UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA and THE COMMONWEALTH OF MASSACHUSETTS,	)	
Plaintiffs,	)	
v.	)	Civil No. 1:20-cv-11026-LTS
SPRAGUE RESOURCES LP and SPRAGUE OPERATING RESOURCES, LLC,	)	
Defendants.	)	

CONSENT DECREE

TABLE OF CONTENTS

I. JURISDICTION AND VENUE 3
II. APPLICABILITY 4
III. OBJECTIVES 5
IV. DEFINITIONS 5
V. CIVIL PENALTY 7
VI. COMPLIANCE REQUIREMENTS 9
VII. REPORTING REQUIREMENTS 11
VIII. STIPULATED PENALTIES 13
IX. FORCE MAJEURE 17
X. DISPUTE RESOLUTION 19
XI. INFORMATION COLLECTION AND RETENTION 22
XII. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS 24
XIII. COSTS 26
XIV. NOTICES 26
XV. 26 U.S.C. SECTION 162(F)(2)(A)(II) IDENTIFICATION 29
XVI. EFFECTIVE DATE 29
XVII. RETENTION OF JURISDICTION 29
XVIII. MODIFICATION 29
XIX. TERMINATION 30
XX. PUBLIC PARTICIPATION 31
XXI. SIGNATORIES/SERVICE 31
XXII. INTEGRATION 32
XXIII. FINAL JUDGMENT 32
XXIV. APPENDICES 32

Plaintiffs United States of America, on behalf of the United States Environmental Protection Agency ("EPA"), and the Commonwealth of Massachusetts (the "Commonwealth"), acting by and through the Attorney General of Massachusetts and the Massachusetts Department of Environmental Protection ("MassDEP"), have filed a Complaint in this action, concurrently with the lodging of this Consent Decree (or "Decree"), alleging that Defendants, Sprague Resources LP and Sprague Operating Resources, LLC, (collectively, "Defendants" or "Sprague") violated Sections 113(a)(1) and 113(b) of the Clean Air Act (the "Federal Act"), 42 U.S.C. §§ 7413(a)(1) and 7413(b), at Sprague's petroleum storage and distribution facilities located at 43 Beacham Street, Everett, Massachusetts (the "Everett Facility") and 728 Washington Street, Quincy, Massachusetts (the "Quincy Facility"). Sprague also owns and operates a similar facility located at 30 Pine Street, New Bedford, MA 02740 (the "New Bedford Facility"), which is a subject of this settlement.

In the Complaint, Plaintiffs United States and the Commonwealth also allege violations of Massachusetts's federally approved state implementation plan (the "MA SIP"), including federally approved portions of Massachusetts air pollution control regulations, 310 C.M.R. 7.00 *et seq.* (the "MA Regulations"), promulgated by MassDEP, in connection with allegedly unlawful and unpermitted air emissions of volatile organic compounds ("VOCs") at Sprague's petroleum and asphalt storage and distribution facilities in Everett and Quincy, Massachusetts.

In addition, the Commonwealth alleges in the Complaint that the Defendants violated the Massachusetts Clean Air Act (the "Massachusetts Act"), M.G.L. c. 111, §§ 142A-142O, at Defendants' facilities in Everett and Quincy, Massachusetts, and certain state-only requirements of the Massachusetts Regulations, 310 C.M.R. 7.01 & 7.02, over which claims this Court has supplemental jurisdiction, at the Everett and Quincy Facilities.

In the Complaint, the United States also alleges: violations of Section 113(a)(1) of the Federal Act, 42 U.S.C. § 7413(a)(1), and the Maine state implementation plan ("ME SIP"), including federally approved portions of Maine's air pollution control regulations, 06-096 Code of Maine Rules, Chapters 100-165 ("ME APC Regulations"), promulgated by the Maine Department of Environmental Protection ("ME DEP"), at Sprague's petroleum storage and distribution facilities located on Mack Point - Trundy Road, Searsport, Maine (the "Searsport Facility"), and at 59 Main Street, South Portland, Maine (the "South Portland Facility"); violations of Section 113(a)(1) of the Federal Act, 42 U.S.C. § 7413(a)(1), and the New Hampshire state implementation plan ("NH SIP"), including federally approved portions of New Hampshire's air pollution control requirements, New Hampshire Code of Administrative Rules, Chapter Env-A, promulgated by the New Hampshire Department of Environmental Services ("NHDES"), at Sprague's petroleum storage and distribution facility located at 372 Shattuck Way, Newington, New Hampshire (the "River Road Facility"); and violations of Section 113(a)(1) of the Federal Act, 42 U.S.C. § 7413(a)(1), and the Rhode Island state implementation plan ("RI SIP"), including federally approved portions of the Rhode Island Air Pollution Control Regulations ("RI APC Regulations"), at Sprague's petroleum storage and distribution facility located at 144 Allens Avenue, Providence, Rhode Island (the "Providence Facility").

