Restriction was sent to Bud Grisham. **Exhibit "3"** reminded Bud Grisham of the language of the ROD, the requirement for cooperation as agreed to in the Agreement, **Exhibit "1",** and requested that he advise his son to observe the terms of the Agreement and not contact agencies without McKesson's permission. There was no response by Bud Grisham to **Exhibit "3".** In an attempt to determine if the Restriction had been filed as requested, the Boone County Circuit Court Clerk on October 5, 2010 was contacted and advised that the Notice, **Exhibit "4",** had been filed on August 30, 2010. Neither McKesson nor counsel had been advised of the Notice filing or the language used.

By placing the Restriction, attached to **Exhibit "3",** next to the Notice, **Exhibit "4"** you can determine Bud Grisham's lack of cooperation and his breach of the Agreement. You will note the errors in the property description, and his elimination of McKesson's participation in the oversight of the involved property. Bud Grisham's Notice did not include paragraphs 3 and 4 of the Restriction which related to engineering controls; maintaining the site in a fenced and secure manner; maintaining the top soil and grass cover; and providing inspection and maintenance for at least thirty (30) years.

In the Notice, "future land use", Bud Grisham expands the future development of the property to commercial and/or industrial development. (The clean-up levels at the site were established at industrial levels-not commercial.)

The substantial changes and eliminations of the Restriction language contained in the Notice are significant, and clearly demonstrate that Bud Grisham has no intention of maintaining the site as he has eliminated for himself and all other subsequent owners the responsibilities of maintaining the site. Additionally, he is attempting to expand the future use of the site to both commercial and industrial uses not heretofore contemplated by either McKesson or the USEPA. The lack of willingness to assume responsibility is only one of many reasons why McKesson will not permit Bud Grisham access to the site for the undisclosed purpose.

In addition Bud Grisham and his son, Curt Grisham, have violated another provisions of the Agreement. Section 9.2,(B) expressly provides that the Ormond Group shall cooperate with McKesson by, among other things, "not conferring with regulatory agencies...without (McKesson's) prior written permission." The Ormond Group, Bud Grisham and Curt Grisham have not sought or obtained the consent of McKesson to the unilateral communications with agencies such as ADEQ or USEPA. Yet, Curt Grisham purporting to identify himself as a family member of the owners of the property has made such communications with the agencies. When caught in violation, he changed his identity to assert that he was a "concerned member of the public and not subject to the Settlement Agreement." That appears to be a misrepresentation as he told McKesson that he is a beneficiary of the Ormond Group and had a financial interest in the site. Bud Grisham was advised of his son's violation of the Agreement on September 13, 2010. There is no evidence that he has attempted to cause him to desist from contacting the various agencies. Bud Grisham's contact with you is another violation of the Agreement.

As Bud and Curt have violated the "no contact with agencies" Agreement, McKesson seeks the listed items pursuant to the Freedom of Information Act. Please provide us with all correspondence you have received from Bud Grisham, Curt Grisham or anyone purporting to act on their behalf and all responses by you or anyone affiliated with the USEPA. This request shall include the following:

- Any and all documentary items, exhibits, audio tapes, video tapes, letters, and e-mails which you have;
- "Document or "Documents - The term "document or "documents" shall mean writings of every type and from any source, including originals and non-identical copies thereof that are in your possession, custody or control, or known by you to exist this would include documents sent outside your organization to any source as well as documents intended for internal use;

- The term also includes communications not only in words, but in symbols, pictures, sound records, film, tapes, and information stored in, or accessible through, computer or other information storage or retrieval systems, the term also includes codes and programming instructions, and other materials necessary to understand such systems;

- The term includes, but is not limited to the original and all copies (regardless of origin and whether or not including additional writing thereon or attached thereto) of all forms of written communication (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing), graphic or oral records or representations of any kind, (including, without limitation, tapes, cassettes, discs and records) and other written, printed, typed, photographed, or other graphic recorded matter of any kind or nature, however reproduced and whether preserved in writing, phono record, film, photograph, tape or video tape;

- The term specifically includes e-mails(sent or received),text messages, twitter messages, Social network accounts and all pages and documents related thereto including all changes, edits, deletions or additions thereto and any other media account whether sent, received, texted, posted, tweeted or otherwise communicated to, by, or for you; and

- "Communication" or "Communications": The term "Communication" or "Communications" means every kind of written, oral or electronic transmission of information.

McKesson respectfully requests that you withdraw your request that it provide a key to Bud Grisham.

Yours very truly,

Don A. Smith

DAS/ns

Cc: Ms. Jean Mescher
Shawn Ghose ghose.shawn@epamail.epa.gov
Don Williams williams.donald@epamail.epa.gov

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (the "Agreement") is entered into this 31st day of December, 1987, by and between MASS MERCHANDISERS, INC. ("MASS"), an Indiana corporation, and McKESSON CORPORATION ("McKESSON"), a Maryland corporation (hereinafter collectively, "MMI") on the one hand and HALLIE C. ORMOND, C. C. GRISHAM, MARY JO GRISHAM and MARY F. BURKE (hereinafter collectively, "the ORMOND GROUP") on the other hand.

Recitals

1. On or about May 12, 1986, MASS and the United States Environmental Protection Agency, Region VI ("EPA"), executed an Administrative Order on Consent, Docket Number CERCLA VI-6-86, whereby MMI agreed to undertake a Remedial Investigation/Feasibility Study ("RI/FS") of the Arkwood, Inc. site, a parcel, owned by MARY F. BURKE, of approximately twenty (20) acres of land south of the town of Omaha, in Boone County, Arkansas, bound on the north by a Missouri Pacific Railroad siding, on the south and west by a paved road, and on the east by Highway 65, as shown in Exhibit "1" hereto, or whatever enlarged or reduced parcel an applicable governmental entity deems to be within the RI/FS or cleanup area ("the Site").

2. On or about September 19, 1986, MASS filed a Cross-Complaint in that certain action entitled Arkansas Department of Pollution Control and Ecology v. Ormond, et al., in the Chancery Court of Boone County, Arkansas, Action No. E-86-293 ("Action E-86-293"), against certain members of the ORMOND GROUP and a dissolved corporation, Arkwood, Inc.

3. On or about September 11, 1986, certain members of the ORMOND GROUP, filed a cross-complaint in said Action E-86-293

EXHIBIT
tabbies
1

04/26/99 10:17 FAX 415 983 9369 McKESSON HBOC LEGAL DEPT 002/033

against MASS, and a dissolved corporation, Mountain Enterprises, Inc., together with a third-party complaint against McKESSON.

4. On or about December 1, 1987, the United States District Court, Western District of Arkansas, Harrison Division, entered an Order granting the motion of MASS to intervene in the action of the United States of America, Civil Action No. 87-3034 against certain members of the ORMOND GROUP ("Action 87-3034").

5. The foregoing Actions and causes of action alleged therein involve disputed questions of fact and law, and the parties hereto now wish fully and finally to compromise and settle certain past and present claims, controversies and disputes between them.

NOW, THEREFORE, in consideration of the following terms, covenants, and conditions, the parties agree as follows:

ARTICLE 1

Payment to MMI

Upon execution of this Agreement and of a Site Agreement in the form set forth in Exhibit "2" hereto, the ORMOND GROUP shall deliver a certified bank or cashier's check in the amount of Two Hundred Thousand Dollars ($200,000), payable to the order of MASS, to the Law Department of McKESSON, Attn.: Dinah L. Darman, Senior Counsel, which shall be held by said attorney in trust and not cashed until the dismissals provided for herein have been filed.

/ /

/ /

04/26/99 10:18 FAX 415 983 9369 McKESSON HBOC LEGAL DEPT 003/033

ARTICLE 2

Dismissals

Section 2.1 Upon execution of this Agreement, MASS shall forthwith cause to be entered dismissals with prejudice of its cross-complaint in Action E-86-293, and of its complaint in intervention in Action 87-3034, and shall send file-endorsed copies of said dismissals to Bill F. Doshier, Esq., Doshier & Bowers, 215 West Rush, Harrison, Arkansas 72601.

Section 2.2 Upon execution of this Agreement, the ORMOND GROUP shall forthwith cause to be entered dismissals with prejudice of their cross-complaint and third-party complaint in Action E-86-293, and shall send file-endorsed copies of said dismissals to the Law Department of McKESSON, Attn.: Dinah L. Darman, and to Allan Gates, Esq., of Mitchell, Williams, Selig & Tucker.

ARTICLE 3

Release of Certain Claims by MMI

Section 3.1 Subject to Sections 3.2 and 3.3 hereinbelow, MMI, on behalf of themselves and on behalf of their past, present and future parent and subsidiary corporations, officers, directors, employees, predecessors, successors, assigns, agents and representatives, and each of them, hereby release and forever discharge the ORMOND GROUP and each of them and their past, present and future descendants, heirs, partners, employees, agents, representatives, and any other person, firm, or corporation with whom any of them is now or may hereafter be affiliated, including, without limitation, Arkwood, Inc., and each of them (hereinafter collectively, "ORMOND GROUP Releasees"), from any and all claims, demands, obligations, losses, causes of action, damages, penalties, costs, expenses, attorneys' fees, liabil-

04/26/99 10:18 FAX 415 983 9369 McKESSON HBOC LEGAL DEPT 004/033

ities, and indemnities of any nature whatsoever (hereinafter collectively "Claims"), whether based on contract, tort, statute or other legal or equitable theory of recovery, whether known or unknown, which MMI had, now have, or claim to have, or which may arise in the future, against the ORMOND GROUP Releasees arising in whole or in part out of or in any way connected with the Site.

Section 3.2 MMI expressly reserve and do not release the ORMOND GROUP Releasees from any Claims whatsoever for contribution to, or indemnification against, claims of non-governmental entities against MMI arising in whole or in part out of or in any way connected with the Site.

Section 3.3 MMI do not release or discharge the insurance companies which issued insurance policies to the ORMOND GROUP or any of them, or Arkwood, Inc., from any Claims whatsoever, and no provision of this Agreement shall be construed to have said effect.

Section 3.4 MMI expressly waive any right or claim of right to assert hereafter that any Claim released under Section 3.1 has, through ignorance, oversight or error, been omitted from the terms of this Agreement, or that releases such as those herein given do not apply to unknown or unstated claims. MMI expressly waive the provisions of Section 1542 of the Civil Code of California (and all similar laws of other jurisdictions), which provides:

> "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

Subject to Sections 3.2 and 3.3, MMI accept the risks that, subsequent to the execution of this Agreement, they will incur

04/26/99 10:18 FAX 415 983 9369 MCKESSON HBOC LEGAL DEPT 005/033

damage or loss they deem in some way attributable to the ORMOND GROUP Releasees' prior actions which are unknown and unanticipated at the time this Agreement is executed, that damages presently known may become greater than is now anticipated, or that the facts they currently allege may be found hereafter to be different from the facts now believed by them to be true.

ARTICLE 4

Release of Certain Claims by the ORMOND GROUP

Section 4.1 Subject to Articles 5 and 6, the ORMOND GROUP, on behalf of themselves and on behalf of their past, present and future descendants, heirs, partners, employees, insurers, predecessors, successors, assigns, agents, representatives and Arkwood, Inc., and each of them, hereby release and forever discharge MMI and each of them and MMI's past, present and future parent and subsidiary corporations, divisions, affiliates, partners, joint venturers, stockholders, predecessors, successors, insurers and insurance adjusters (other than those relating to policies purchased by the ORMOND GROUP, or any of them, or Arkwood, Inc.), assigns, officers, directors, employees, agents, representatives, and any other person, firm or corporation with whom any of them is now or may hereafter be affiliated, including, without limitation, Mountain Enterprises, Inc., and each of them (hereinafter, "MMI Releasees"), from any and all claims, demands, obligations, losses, causes of action, damages, penalties, costs, expenses, attorneys' fees, liabilities, and indemnities of any nature whatsoever (hereinafter collectively "Claims"), including, without limitation, claims for bad faith, whether based on contract, tort, statute (including without limitation, California Insurance Code §790.03 and similar laws of other jurisdictions) or other legal or equitable theory of recovery, whether known or unknown, which the ORMOND GROUP had, now have, or claim to have, or which may arise in the

04/26/99 10:18 FAX 415 983 9369 McKESSON HBOC LEGAL DEPT 006/033

future, against the MMI Releasees arising in whole or in part out of or in any way connected with the Site.

Section 4.2 The ORMOND GROUP expressly waive any right or claim of right to assert hereafter that any Claim released under Section 4.1 has, through ignorance, oversight or error, been omitted from the terms of this Agreement or that releases such as those herein given do not apply to unknown or unstated claims. The ORMOND GROUP expressly waive the provisions of Section 1542 of the Civil Code of California (and all similar laws of other jurisdictions), which provides:

> "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

The ORMOND GROUP accepts the risks that, subsequent to the execution of this Agreement, it will incur damage or loss it deems in some way attributable to the MMI Releasees' prior actions, which are unknown and unanticipated at the time this Agreement is executed, that damages presently known may become greater than is now anticipated, or that the facts they currently allege may be found hereafter to be different from the facts now believed by them to be true.

ARTICLE 5
Agreement to Indemnify

With the exception of fines and penalties arising out of the past actions or inactions of the ORMOND GROUP, or any of them, MASS agrees to fully defend, indemnify and hold harmless the ORMOND GROUP and Arkwood, Inc., and each of them, from and against claims, whether known or unknown, of (a) governmental

04/26/99 10:19 FAX 415 983 9369 MCKESSON HBOC LEGAL DEPT 007/033

entities for the investigation or cleanup of the Site, including, without limitation, those related to past and future expenses, and (b) non-governmental entities claiming to have suffered personal injury or property damage due solely to the Site investigative or cleanup efforts of MASS; provided, however, that nothing contained in this Agreement shall be construed to impose upon MMI or their insurance companies any duty to defend, indemnify or hold harmless any company from whom the ORMOND GROUP, or any of them, or Arkwood, Inc. purchased insurance policies. MMI agree to use their best efforts not to act or fail to act with regard to the Site in a manner which would cause EPA, the Department of Justice or any other governmental entity, its staff, employees or counsel (hereinafter collectively, "governmental entity") to attempt to levy or assess such a fine or penalty.

ARTICLE 6
Insurance Matters

Section 6.1 The ORMOND GROUP hereby waive any entitlement whatsoever to claim coverage under any insurance policy purchased by MMI or Mountain Enterprises, Inc., in connection with any matter whatsoever.

Section 6.2 Subject to Sections 6.3 and 6.4, the ORMOND GROUP hereby assign, sell and convey to MMI all of their rights, title and interest under all insurance policies purchased by the ORMOND GROUP, or any of them, or Arkwood, Inc., ("the ORMOND GROUP Policies") insofar as said policies pertain, or may pertain, to the Site.

Section 6.3 With regard to the ORMOND GROUP Policies, MMI shall promptly upon receipt pay over to the ORMOND GROUP a sum equal to twenty-five percent (25%) of any amount received in

04/26/99 10:19 FAX 415 983 9369 McKESSON HBOC LEGAL DEPT 008/033

indemnity payments under said policies, whether by way of settlement, judgment or otherwise, net of the fees and costs MMI expends (excluding MMI's oversight and internal costs such as salary, office and travel expense, and including amounts MMI pay the ORMOND GROUP, or any of them, under Section 9.2) to obtain such amount.

Section 6.4 The ORMOND GROUP expressly reserve the right to claim coverage and a defense under the ORMOND GROUP Policies with respect to claims of non-governmental entities in connection with the Site.

Section 6.5 The ORMOND GROUP agree to cooperate fully in any effort of MMI to obtain coverage and a defense under the ORMOND GROUP Policies, by, without limitation:

(a) Permitting MMI to direct, in its sole discretion, the course of those certain cases entitled C.C. GRISHAM, et al., v. MARYLAND CASUALTY COMPANY, pending in the 150th Judicial District, Bexar County, Texas, No. 87-CI-04587, and Maryland Casualty Company v. HALLIE C. ORMOND, pending in the United States District Court, Western District, Arkansas, Harrison Division, No. 87-3038 (hereinafter, collectively, "the Coverage Cases"), at MMI's sole expense, whatever said course shall be;

(b) Fully cooperating with MMI in connection with the Coverage Cases, as more fully set forth in Section 9.2; and

(c) Taking whatever reasonable steps MMI deem necessary in order to maximize the obtainment of defense and coverage under the ORMOND GROUP Policies.

Section 6.6 MMI, in their sole discretion, may dismiss the Coverage Cases at any time.