In the Complaint, the United States and the Commonwealth seek civil penalties and injunctive relief for the alleged violations referenced above.

Except as otherwise provided in this Consent Decree, Defendants do not admit the factual and legal allegations in the Complaint, nor any liability to the United States or the Commonwealth arising out of the transactions or occurrences alleged in the Complaint.

The Parties recognize, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith and will avoid litigation among the Parties and that this Consent Decree is fair, reasonable, and in the public interest.

NOW, THEREFORE, before the taking of any testimony, without the adjudication or admission of any issue of fact or law except as provided in Section I (Jurisdiction and Venue), and with the consent of the Parties, IT IS HEREBY ADJUDGED, ORDERED, AND DECREED as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action, under Sections 113(a)(1), (a)(3) and (b) of the Federal Act, 42 U.S.C. §§ 7604, 7413(a)(1) and (b), and 28 U.S.C. §§ 1331, 1345, and 1355, and over the Parties. This Court has supplemental jurisdiction over the state law claims asserted by the Commonwealth under 28 U.S.C. § 1367. Venue lies in this District under Sections 113(a)(1) and (b) of the Act, 42 U.S.C. §§ 7413(a)(1) and (b), and 28 U.S.C. §§1391(b)-(c) and 1395(a), because a substantial part of the events or omissions giving rise to the claims in this Complaint occurred within this District, certain properties that are the subjects of this action (*i.e.*, the Everett and Quincy Facilities) are situated in this District, Defendants are subject to the Court's personal jurisdiction, and a substantial amount of the civil penalties sought in this action have accrued in this District. For purposes of this Decree, or any action to enforce this Decree, Defendants consent to the Court's jurisdiction over this Decree and any such action and over Defendants and consent to venue in this judicial district.

2. For purposes of this Consent Decree only, Defendants agree that the Complaint states claims upon which relief may be granted, under Sections 113(a)(1) and 113(b) of the

Federal Act, 42 U.S.C. §§ 7413(a)(1) and 7413(b), and the Massachusetts Act, as well as the MA SIP, the ME SIP, the NH SIP, and the RI SIP (collectively, the "SIPs").

II. APPLICABILITY

3. The obligations of this Consent Decree apply to and are binding upon the United States and the Commonwealth, and upon Defendants and any successors, assigns, or other entities or persons otherwise bound by law.

4. No transfer of ownership or operation ("Transfer") of the Everett, Quincy, New Bedford, Searsport, South Portland, River Road, or Providence Facilities (collectively, the "Facilities"), whether in compliance with the procedures of this Paragraph or otherwise, shall relieve Defendants of their obligation to ensure that the terms of the Decree are implemented. Subject to the foregoing sentence, no later than the date of transfer or ownership of any of the Facilities, Defendants shall provide notice to EPA regarding any Facility, and to MassDEP regarding the Everett, Quincy or New Bedford Facility, in accordance with Section XIV (Notices) of the transfer and an agreement executed by the Defendants and the transferee indicating that (1) the transferee has received a copy of this Consent Decree and (2) the transferee shall comply with the Defendants' obligations of the Consent Decree. Upon written request, Defendants shall provide to EPA regarding any Facility, and to MassDEP regarding the Everett, Quincy or New Bedford Facility, a copy of the final written sales agreement for the Transfer, which request and response shall be subject to 40 C.F.R. § 2.203 and related case law. Any attempt to transfer ownership or operation of any of the Facilities without complying with this Paragraph constitutes a violation of this Decree.

5. Defendants shall provide a copy of this Consent Decree to all officers, employees, and agents whose duties might reasonably include compliance with any provision of this Decree,

as well as to any contractor retained to perform work required under this Consent Decree. Defendants shall condition any such contract upon performance of the work in conformity with the terms of this Consent Decree.

6. In any action to enforce this Consent Decree, neither Defendant shall raise as a defense the failure by any of its officers, directors, employees, agents, or contractors to take any actions necessary to comply with the provisions of this Consent Decree.

III. OBJECTIVES

7. The objectives of this Consent Decree are (a) to resolve claims for past alleged violations of the Federal and Massachusetts Acts through payment of civil penalties; and (b) to implement injunctive relief to offset alleged historical air pollutant emissions and reduce future air pollutant emissions from the Defendants' heated asphalt and No. 6 residual fuel oil ("6 oil") storage tanks, loading racks, and other areas of the Facilities.