04/26/99 10:19 FAX 415 983 9369 McKESSON HBOC LEGAL DEPT 009/033

ARTICLE 7

Assignment of Claims and Easements

Section 7.1 Subject to Sections 6.3 and 6.4, the ORMOND GROUP hereby assign, sell, and convey to MASS all of their rights, title and interest in and to all Claims they may have against third parties in connection with the Site, including, without limitation, any Claims they may have against the manufacturers of Pentachlorophenol or Creosote, or a governmental entity; provided, however, that the ORMOND GROUP expressly reserve the right to assert claims against a governmental entity in the event that a governmental entity attempts to collect fines or penalties in connection with the past actions or inactions of the ORMOND GROUP. Except in the case of such assertions against governmental entities in connection with fines or penalties ("assertions"), the ORMOND GROUP grant to MASS and its designated agents, attorneys or assigns, full power and authority to pursue and collect said Claims and to receive payment thereon, to maintain action thereon, and to do all things which might be done with respect to said Claims. In the event of an assertion, the ORMOND GROUP will pay MASS the amount by which the sum collected exceeds the fine or penalty, net of the fees or costs the ORMOND GROUP expends in connection with the assertion.

Section 7.2 The ORMOND GROUP hereby assign, sell and convey to MASS any easements or rights of entry it may have in connection with the Site, including, without limitation, that obtained from Rose Birmingham as set forth in Exhibit "3" hereto.

ARTICLE 8

Site Matters

With regard to the Site, MASS and the ORMOND GROUP will contemporaneously herewith enter into an agreement in the form embodied in Exhibit "2".

04/26/99 10:20 FAX 415 983 9369 McKESSON HBOC LEGAL DEPT 010/033

ARTICLE 9

Retention of Records and Cooperation

Section 9.1 The ORMOND GROUP shall retain permanently, and make available to MMI within fifteen (15) days of their receipt of MMI's request, in readily identifiable and obtainable form, all of their files, books and records relating to the Site, including, without limitation, those pertaining to Arkwood, Inc. or its predecessor operators of the Site, and the Ormond Group Policies.

Section 9.2 The ORMOND GROUP shall cooperate with MMI and their counsel, experts, accountants, insurers and other representatives in connection with the Site by, among other things, (a) promptly making themselves and their representatives available to MMI, without the necessity of a subpoena, (b) not conferring with regulatory agencies, or making statements to the press, without MMI's prior written consent, (c) otherwise providing assistance as MMI requests in connection with the Site; provided, that MMI shall reimburse the ORMOND GROUP for its reasonable out-of-pocket expenses (not including wages or salary or other compensation for time) in providing such cooperation requested in writing by MMI and shall pay C. C. GRISHAM a $400 per diem when his requested assistance requires him to leave Dallas and is not related to a litigation matter.

Section 9.3 The ORMOND GROUP acknowledge that breach of their obligations under Sections 9.1 and 9.2 may cause irreparable loss to MMI and that damages may be impossible to ascertain, and hereby consent to the granting of equitable relief by way of temporary, preliminary and permanent injunctive relief by a court of competent jurisdiction, to prohibit such breach and compel performance of such obligation.

04/26/99 10:20 FAX 415 983 9369 McKESSON HBOC LEGAL DEPT 011/033

ARTICLE 10

Miscellaneous

Section 10.1 The parties each warrant and represent to the other that none of them has heretofore assigned or transferred or purported to assign or transfer to any person or entity not a party hereto any released matter or any part or portion thereof, and each agrees to indemnify and hold harmless the other from and against any claim based on, in connection with or arising out of any such assignment or transfer or purported or claimed assignment or transfer.

Section 10.2 This Agreement shall be binding on, and inure to the benefit of the successors and assigns of the parties. Nothing in this Agreement, express or implied, is intended to confer upon any person or entity other than the parties hereto or their respective successors and assigns, any rights or benefits under or by reason of this Agreement. This Agreement shall not be assignable by any party hereto without the written prior consent of the other party. No such permitted assignment shall relieve a party of any of its obligations under this Agreement.

Section 10.3 The parties acknowledge and agree that the payment and acceptance of said settlement sum and the execution of this Agreement are the result of compromise and are entered into in good faith and shall never for any purpose be considered an admission of liability or responsibility concerning any of the claims referred to in Actions E-86-293 and 87-3034, and no past or present wrongdoing on the part of any of the parties shall be implied by such payment or execution. Each party shall maintain in confidence any information disclosed to it by the other party in the negotiations leading to this settlement, the contents of this Agreement and the consideration therefor (hereinafter collectively referred to as "such information") and shall take every precaution to prevent disclosure of such information to

04/26/99 10:20 FAX 415 983 9369 MCKESSON HBOC LEGAL DEPT 012/033

third parties, provided, (a) that MMI may disclose such information to their insurance companies and to the representatives of the former shareholders of MASS, and (b) that MASS may give a copy of this Agreement (in draft or final version) to EPA. Without limiting in any way the foregoing, the parties specifically agree not to issue any press releases or other public announcements regarding such information or the fact of the settlement. Each party shall take every precaution to disclose such information only to those employees, officers, directors and accountants who have a reasonable need to know such information. Any such information may be disclosed if the party is required to disclose it by legal process or for other appropriate legal reasons.

Section 10.4 This Agreement and the Site Agreement represents and contains the entire agreement and understanding among the parties hereto with respect to the subject matter of this Agreement, and supersedes any and all prior oral and written agreements and understandings, and no representation, warranty, condition, understanding or agreement of any kind with respect to the subject matter hereof shall be relied upon by the parties unless expressly incorporated herein. This Agreement may not be amended or modified except by an agreement in writing signed by the party against whom the enforcement of any modification or amendment is sought.

Section 10.5 Each of the parties hereto shall pay its own past expenses, including court costs, legal and expert fees, incurred in the prosecution and defense of the foregoing Actions, or otherwise incurred in connection with the Site, or incurred in the negotiation, preparation and execution of this Agreement or the Site Agreement. Subject to Article 5, MMI shall pay all past governmental expenses whether known or unknown.

04/26/99 10:20 FAX 415 983 9369 McKESSON HBOC LEGAL DEPT 013/033

Section 10.6 IN ENTERING INTO THIS AGREEMENT, THE PARTIES REPRESENT THAT THEY HAVE RELIED UPON THE LEGAL ADVICE OF THEIR ATTORNEYS, WHO ARE THE ATTORNEYS OF THEIR OWN CHOICE. THE PARTIES FURTHER REPRESENT THAT THE TERMS OF THIS AGREEMENT HAVE BEEN COMPLETELY READ AND EXPLAINED TO THEM BY THEIR ATTORNEYS, AND THAT THOSE TERMS ARE FULLY UNDERSTOOD AND VOLUNTARILY ACCEPTED BY THEM.

Section 10.7 Each party and counsel for each party have reviewed this Agreement and accordingly the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

Section 10.8 In the event that one or more of the provisions, or portions thereof, of this Agreement are determined to be illegal or unenforceable, the remainder of this Agreement shall not be affected thereby and each remaining provision or portion thereof shall continue to be valid and effective and shall be enforceable to the fullest extent permitted by law.

Section 10.9 This Agreement is entered into in the State of Arkansas and shall be construed and interpreted in accordance with its laws.

Section 10.10 This Agreement may be executed in any number of counterparts each of which shall be deemed to be an original, and all of which together shall be deemed one and the same instrument.

Section 10.11 This Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of this Agreement.

04/26/99 10:21 FAX 415 983 9369 McKESSON HBOC LEGAL DEPT 014/033

Section 10.12 Any and all disputes concerning, arising out of, or related to this Agreement or the performance thereof shall be determined exclusively by arbitration in accordance with the then obtaining rules of the American Arbitration Association. Demand for arbitration, stating the basis therefor, shall be given to the other party in writing at least thirty (30) days prior to the date scheduled for submission of the matter to arbitration. Such arbitration shall be conducted exclusively in San Francisco County, California, and the prevailing party shall be entitled to recover its costs and a reasonable attorneys' fee.

Section 10.13 All notices given or required to be given hereunder shall be sufficient, if in writing and sent by certified mail, return receipt requested, addressed to the representative of the party, in the case of MMI to:

McKesson Corporation
One Post Street
San Francisco, CA 94104
Attn: Office of the General Counsel

and in the case of the ORMOND GROUP to

C. C. Grisham
3525 Turtle Creek Boulevard
Apartment 3-C
Dallas, TX 97219

- and -

Bill Doshier, Esq.
Box 1797
Harrison, AR 72601

All notices shall be deemed given when mailed. Either party by notice as provided herein may change the address to which subsequent notices may be sent.

04/26/99 10:21 FAX 415 983 9369 MCKESSON HBOC LEGAL DEPT 015/033

Section 10.14 The descriptive headings in this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

MASS MERCHANDISERS, INC.

By _____

McKESSON CORPORATION

By _____

_____
HALLIE C. ORMOND

_____
C. C. GRISHAM

_____
MARY JO GRISHAM

_____
MARY F. BURKE

By _____
C.C. Grisham, Attorney in Fact,
copy attached

APPROVED AS TO FORM AND CONTENT:

MITCHELL, WILLIAMS, SELIG & TUCKER

By _____
Allan Gates
Attorneys for MMI

DOSHIER & BOWERS

By _____
Bill F. Doshier
Attorneys for the ORMOND GROUP

04/26/99 10:21 FAX 415 983 9369 MCKESSON HBOC LEGAL DEPT 010/033

DURABLE POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

That I, MARY F. BURKE, of Dallas, Texas, do hereby appoint C. C. GRISHAM, of Dallas, Texas, as agent and attorney in fact for me and in my name to: act for me in all my financial and personal matters and to have full authority to receive and cash all checks and credits due me; receive all monies and credits due and owed to me; pay all my obligations; receive all information on my accounts at any banking institution and withdraw any part or all of any account; enter any lock box I may have rented at any institution; endorse my name to any instrument bearing my name as payee; sign my name to any document requiring my signature; make decisions for me in any and all matters, affairs, projects, suits, claims, litigation and negotiations in which I am interested or am a party to; and particularily to represent me and my interests in all matters in Arkansas, and to do all things necessary to conduct my business; and I hereby ratify and confirm all that my said agent may do in said premises.

This Power of Attorney shall be effective immediately and shall not be affected by subsequent disability or incapacity of the principal pursuant to Arkansas Statute 58-701.

04/26/99 10:21 FAX 415 983 9369 McKESSON HBOC LEGAL DEPT 017/033

Section 10.14 The descriptive headings in this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

MASS MERCHANDISERS, INC.

By _____

McKESSON CORPORATION

By _____

_____
HALLIE C. ORMOND

_____
C. C. GRISHAM

_____
MARY JO GRISHAM

_____
MARY F. BURKE

By _____
C.C. Grisham, Attorney in Fact,
copy attached

APPROVED AS TO FORM AND CONTENT:

MITCHELL, WILLIAMS, SELIG & TUCKER

By _____
Allan Gates
Attorneys for MMI

DOSHIER & BOWERS

By _____
Bill F. Doshier
Attorneys for the ORMOND GROUP

04/26/99 10:22 FAX 415 983 9369 McKESSON HBOC LEGAL DEPT 018/033

DECLARATION OF ATTORNEY

I, Allan Gates, am an attorney licensed to practice in the State of Arkansas, and am a member of the firm of Mitchell, Williams, Selig & Tucker. I have fully explained the foregoing Agreement to my clients, who have acknowledged to me that they understand it and its legal effect and informed me that the signatures which appear on the preceding page are the signatures of persons with authority to bind my clients. I recognize that a material term of the Agreement is the confidentiality clause and that the ORMOND GROUP intends me to be bound by it, and I so agree.

Executed this 31st day of December, 1987, at Little Rock, Arkansas.

I declare under penalty of perjury that the foregoing is true and correct.

04/26/99 10:22 FAX 415 983 9369 McKESSON HBOC LEGAL DEPT 019/033

DECLARATION OF ATTORNEY

I, Bill F. Doshier, am an attorney licensed to practice in the State of Arkansas, and am a member of the firm of Doshier & Bowers. I have fully explained the foregoing Agreement to my clients, who have acknowledged to me that they understand it and its legal effect and informed me that the signatures which appear on the preceding page are their personal signatures. I recognize that a material term of the Agreement is the confidentiality clause and that MMI intends me to be bound by it, and I so agree.

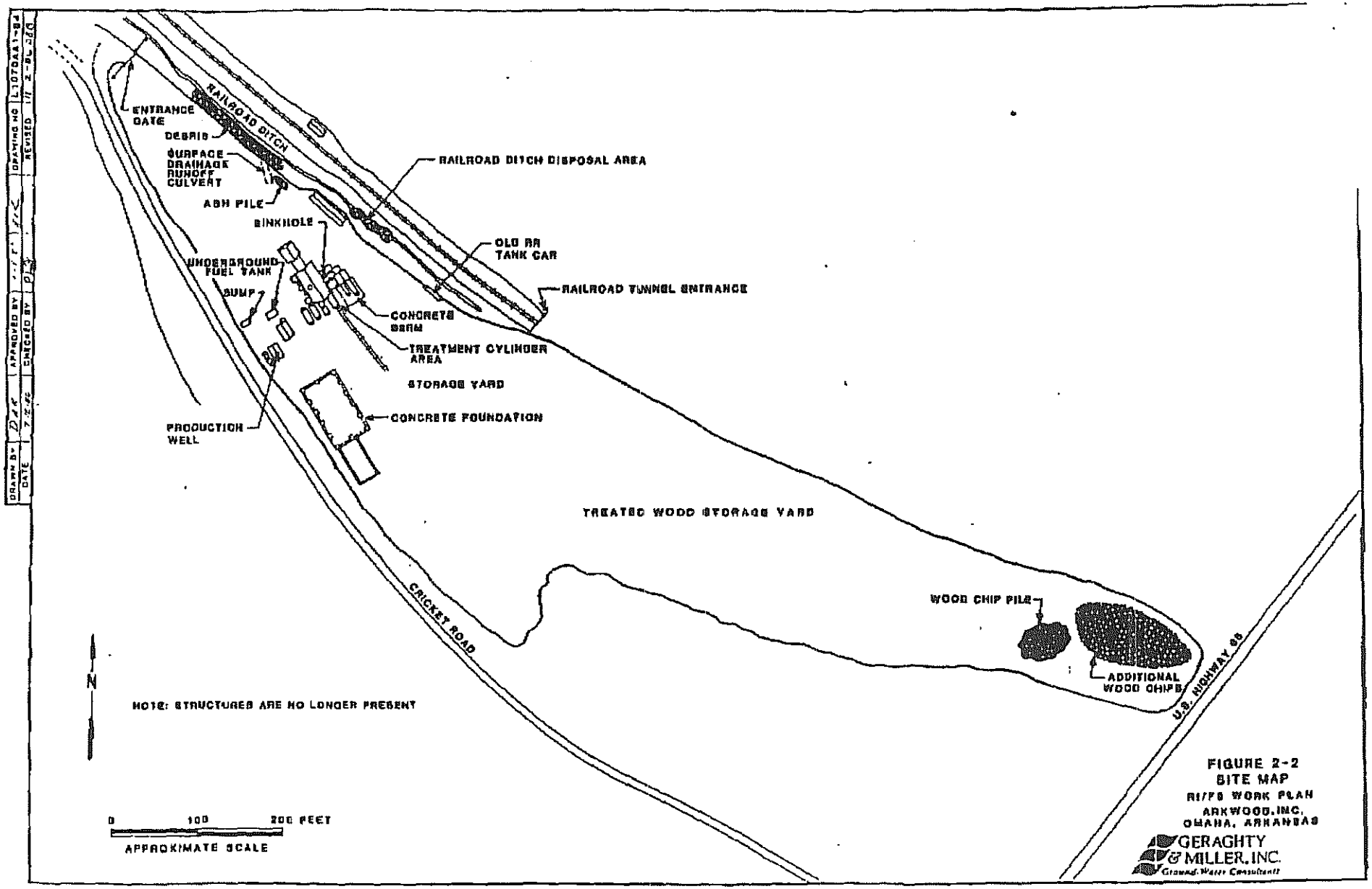
Executed this 31 day of December, 1987, at Harrison, Arkansas.

I declare under penalty of perjury that the foregoing is true and correct.