IV. DEFINITIONS

8. Terms used in this Consent Decree that are defined in the Federal Act, in regulations promulgated under the Federal Act, and any state statutes or regulations, including the SIPs, referenced in this Consent Decree, shall have the meanings assigned to them in such statutes or regulations, unless otherwise provided in this Decree. Whenever the terms set forth below are used in this Consent Decree, the following definitions shall apply:

"Commonwealth" shall mean the Commonwealth of Massachusetts.

"Complaint" shall mean the complaint filed by the United States and the Commonwealth in this action.

"Consent Decree" or "Decree" shall mean this Decree and all appendices attached hereto (listed in Section 24).

"Day" shall mean a calendar day unless expressly stated to be a business day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next business day.

"Defendants" or "Sprague" shall mean Sprague Resources LP and Sprague Operating Resources, LLC.

"EPA" shall mean the United States Environmental Protection Agency and any of its successor departments or agencies.

"Effective Date" shall have the definition provided in Section XVI.

"Facilities" shall mean Defendants' Everett, Quincy, New Bedford, Searsport, South Portland, River Road, and Providence Facilities.

"Heated Tank" shall mean a bulk heated petroleum tank used for the storage of #6 oil or asphalt with a capacity greater than 210,000 gallons. Regarding the Everett Facility, "Tank 148" shall mean the Heated Tank currently numbered TK-148, depicted on the map attached hereto as Appendix A, "Tank 193" shall mean the Heated Tank currently numbered TK-193 depicted on the map attached hereto as Appendix A, "Tank 194" shall mean the Heated Tank currently numbered TK-194 depicted on the map attached hereto as Appendix A, "Tank 195" shall mean the Heated Tank currently numbered TK-195 depicted on the map attached hereto as Appendix A, "Tank 17" shall mean the Heated Tank currently numbered TK-17 depicted on the map attached hereto as Appendix A, "Tank 18" shall mean the Heated Tank currently numbered TK-18 depicted on the map attached hereto as Appendix A, "Tank 1001" shall mean the Heated Tank currently numbered TK-1001 depicted on the map attached hereto as Appendix A, and "Tank 1002" shall mean the Heated Tank currently numbered TK-1002 depicted on the map

attached hereto as Appendix A. Regarding the Quincy Facility, "Tank 11" shall mean the Heated Tank currently numbered 11 depicted on the map attached hereto as Appendix B.

"Paragraph" shall mean a portion of this Decree identified by an Arabic numeral.

"Parties" shall mean the United States, the Commonwealth, and Defendants.

"Section" shall mean a portion of this Decree identified by a roman numeral.

"United States" shall mean the United States of America, acting on behalf of EPA.

V. CIVIL PENALTY

9. Within 30 Days after the Effective Date, Defendants shall pay the sum of $205,000 as a civil penalty to the United States, together with interest accruing from the date on which the Consent Decree is lodged with the Court at the rate specified in 28 U.S.C. § 1961 as of the date of lodging.

10. Defendants shall pay the civil penalty due to the United States by FedWire Electronic Funds Transfer ("EFT") to the U.S. Department of Justice account, in accordance with instructions provided to Defendants by the Financial Litigation Unit ("FLU") of the United States Attorney's Office for the District of Massachusetts after the Effective Date. The payment instructions provided by the FLU will include a Consolidated Debt Collection System ("CDCS") number, which Defendants shall use to identify all payments required to be made to the United States in accordance with this Consent Decree. The FLU will provide the payment instructions to:

Paul Scoff, Esquire
Sprague Operating Resources, LLC
185 International Drive
Portsmouth, NH 03801
pscoff@spragueenergy.com

on behalf of Defendants. Defendants may change the individual to receive payment instructions on their behalf by providing written notice of such change to the United States and EPA in accordance with Section XIV (Notices).

11. At the time of payment to the United States, Defendants shall send notice that payment has been made: (i) to EPA via email at cinwd_acctsreceivable@epa.gov or via First Class Mail or express mail at EPA Cincinnati Finance Office, 26 W. Martin Luther King Drive, Cincinnati, Ohio 45268; (ii) to the United States via email or First Class Mail or express mail in accordance with Section XIV; and (iii) to EPA in accordance with Section XIV (Notices). Such notice shall state that the payment is for the civil penalty owed pursuant to the Consent Decree in *United States, et al. v. Sprague Resources LP, et al.*, and shall reference the civil action number, CDCS Number and DOJ case number 90-5-2-1-11436.