Bill F. Doshier

04/26/99 10:22 FAX 415 983 9369 MCKESSON HBOC LEGAL DEPT 020/033

Exhibit "1"


ENTRANCE GATE
DEBRIS
SURFACE DRAINAGE RUNOFF CULVERT
RAILROAD DITCH
ASH PILE
SINKHOLE
UNDERGROUND FUEL TANK
SUMP
RAILROAD DITCH DISPOSAL AREA
OLD RR TANK CAR
RAILROAD TUNNEL ENTRANCE
CONCRETE BERM
TREATMENT CYLINDER AREA
STORAGE YARD
CONCRETE FOUNDATION
PRODUCTION WELL
TREATED WOOD STORAGE YARD
CRICKET ROAD
WOOD CHIP PILE
ADDITIONAL WOOD CHIPS
U.S. HIGHWAY 68
N
NOTE: STRUCTURES ARE NO LONGER PRESENT
0 100 200 FEET
APPROXIMATE SCALE
FIGURE 2-2
SITE MAP
RI/FS WORK PLAN
ARKWOOD, INC.
OMAHA, ARKANSAS
GERAGHTY & MILLER, INC.
Ground-Water Consultants

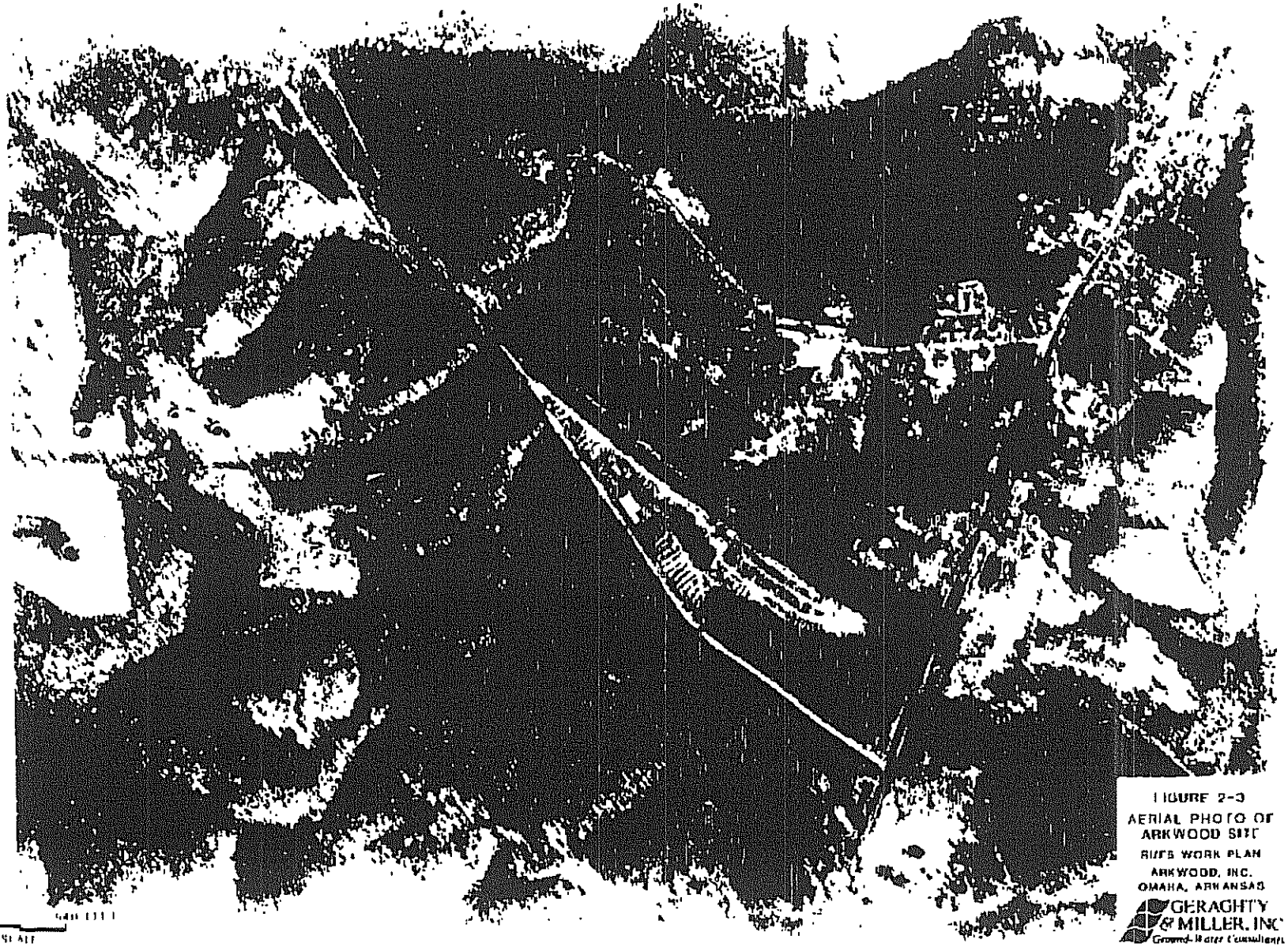


FIGURE 2-3
AERIAL PHOTO OF
ARKWOOD SITE
SITE WORK PLAN
ARKWOOD, INC.
OMAHA, ARKANSAS

GERAGHTY & MILLER, INC.
Ground-Water Consultants

DRAWN BY	ARKWOOD BY	DRAWING NO.
DATE 10-28-94	CHECKED BY	REVISED 10-24-95

United States
Environmental Protection
Agency

Office of
Emergency and
Remedial Response

EPA/ROD/R06-90/064
September 1990

ENVIRONMENTAL
PROTECTION
AGENCY
DALLAS, TEXAS
LIBRARY

EPA

Superfund Record of Decision:

Arkwood, AR

OCLC #26607740 12-18-01

EXHIBIT
tabbies
2

Those materials that do not meet the clean up criteria will be incinerated on site

All liquids will be pumped from the sinkhole and treated in an on-site water treatment unit. The sludges will be removed from the sinkhole and handled along with the contaminated site soils. The sinkhole will be backfilled to existing grade.

The incinerator ash will be backfilled into the excavated areas along with the excavated materials that were washed and met the clean up criteria. The remainder of the excavation will be backfilled with clean soil. The backfill will be compacted to preclude settlement and graded to provide drainage and minimize erosion. The entire site will then be covered with 6 to 12 inches of clean topsoil. The site will then be seeded with natural grasses and maintained. Institutional controls such as routine inspection and maintenance of the site, will be continued for at least 30 years following the completion of the remediation. A notice will be negotiated into the deed to the property allowing industrial uses but warning against future excavation on the site.

The revised estimated cost and implementation time for this remedy are:

Net Present Value:	$10,300,000
Time:	2 to 3 years

B. Ground water

The selected remedy for ground water is a combination of Alternative A and Alternative B described in Section VII.3 and in the Proposed Plan.

Ground water users immediately down Cricket Valley will be provided with City water. The ground water monitoring program described in Section IX.A will be implemented. Water from New Cricket Spring will be monitored for two years following the remediation to allow natural attenuation to remediate the aquifer. If, after this two year period, the water at New Cricket Spring does not meet the Arkansas Water Quality Standards, it will be treated to meet them. Depending on the quality of water observed through the monitoring at the other locations, other ground water may require treatment to the same standards. The Dye Tracing Study currently being performed could modify monitoring locations and justify other possible actions such as treatment at additional locations and supplying city

DON A. SMITH*
ROBERT Y. COHEN, II
MATTHEW HORAN
STEPHEN C. SMITH
ERIC L. PENDERGRASS*

*ALSO LICENSED IN OKLAHOMA

SMITH, COHEN & HORAN, PLC

ATTORNEYS AT LAW

SEPTEMBER 13, 2010

MR. C.C. "BUD" GRISHAM
1 MERIWETHER POND
HARRISON, AR 72602

RE: ARKWOOD INC. SITE

Dear Mr. Grisham:

This letter is a follow up to Ms. Jean Mescher's APRIL 9, 2010 letter to you regarding the requirement to record a Deed Restriction ("Restriction") for the Arkwood Inc. property ("Property").

RECORDING THE DEED RESTRICTION.

Although Ms. Mescher of McKesson Corp. and you have agreed on the terms of the required Restriction, you have not yet caused it to be recorded in the office of the Circuit Clerk of Boone County, Arkansas at the Courthouse in Harrison, Arkansas as required and agreed.

Attached is the final version of the Restriction to be recorded. As you are aware, Section xi.A of the Record of Decision ("ROD") for the Property required that a deed Restriction be recorded and to be reflected on the Property's title. Thus, if you fail to record the attached Restriction, you are subject to agency enforcement action for failing to comply with the ROD.

Additionally, the December 31, 1987 Settlement Agreement ("Settlement Agreement") between the Ormond Group and McKesson requires in Section 9.2, that you cooperate with McKesson and its counsel by, among other things, "(C) otherwise providing assistance as (McKesson) requests in connection with the site." This then is a follow up to McKesson's previous request that you cooperate with McKesson by recording the Restriction to be reflected on the Property's title. You are also reminded that you also have a contractual obligation to McKesson to record the Restriction.

We ask that you record the Restriction by September 30, 2010, and furnish to me a file marked copy reflecting the Book and Page Nos. Your failure to comply with the terms of the above identified documents authorizes McKesson

1206 GARRISON AVENUE ▪ POST OFFICE BOX 10205 ▪ FORT SMITH, A
TELEPHONE: 479.782.1001 WWW.SCHFIRM.COM FACSIMILE: 4

EXHIBIT
tabbies
3

to take further steps to insure recordation including seeking agency action. McKesson does not desire to initiate its available remedies to insure the recordation, but is prepared to do so. It can and will solicit agency enforcement action and can and will initiate its own breach of contract action to enforce the provisions of the Settlement Agreement, Section 9.3, where you "consented" to the granting of equitable relief in the form of an injunction compelling you to comply with McKesson's request.

You are also reminded that McKesson would be entitled to seek reasonable attorney's fees and the cost incurred in enforcing the terms and provisions of the Settlement Agreement. Further, the Ormond Group also agreed in the Site Agreement, Exhibit "2" to the Settlement Agreement, at Section 1, to "(C) permit ("McKesson")... to direct in its sole discretion the course of any investigation and cleanup (McKesson) deems appropriate or which is required." McKesson by this letter directs you to record the Restriction on the Property as a part of the cleanup activities on the Property. Again, McKesson has the right to commence litigation under the Site Agreement, and may recover all reasonable fees and costs incurred in doing so.

We urge your immediate cooperation in order that all parties may avoid further controversy and the awarding of remedies as set forth above.

CEASING UNAUTHORIZED AGENCY COMMUNICATIONS.

McKesson has now been advised that your son, Charles Curtis Grisham, Jr. has been communicating with both the Arkansas Department of Environmental Quality (ADEQ") and the United States Environmental Protection Agency ("U.S. EPA") regarding the Arkwood site. As you are aware, Section 9.2 (B) of the Settlement Agreement expressly provides that the Ormond Group shall cooperate with McKesson by, among other things, "not conferring with regulatory agencies... without (McKesson's) prior written permission." Neither you, the Ormond Group nor your son above identified has sought or obtained the consent of McKesson to the unilateral communications with ADEQ or U.S.EPA.

Your son's initial communications indicate his identification as a family member of the owners of the property. In later correspondence he attempts to identify himself as a concerned member of the public not subject to the Settlement Agreement. That appears to be a misrepresentation as he has indicated to McKesson in the past that he is a beneficiary of the Ormond Group and has a financial interest in the site. Your son is clearly subject to and must abide by the Settlement Agreement Section 9.2 (B) which prohibits the type of communications in which he has now engaged with both ADEQ and U.S. EPA, without McKesson's prior consent. In order to avoid further unwarranted contact

and communication by members of the Ormond Group, you are requested by McKesson to contact all members, beneficiaries or other agents of the Ormond Group to cease contact with ADEQ and U.S. EPA. If any of the members, beneficiaries or other agents of the Ormond Group have made contact with ADEQ and U.S. EPA they should write the agency or agencies advising that they are withdrawing the request for information with copies to this office and Ms. Mescher. Please furnish in writing to this office and Ms. Mescher a copy of your writing reflecting that all members, beneficiaries and other agents of the Ormond Group have been instructed as here outlined.

McKesson is prepared to enforce your contractual obligations and prior consent to the granting of such relief, obtain an injunction naming the members of the Ormond Group and seeking attorney's fees and costs incurred. The Settlement Agreement in Sections 9.2(B); 9.3 and 10.12 support the authority of McKesson to seek the relief here identified.

McKesson encourages your cooperation in order that the Restriction will be filed immediately and that the Ormond Group will withdraw any contacts presently made with ADEQ and U.S. EPA and will cease and desist in further communications with those agencies unless they have specifically requested and obtained permission from McKesson.

Yours very truly,

Don A. Smith

cc: Bill Doshier, ESQ.
Box 1797
Harrison, AR 72601

Ms. JEAN MESCHER

-- DEED RESTRICTION --

IN ACCORDANCE WITH ARKWOOD SUPERFUND SITE (A3), THIS DOCUMENT IS TO BE RECORDED IN THE SAME MANNER AS ARE DEEDS AND OTHER INTERESTS IN REAL PROPERTY.

Prepared by:

Recorded by:

_____

[Signature, Officer of County Recording Office]

_____

[Print name below signature]

-- DEED RESTRICTION --

This Deed Restriction is made as of the 30th day of September, 2010, by the Estate of Mary Faye (Burke) Grisham with C.C. Grisham as Executor. Mr. C.C. Grisham's principal place of residence is 1 Meriwether Pond, Harrison, AR 72601 (together with his/her/its/their successors and assigns, collectively "Owner").

1. THE PROPERTY. The Estate of Mary Faye (Burke) Grisham with Mr. C.C. Grisham as Executor is the Owner in fee simple of certain real property in Boone County, Arkansas; the United State Environmental Protection Agency (USEPA) Arkwood Superfund Site ("Site") under the National Priorities List (NPL) listed on March 31, 1989 for the contaminated Site, which includes this property; and the property is more particularly described in Exhibit A, Site Description and Survey, which is attached hereto and made a part hereof ("Property").

2. AGENCY. The USEPA is the agency responsible for overseeing investigation and remediation of the Property under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) program.

3. SOIL CONTAMINATION. Under the direction of the USEPA, soil remediation activities were completed on December 1, 1995 with a final inspection performed by the USEPA and Arkansas Department of Pollution Control and Ecology (ADPCE) on December 13, 1995. As defined by the Record of Decision (ROD), soil clean-up levels for the Site were established at industrial levels and groundwater protection levels established at that time, specifically as follows: 300 mg/kg pentachlorophenol (PCP), 20 ug/kg dioxin (as 2,3,7,8-TCDD equivalents) and 6.0 mg/kg carcinogenic polynuclear aromatic hydrocarbons (c-PNAs) as benzo-a-pyrene equivalents. Pursuant to the ROD, soil contamination remains at the Property in concentrations that do not allow for the unrestricted use of the Property. As a result, there is a statutory requirement for this Deed Restriction and engineering controls in accordance with the ROD.

4. ENGINEERING CONTROLS. In compliance with the ROD and due to the presence and concentration of these contaminants, the Owner has agreed, to the placement of certain engineering controls on the Property including: i) maintaining the site in a fenced and secure manner; ii) maintaining the topsoil and grass cover; iii) maintaining the storm water system; and iv) providing routine inspection and maintenance for at least 30 years following the completion of remediation. The rationale for the engineering controls is:

(a) Any disturbances of the soil at the Property may result in the unacceptable exposure to the soil or impacts to groundwater remediation; and

(b) Each engineering control continues as designed and intent to protect the public health and safety and the environment.

5. ALTERATIONS, IMPROVEMENTS, AND DISTURBANCES. No person shall make, or allow to be made, any alteration, improvement, or disturbance in, to, or about the Property, which disturbs any engineering control at the Property without first obtaining the express written consent of the USEPA. Nothing herein shall constitute a waiver of the obligation of any person to comply with all applicable laws and regulations including, without limitation, the applicable rules of the Occupational Safety and Health Administration. This section survives any delisting of the Site.

6. MONITORING AND MAINTENANCE OF ENGINEERING CONTROLS, AND PROTECTIVENESS CERTIFICATION. The Property Owner shall maintain all engineering controls at the Property and certify to the USEPA on an annual basis that the remedial action of which each engineering control is a part remains protective of the human health and safety and of the environment. The subsequent owners have this obligation during their ownership. The specific obligations to monitor and maintain the engineering controls shall include the following:

i. Monitoring and maintaining each engineering control according to the requirements in Section 4 above to ensure that the remedial action that includes the engineering controls continue to be protective of the public health and safety and of the environment;

ii. Implement any actions that are necessary to correct, mitigate, or abate each problem related to the protectiveness of the remedial action for the Site;

iii. Certify to the USEPA as to the continued protectiveness of the remedial action that includes the engineering controls consistent with the ROD every year on January 15 until the Site is delisted by the USEPA; and

iv. Following delisting of the Site, it is the responsibility of the Property Owner to ensure on an annual basis that the engineering controls are maintained in working condition and the remedial action remains protective of human health and the environment. Engineering controls survive any delisting of the Site.