12. Defendants shall not deduct any penalties paid under this Decree pursuant to this Section or Section VIII (Stipulated Penalties) in calculating its federal, Commonwealth, other state, or local income tax.

13. No later than 30 Days after the Effective Date, Defendants shall pay a civil penalty of $145,000 to the Commonwealth. This payment shall be made by certified, treasurer's, or bank check payable to the "Commonwealth of Massachusetts" and delivered to the Office of the Attorney General, Environmental Protection Division, One Ashburton Place, Boston, MA 02108, to the attention of Christophe Courchesne, Assistant Attorney General. Each check shall include on its face the following information: *United States, et al. v. Sprague Resources LP, et al*. Defendants shall be required to pay to the Commonwealth, for any period of non-payment after the payment obligation to the Commonwealth becomes due, interest on the entire amount due at the rate of twelve percent (12%) per year pursuant to M.G.L. c. 231, § 6B.

VI. COMPLIANCE REQUIREMENTS

14. Beginning on the Effective Date, and until termination of this Consent Decree, Defendants shall comply with the provisions of Appendices C, D, E, F, G, H, and I, attached to this Consent Decree and incorporated by reference.

15. Approval of Deliverables. After review of any plan, report, or other item that is required to be submitted pursuant to this Consent Decree to EPA with respect to the Searsport, South Portland, River Road, or Providence Facilities (the "Non-MA Facilities"), or to EPA and MassDEP with respect to submissions regarding the Everett, Quincy, or New Bedford Facilities (the "MA Facilities"), EPA for the Non-MA Facilities, or EPA and MassDEP (the "Agencies") for the MA Facilities, shall in writing: (a) approve the submission; (b) approve the submission upon specified conditions; (c) approve part of the submission and disapprove the remainder; or (d) disapprove the submission. With respect to applications for MassDEP plan approvals under this Consent Decree, MassDEP will, after consultation with EPA regarding whether such application meets the requirements of this Consent Decree, review each application pursuant to 310 CMR 7.02 (Plan Approval and Emission Limitations) and other applicable procedures under Massachusetts law, including 310 CMR 4.00 (Timely Action Schedule and Fee Provisions), and such review of and decision on such application shall not be subject to this Paragraph or Section X (Dispute Resolution) of this Consent Decree.

16. If the submission is approved pursuant to Paragraph 15, Defendants shall take all actions required by the plan, report, or other document, in accordance with the schedules and requirements of the plan, report, or other document, as approved. If the submission is conditionally approved or approved only in part pursuant to Paragraph 15(b) or (c), Defendants shall, upon written direction from the Agencies for the MA Facilities, or EPA for the Non-MA

Facilities, take all actions required by the approved plan, report, or other item that the Agencies for the MA Facilities, or EPA for the Non-MA Facilities, determine(s) are technically severable from any disapproved portions, subject to Defendants' right to dispute only the specified conditions or the disapproved portions, under Section X (Dispute Resolution).

17. If the submission is disapproved in whole or in part pursuant to Paragraph 15(c) or (d), Defendants shall, within 45 days or such other time as the Parties agree to in writing, correct all deficiencies and resubmit the plan, report, or other item, or disapproved portion thereof, for approval, in accordance with the preceding Paragraphs, subject to Defendants' right to dispute the disapproved portion(s), under Section X (Dispute Resolution). If the resubmission is approved in whole or in part, Defendants shall proceed in accordance with the preceding Paragraph.

18. If a resubmitted plan, report, or other item, or portion thereof, is disapproved in whole or in part, the Agencies for the MA Facilities, or EPA for the Non-MA Facilities, may again require Defendants to correct any deficiencies, in accordance with the preceding Paragraphs, or may themselves correct any deficiencies, subject to Defendants' right to invoke dispute resolution under Section X (Dispute Resolution) and the right of the Agencies for the MA Facilities, or EPA for the Non-MA Facilities, to seek stipulated penalties as provided in this Consent Decree.

19. Any stipulated penalties applicable to the original submission, as provided in Section VIII (Stipulated Penalties), shall accrue during the 45-day period or other specified period, but shall not be payable unless the resubmission is untimely or is disapproved in whole or in part; provided that, if the original submission was so deficient as to constitute a material

breach of Defendants' obligations under this Decree, the stipulated penalties applicable to the original submission shall be due and payable notwithstanding any subsequent resubmission.

20. Permits. Where any compliance obligation under this Section requires Defendants to obtain a federal, state, or local permit or approval, Defendants shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals. Defendants may seek relief under the provisions of Section IX (Force Majeure) for any delay in the performance of any such obligation resulting from a failure to obtain, or a delay in obtaining, any permit or approval required to fulfill such obligation, if Defendants have submitted timely and complete applications and have taken all other actions necessary to obtain all such permits or approvals.

VII. REPORTING REQUIREMENTS

21. Defendants shall submit the following reports:

a. By July 31st and January 31st of each year after the Effective Date, until termination of this Decree pursuant to Section XIX (Termination), Defendants shall submit to the United States, EPA, and the Commonwealth a semi-annual report for the preceding six months that shall describe the status of compliance with all measures required under Appendices C through I, including: product throughputs for the affected Heated Tanks; status of permit applications; installation and/or operation and maintenance of vent and treatment systems at the Quincy and South Portland Facilities; and, as allowed under this Consent Decree, any switch of the type of product (#6 oil or asphalt) stored in a Heated Tank. The report shall also include a description of any noncompliance with the requirements of this Consent Decree and an explanation of the violation's likely cause and of the remedial steps taken, or to be taken, to prevent or minimize such violation.

b. If Defendants violate, or have reason to believe that they may violate, any requirement of this Consent Decree, Defendants shall notify the United States for the Non-MA Facilities, or United States and the Commonwealth for the MA Facilities, of such violation and its likely duration, in writing, within ten (10) working Days of the Day either Defendant first becomes aware of the violation, with an explanation of the violation's likely cause and of the remedial steps taken, or to be taken, to prevent or minimize such violation. If the cause of a violation cannot be fully explained at the time the notification is due, Defendants shall so state in the report. Defendants shall investigate the cause of the violation and shall then submit an amendment to the notification, including a full explanation of the cause of the violation, within 30 Days of the Day either Defendant becomes aware of the cause of the violation. Nothing in this Paragraph or the following Paragraph relieves Defendants of their obligation to provide the notice required by Section IX (Force Majeure).

22. Whenever any violation of this Consent Decree or of any applicable permit, or any other event affecting Defendants' performance under this Decree or the performance of a Facility, may pose an immediate threat to the public health or welfare or the environment, Defendants shall notify EPA for the Non-MA Facilities, or EPA and the Commonwealth for the MA Facilities, orally or by electronic or facsimile transmission as soon as possible, but no later than 24 hours after either Defendant first knew of the violation or event. This procedure is in addition to the requirements set forth in the preceding Paragraph.

23. All reports and notifications shall be submitted to the persons designated in Section XIV (Notices).

24. Each report submitted by Defendants under this Section shall be signed by an official of the submitting party and include the following certification:

> I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I have no personal knowledge that the information submitted is other than true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

25. This certification requirement does not apply to emergency or similar notifications where compliance with the certification requirement would be impractical.

26. The reporting requirements of this Consent Decree do not relieve Defendants of any reporting obligations required by the Federal or Massachusetts Acts or implementing regulations, or by any other federal, state, or local law, regulation, permit, approval, or other requirement.

27. Any information provided pursuant to this Consent Decree may be used by the United States or the Commonwealth in any proceeding to enforce the provisions of this Consent Decree and as otherwise permitted by law.

VIII. STIPULATED PENALTIES

28. Defendants shall be liable for stipulated penalties to the United States for the Non-MA Facilities, or the United States and the Commonwealth for the MA Facilities, for violations of this Consent Decree as specified below, unless excused under Section IX (Force Majeure). A violation includes failing to perform any obligation required by the terms of this Decree, including any work plan or schedule approved under this Decree, according to all applicable requirements of this Decree and within the specified time schedules established by or approved under this Decree.

29. Late Payment of Civil Penalty. If Defendants fail to pay the civil penalty required to be paid under Paragraph 9 of Section V (Civil Penalty) when due, Defendants shall pay to the United States, in addition to interest specified in that Paragraph, a stipulated penalty of $1,000 per Day for each Day that the payment is late. If Defendants fail to pay the civil penalty required to be paid under Paragraph 13 of Section V (Civil Penalty) when due, Defendants shall pay to the Commonwealth, in addition to interest specified in that Paragraph, a stipulated penalty of $1,000 per Day for each Day that the payment is late.