7. ACCESS. The Owner and the subsequent owners agree to allow the USEPA, its agents and representatives access to the Property to inspect and evaluate the continued protectiveness of the remedial action that includes this Deed Restriction and to conduct additional remediation to ensure the protection of the public health and safety and of the environment if persons responsible for monitoring the protectiveness of the remedial action, as described in paragraph 6, above, fail to conduct such remediation pursuant to this Deed Restriction as required by law. The Owner, and the subsequent owners, shall also cause all leases, subleases, grants, and other written transfers of an interest in the Property to contain a provision expressly requiring that all holders thereof provide such access to the USEPA.

8. RESTRICTIONS.

i. The Owner and the subsequent owners shall cause all leases, grants, and other written transfers of an interest in the Property to contain a provision expressly requiring all holders thereof to take the Property subject to the restrictions contained herein and to comply with all, and not to violate any of the conditions of this Deed Restriction. Nothing contained in this paragraph shall be construed as limiting any obligation of any person to provide any notice required by any law, regulation, or order of any governmental authority.

ii. The Owner and the subsequent owners shall provide written notice to the USEPA at least 60 calendar days before the effective date of any conveyance, grant, gift, or other transfer, in whole or in part, of the owner's interest in the Property.

iii. The Owner and the subsequent owners shall provide written notice to the USEPA within 60 calendar days following the owner's petition for or filing of any document initiating a rezoning or use of the Property.

The Owner and the subsequent owners shall submit written notice under ii and iii to:

Superfund AR/LA Enforcement Section
U.S. Environmental Protection Agency
1445 Ross Avenue
Dallas, TX 75202

And

McKesson Corporation
McKesson Real Estate Department
One Post Street, 34th Floor
San Francisco, CA 94104

9. ENFORCEMENT OF VIOLATIONS.

i. This Deed Restriction is intended to provide notice of certain conditions and restrictions on the Property and to reflect the regulatory and statutory obligations imposed as a conditional remedial action for this Site.

ii. The restrictions provided herein may be enforceable by the USEPA against any person who violates this Deed Restriction. To enforce violations of this Deed Restriction, the Department may initiate one or more enforcement actions and require additional remediation, and assess damages.

10. SEVERABILITY. If any court of competent jurisdiction determines that any provision of this Deed Restriction requires modification, such provision shall be deemed to have been modified automatically to conform to such requirements. If a court of competent jurisdiction determines that any provision of this Deed Restriction is invalid or unenforceable and the provision is of such a nature that it cannot be modified, the provision shall be deemed deleted from this instrument as though the provision had never been included herein. In either case, the remaining provisions of this Deed Restriction shall remain in full force and effect.

11. SUCCESSORS AND ASSIGNS. This Deed Restriction shall be binding upon Owner and upon Owner's successors and assigns, and subsequent owners, lessees and operators while each is an owner, lessee, or operator of the Property.

12. MODIFICATION AND TERMINATION.

i. Any person may request in writing, at any time, that the USEPA modify or terminate this Deed Restriction where performance of subsequent remedial actions, a change of conditions at the Site, or the adoption of revised remediation standards suggest that modification of the Deed Restriction would be appropriate.

ii. This Deed Restriction may be revised or terminated only upon filing of an instrument, executed by the USEPA, in the office of the Circuit Clerk, 200 Courthouse, 100 N. Main Street, Harrison, Boone County, Arkansas, expressly modifying or terminating this Deed Restriction.

13. SIGNATURES. IN WITNESS WHEREOF, Owner has executed this Deed Restriction as of the date first written above.

Estate of Mary Faye (Burke) Grisham with C.C. Grisham as Executor

_____

C.C. Grisham, Executor

_____

Signature

STATE OF ARKANSAS

SS.:

COUNTY OF BOONE

I certify that on _____ day of _____, 2010, C.C. Grisham personally came before me, and this person acknowledged under oath, to my satisfaction, that:

(a) This person is the Executor of the Estate of Mary Faye (Burke) Grisham, the Owner named in this document; and

(b) This person signed this proof to attest to the truth of these facts.

_____
Signature

_____
C.C. Grisham, Executor for the Estate of Mary Faye (Burke) Grisham

Signed and sworn before me on _____day of _____, 2010

_____, Notary Public

_____
[Print name and title]

10 004447
FILED FOR RECORD
10 AUG 30 A 11:42
JEANNIE STEER, CLERK

– DEED NOTICE –

This Deed Notice is made as of the 30 day of August, 2010, by the Estate of Mary Faye (Burke) Grisham with C.C. Grisham as Executor. Mr. C.C. Grisham's principal place of business is located at 1 Meriwether Pond, Harrison, AR 72601 (together with his/her/its/their successors and assigns, collectively "Owner").

1. THE PROPERTY. The Estate of Mary Faye (Burke) Grisham with Mr. C.C. Grisham as Executor is the owner in fee simple of certain real property (the "Property") on the tax map of Boone County, Arkansas; the Property is also known as the United State Environmental Protection Agency (USEPA) Arkwood Superfund Site (Site) under the National Priorities List (NPL) listed on March 31, 1989 for the contaminated Site, which is located within the Property as described herein; and the Property is more particularly described in Exhibit A (Site Survey), which is attached hereto and made a part hereof.

2. SURVEY DESCRIPTION: A part of the Northwest Quarter of the Southeast Quarter, a part of the Northeast Quarter of the Southwest Quarter, a Part of the South half or the Northwest Quarter of Section 27, Township-21-North, Range-21-West, Boone County, Arkansas, more particularly described as follows: Commencing at a found stone at the Southeast corner of the NE ¼ of the SE ¼ of said Section 27, thence with South line of said NW ¼ of the SE ¼ S84 15 35 E 69.65 feet to the center line of County Road for the beginning, thence leaving said south line of forty and following said center line of County Road N 52 27 23, W 122.76 feet, thence N 50 19 04 W 290.15 feet, thence N 52 25 27 W320.01 feet, thence N 48 21 06 W 120.75 feet, thence N 43 06 12 W97.23 feet, thence N 36 24 05 W 133.69 feet, thence 31 59 09 W 821.90 feet, thence N 33 10 37 W 388.58 feet, thence N 29 35 17 W 281.81 feet, thence N 31 42 50 W 153.15 feet, thence N 38 57 27 W 132.25 feet, thence N43 37 48 W 104.23 feet, thence leaving said center line of County Road N 41 56 00 E 26.59 feet to the westerly right-of-way of the Union Pacific Railroad, thence with said right-of-way along a curve in a southeasterly direction having a delta angle of 00 11 53, a radius of 2843.06 feet, an arc length of 9.83 feet, with a long chord of S 48 09 32 E 9.83 feet to the point of tangency, thence S 48 15 53 E 1029.93 feet to point of curve, thence with said curve to the left having a delta angle of 09 02 25, a radius of 2897.90 feet, an arc length of 457.24 feet, with a long chord of S52 07 45 E 456.76 feet, thence S 32 41 42 W 135.00 feet to a point on curve in a southeasterly direction, thence with said curve having a delta angle of 01 09 37, a radius of 3032.90 feet, an arc length of 61.42 feet, with a long chord of S 57 53 07 E 61.42 feet to a point of tangency, thence S 58 27 55 E 182.58 feet, thence S 57 07 28 E 1286.11 feet to the west right-of-way of County Road (Old U.S. Highway 65), thence leaving said westerly right-of-way of Union Pacific Railroad and following said west right-or-way of County Road S22 54 13 W 162.14 feet, thence N67 11 24 W 10.00 feet, thence S 22 48 35 W 76.00 feet, thence S 22 57 35 W24.00 feet, thence S67 02 25 E 10.00 feet, thence S 22 57 35 W 200.00 feet, thence S 67 02 25 E 11.00 feet, thence S 22 57 35 W 102.81 feet to the south line of said NW ¼ of the SE ¼, thence leaving said west right-of-way of County Road and following said south line of Forty N 84 15 35 W 384.56 feet to the point beginning and containing 30.74 acres and subject to existing easements and roads and railroad rights-of-way.