30. Compliance Requirements. The following stipulated penalties shall accrue per violation per Day for each violation of the requirements identified in Section VI (Compliance Requirements):

Penalty Per Violation Per Day	Period of Noncompliance
$1,000	1st through 14th day
$1,500	15th through 30th day
$2,000	31st day and beyond

31. Reporting Requirements. The following stipulated penalties shall accrue per violation per Day for each violation of the requirements of Section VII (Reporting Requirements):

Penalty Per Violation Per Day	Period of Noncompliance
$500	1st through 14th day
$750	15th through 30th day
$1,000	31st day and beyond

32. Stipulated penalties under this Section shall begin to accrue on the Day after performance is due or on the Day a violation occurs, whichever is applicable, and shall continue to accrue until performance is satisfactorily completed or until the violation ceases. Stipulated penalties shall accrue simultaneously for separate violations of this Consent Decree.

33. Defendants shall pay stipulated penalties to the United States for the Non-MA Facilities, or the United States and the Commonwealth for the MA Facilities, within 30 Days of receipt of a written demand by either Plaintiff. Defendants shall pay 67 percent of the total stipulated penalty amount due to the United States and 33 percent to the Commonwealth for MA Facilities, or 100% of the total stipulated penalty amount due to the United States for Non-MA Facilities. The Plaintiff making a demand for payment of a stipulated penalty shall simultaneously send a copy of the demand to the other Plaintiff.

34. Either Plaintiff may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due it under this Consent Decree.

35. Stipulated penalties shall continue to accrue as provided in Paragraph 32, during any Dispute Resolution, but need not be paid until the following:

a. If the dispute is resolved by agreement of the Parties or by a decision of the United States and/or the Commonwealth, as applicable, that is not appealed to the Court, Defendants shall pay accrued penalties determined to be owing, together with interest at the rate provided in Paragraph 9 or 13, as applicable, within 30 Days of the effective date of the agreement or the receipt of the United States' or the Commonwealth's decision or order.

b. If the dispute is appealed to the Court and the United States or the Commonwealth, as applicable, prevails in whole or in part, Defendants shall pay all accrued penalties determined by the Court to be owing, together with interest at the rate provided in Paragraph 9 or 13, as applicable, within 60 Days of receiving the Court's decision or order, except as provided in subparagraph c, below.

c. If any Party appeals the District Court's decision, Defendants shall pay all accrued penalties determined to be owing, together with interest at the rate provided in Paragraph 9 or 13, as applicable, within 15 Days of receiving the final appellate court decision.

36. Defendants shall pay stipulated penalties owing to the United States in the manner set forth and with the confirmation notices required by Paragraph 10, except that the transmittal letter shall state that the payment is for stipulated penalties and shall state for which violation(s) the penalties are being paid. Defendants shall pay stipulated penalties owing to the Commonwealth in the manner set forth in Paragraph 13, except that the payment shall be accompanied by a transmittal letter stating that the payment is for stipulated penalties and shall state for which violation(s) the penalties are being paid.

37. If Defendants fail to pay stipulated penalties according to the terms of this Consent Decree, Defendants shall be liable for interest on such penalties to the United States and the Commonwealth, as provided for in 28 U.S.C. § 1961 or M.G.L. c. 231, § 6B, as applicable, accruing as of the date payment became due. Nothing in this Paragraph shall be construed to limit the United States or the Commonwealth from seeking any remedy otherwise provided by law for Defendants' failure to pay any stipulated penalties.

38. The payment of penalties and interest, if any, shall not alter in any way Defendants' obligation to complete the performance of the requirements of this Consent Decree.

39. Non-Exclusivity of Remedy. Stipulated penalties are not the United States' or the Commonwealth's exclusive remedy for violations of this Consent Decree. Subject to the provisions of Section XII (Effect of Settlement/Reservation of Rights), the United States and the Commonwealth each expressly reserves the right to seek any other relief it deems appropriate for Defendants' violation of this Decree or applicable law, including but not limited to an action

against either Defendant for statutory penalties, additional injunctive relief, mitigation or offset measures, and/or contempt. However, the amount of any statutory penalty assessed for a violation of this Consent Decree shall be reduced by an amount equal to the amount of any stipulated penalty assessed and paid pursuant to this Consent Decree.

IX. FORCE MAJEURE

40. "Force majeure," for purposes of this Consent Decree, is defined as any event arising from causes beyond the control of Defendants, of any entity controlled by Defendants, or of Defendants' contractors, that delays or prevents the performance of any obligation under this Consent Decree despite Defendants' best efforts to fulfill the obligation. The requirement that Defendants exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any potential force majeure event (a) as it is occurring and (b) following the potential force majeure, such that the delay and any adverse effects of the delay are minimized. "Force Majeure" does not include Defendants' financial inability to perform any obligation under this Consent Decree.