3. AGENCY. The USEPA is the agency responsible for overseeing the investigation and remediation of the Property under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) program.

EXHIBIT
tabbies
4

4. FUTURE LAND USE. This deed notice is being placed on the property described above to ensure that any future development of the property is limited to commercial and/or industrial development. Development of this property for residential use is not appropriate.

5. ALTERATIONS, IMPROVEMENTS, AND DISTURBANCES. No person shall make, or allow to be made, any alteration, improvement, or disturbance in, to, or about the Property, which disturbs the Property without first obtaining the express written consent of the USEPA and the owner. Nothing herein shall constitute a waiver of the obligation of any person to comply with all applicable laws and regulations including, without limitation, the applicable rules of the Occupational Safety and Health Administration. This section survives any deletion of the Property from the National Priorities List.

6. NOTICES.

i. The Owner and the subsequent owners shall cause all leases, grants, and other written transfers of an interest in the Property to contain a provision expressly requiring all holders thereof to take the Property subject to the restrictions contained herein and to comply with all, and not to violate any of the conditions of this Deed Notice. Nothing contained in this paragraph shall be construed as limiting any obligation of any person to provide any notifications required by any law, regulation, or order of any governmental authority.

ii. The Owner and the subsequent owners shall provide written notice to the USEPA at least 30 calendar days before the effective date of any conveyance, grant, gift, or other transfer, in whole or in part, of the owner's interest in the Property.

iii. The Owner and the subsequent owners shall provide written notice to the USEPA within 60 calendar days following the owner's petition for or filing of any document requesting a change in the permitted use of the Property.

The Owner and the subsequent owners shall submit written notice under ii and iii to:

Superfund Division, Remedial Branch
U.S. Environmental Protection Agency, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202

7. ENFORCEMENT OF VIOLATIONS.

i. This Deed Notice is intended to provide notice that future use of the Property is restricted to commercial/industrial use.

ii. The restrictions provided herein are enforceable against any person who violates this Deed Notice.

8. SUCCESSORS AND ASSIGNS. This Deed Notice shall be binding upon Owner and upon Owner's successors and assigns, and subsequent owners, lessees and operators while each is an owner, lessee, or operator of the Property.

9. MODIFICATION AND TERMINATION.

i. Any person may request in writing, at any time, that the USEPA modify or terminate this Deed Notice.

ii. This Deed Notice may be revised or terminated only upon filing of an instrument, approved by the USEPA, in the office of the Circuit Clerk, 200 Courthouse, 100 N. Main Street, Harrison, Boone County, Arkansas, expressly modifying or terminating this Deed Notice.

10. SIGNATURES. IN WITNESS WHEREOF, Owner has executed this Deed Notice as of the date first written above.

Estate of Mary Faye (Burke) Grisham with C.C. Grisham as Executor

C.C. Grisham, Executor

C C Grisham

Signature

STATE OF ARKANSAS

SS.:

COUNTY OF BOONE

I certify that on 30th day of August, 2010, C.C. Grisham personally came before me, and this person acknowledged under oath, to my satisfaction, that:

(a) This person is the Executor of the Estate of Mary Faye (Burke) Grisham, the Owner named in this document; and

(b) This person signed this proof to attest to the truth of these facts.

C C Grisham

Signature

C.C. Grisham, Executor for the Estate of Mary Faye (Burke) Grisham

Signed and sworn before me on 30th day of August, 2010

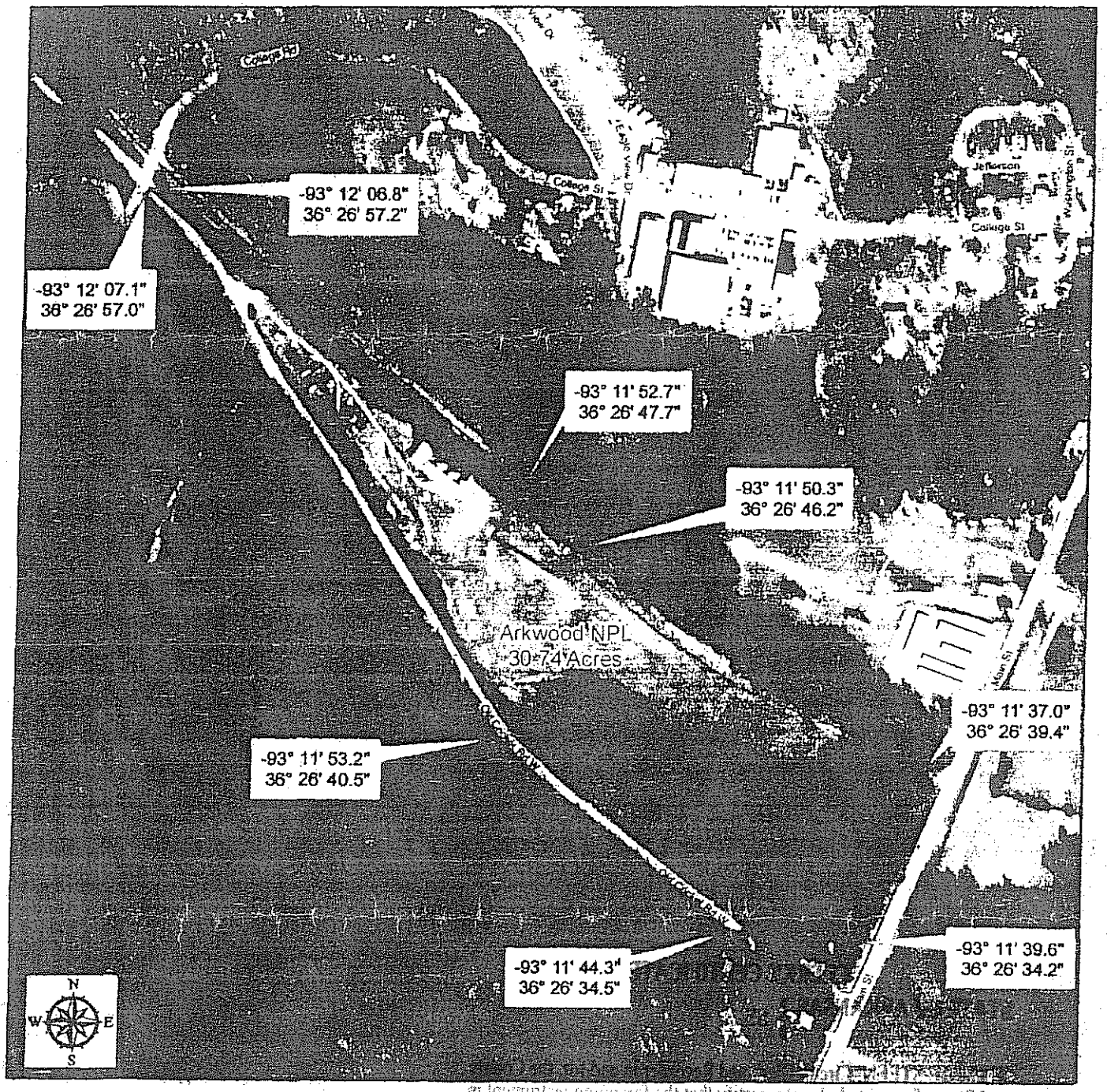
, Notary Public

Daniel J. Fraser II Notary

[Print name and title]

Daniel J. Fraser II
County Of Boone
Notary Public - Arkansas
My Commission Exp. 01/13/2014

Arkwood NPL Superfund Site
Boone County, Arkansas



Arkwood NPL Site

Map Created 11/17/2009.
Image from Bing Maps, date unknown.
NPL polygon from EPA R6 Superfund delineated 11/16/2009 per State of Arkansas Survey Map dated 6/30/2009.

0 0.1 0.2
Miles

EPA Region 6
Superfund
GIS Support

20091117ML01

CLERK'S CERTIFICATE

STATE OF ARKANSAS }
County of Boone } **SS**

JEANNIE STEEN, Circuit Clerk and Recorder in and for the County and State aforesaid, do hereby certify that the foregoing instrument in writing is a true and correct copy of the original Deed Volume **as Recorded as Instrument #** 100044 **in my office at Harrison, Arkansas.**

Given under my hand and seal this 8th **day of** October **, 20** 10 **.**

JEANNIE STEEN, CLERK

By L. Stamps **Deputy Clerk**

SEAL OF CIRCUIT COURT
BOONE COUNTY, AR