41. If any event occurs or has occurred that may delay the performance of any obligation under this Consent Decree, whether or not caused by a force majeure event, Defendants shall provide notice orally or by electronic or facsimile transmission to the United States and EPA for Non-MA Facilities, or the United States, EPA and the Commonwealth for MA Facilities, under Section IV (Notices), within 72 hours of when either Defendant first knew that the event might cause a delay. Within seven (7) days thereafter, Defendants shall provide in writing to EPA for Non-MA Facilities, or the EPA and MassDEP for MA Facilities, an explanation and description of the reasons for the delay, including the location of the facility at

which the delay occurs; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Defendants' rationale for attributing such delay to a force majeure event if it intends to assert such a claim; and a statement as to whether, in the opinion of Defendants, such event may cause or contribute to an endangerment to public health, welfare or the environment. Defendants shall include with any notice all available documentation supporting the claim that the delay was attributable to a force majeure. Failure to comply with the above requirements shall preclude Defendants from asserting any claim of force majeure for that event for the period of time of such failure to comply, and for any additional delay caused by such failure.

42. If the Agencies for the MA Facilities, or EPA for the Non-MA Facilities, agree(s) that the delay or anticipated delay is attributable to a force majeure event, the time for performance of the obligations under this Consent Decree that are affected by the force majeure event will be extended by the Agencies for the MA Facilities, or by EPA for the Non-MA Facilities, for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the force majeure event shall not, of itself, extend the time for performance of any other obligation. The Agencies for the MA Facilities, or EPA for the Non-MA Facilities, will notify Defendants in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure event.

43. If the Agencies for the MA Facilities, or EPA for the Non-MA Facilities, do(es) not agree that the delay or anticipated delay has been or will be caused by a force majeure event, the Agencies for the MA Facilities, or EPA for the Non-MA Facilities, will notify Defendants in writing of its decision.

44. If Defendants elect to invoke the dispute resolution procedures set forth in Section X (Dispute Resolution), they shall do so no later than 21 days after receipt of the Agencies' or EPA's notice, as applicable. In any such proceeding, Defendants shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure event, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that Defendants complied with the requirements of Paragraphs 40 and 41. If Defendants carry this burden, the delay at issue shall be deemed not to be a violation by Defendants of the affected obligation of this Consent Decree identified in the Defendants' notice to the Agencies or EPA.

X. DISPUTE RESOLUTION

45. Unless otherwise expressly provided for in this Consent Decree, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Consent Decree.

46. Informal Dispute Resolution. Any dispute subject to Dispute Resolution under this Consent Decree shall first be the subject of informal negotiations. The dispute shall be considered to have arisen when Defendants send the United States and EPA for Non-MA Facilities, or the United States, EPA, and the Commonwealth for MA Facilities, a written Notice of Dispute. Such Notice of Dispute shall state clearly the matter in dispute. The period of informal negotiations shall not exceed 20 Days from the date the dispute arises, unless that period is modified by written agreement. If the Parties cannot resolve a dispute by informal negotiations, then the position advanced by the United States for Non-MA Facilities, or the United States and the Commonwealth for MA Facilities, shall be considered binding unless,

within 20 Days after the conclusion of the informal negotiation period, Defendants invoke formal dispute resolution procedures as set forth below.

47. Formal Dispute Resolution. Defendants shall invoke formal dispute resolution procedures, within the time period provided in the preceding Paragraph, by serving on the United States for Non-MA Facilities, or the United States and the Commonwealth for MA Facilities, a written Statement of Position regarding the matter in dispute. The Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting Defendants' position and any supporting documentation relied upon by Defendants.

48. The United States for Non-MA Facilities, or the United States and the Commonwealth for MA Facilities, shall serve its/their Statement of Position (the "Government's Statement of Position") within 45 Days of receipt of Defendants' Statement of Position. The Government's Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting that position and any supporting documentation relied upon. The Government's Statement of Position shall be binding on Defendants, unless Defendants file a motion for judicial review of the dispute in accordance with the following Paragraph.

49. Defendants may seek judicial review of the dispute by filing with the Court and serving on the United States for Non-MA Facilities, or the United States and the Commonwealth for MA Facilities, in accordance with Section XIV (Notices), a motion requesting judicial resolution of the dispute. The motion must be filed within 21 Days of receipt of the Government's Statement of Position pursuant to the preceding Paragraph. The motion shall contain a written statement of Defendants' position on the matter in dispute, including any supporting factual data, analysis, opinion, or documentation, and shall set forth the relief

requested and any schedule within which the dispute must be resolved for orderly implementation of the Consent Decree.

50. The United States and/or the Commonwealth, as applicable, shall respond to Defendants' motion within the time period allowed by the Local Rules of this Court or such other time period as the Court may order. Defendants may file a reply memorandum, to the extent permitted by the Local Rules.

51. Standard of Review

a. Disputes Concerning Matters Accorded Record Review. Except as otherwise provided in this Consent Decree, in any dispute brought under Paragraph 47 (Formal Dispute Resolution) pertaining to the adequacy or appropriateness of plans, procedures to implement plans, schedules, or any other items requiring approval by EPA or the Commonwealth or both under this Consent Decree (except for the plan approvals referenced in Appendices C, D, and E, which will be evaluated under applicable state regulations), and all other disputes that are accorded review on the administrative record under applicable principles of administrative law, Defendants shall have the burden of demonstrating, based on the administrative record, that the position of the United States and/or the Commonwealth, as applicable, is arbitrary and capricious or otherwise not in accordance with law.

b. Other Disputes. Except as otherwise provided in this Consent Decree, in any other dispute brought under Paragraph 47, Defendants shall bear the burden of demonstrating that their position complies with this Consent Decree and better furthers the objectives of the Consent Decree.

52. The invocation of dispute resolution procedures under this Section shall not, by itself, extend, postpone, or affect in any way any obligation of Defendants under this Consent

Decree, unless and until final resolution of the dispute so provides. Stipulated penalties with respect to the disputed matter shall continue to accrue from the first Day of noncompliance, but payment shall be stayed pending resolution of the dispute as provided in Paragraph 35. If Defendants do not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section VIII (Stipulated Penalties).

XI. INFORMATION COLLECTION AND RETENTION

53. The United States and its representatives, including attorneys, contractors, and consultants, shall have the right of entry into any Facility covered by this Consent Decree, and the Commonwealth and its representatives, including attorneys, contractors, and consultants, shall have the right of entry into any Facility covered by this Consent Decree and located within Massachusetts, at all reasonable times, upon presentation of credentials, to:

a. monitor the progress of activities required under this Consent Decree;

b. verify any data or information submitted to the United States or the Commonwealth in accordance with the terms of this Consent Decree;

c. obtain samples and, upon request, splits of any samples taken by Defendants or its representatives, contractors, or consultants;

d. obtain documentary evidence, including photographs and similar data; and

e. assess Defendants' compliance with this Consent Decree.

54. Upon written request, Defendants shall provide EPA and, regarding Facilities located within Massachusetts, the Commonwealth or their authorized representatives splits of any samples taken by Defendants. Upon request, EPA and the Commonwealth shall provide Defendants splits of any samples taken by EPA or the Commonwealth.

55. Until five years after the termination of this Consent Decree, Defendants shall retain, and shall instruct their contractors and agents to preserve, all non-identical copies of all documents, records, or other information (including documents, records, or other information in electronic form) in their or their contractors' or agents' possession or control, or that come into their or their contractors' or agents' possession or control, and that relate to Defendants' performance of their obligations under this Consent Decree. This information-retention requirement shall apply regardless of any contrary corporate or institutional policies or procedures. At any time during this information-retention period, upon written request by the United States or the Commonwealth, Defendants shall provide copies of any documents, records, or other information required to be maintained under this Paragraph.

56. At the conclusion of the information-retention period provided in the preceding Paragraph, Defendants shall notify the United States and the Commonwealth at least 90 Days prior to the destruction of any documents, records, or other information subject to the requirements of the preceding Paragraph and, upon request by the United States or the Commonwealth, Defendants shall deliver any such documents, records, or other information to EPA or the Commonwealth. Defendants may assert that certain documents, records, or other information is privileged under the attorney-client privilege or any other privilege recognized by federal law. If Defendants asserts such a privilege, they shall provide the following: (a) the title of the document, record, or information; (b) the date of the document, record, or information; (c) the name and title of each author of the document, record, or information; (d) the name and title of each addressee and recipient; (e) a description of the subject of the document, record, or information; and (f) the privilege asserted by Defendants. However, no documents, records, or

other information created or generated pursuant to the requirements of this Consent Decree shall be withheld on grounds of privilege.

57. Defendants may assert that information required to be provided under this Section is protected as Confidential Business Information ("CBI") under 40 C.F.R. Part 2. As to any information that Defendants seek to protect as CBI, Defendants shall follow the procedures set forth in 40 C.F.R. Part 2.

58. This Consent Decree in no way limits or affects any right of entry and inspection, or any right to obtain information, held by the United States or the Commonwealth pursuant to applicable federal or state laws, regulations, or permits, nor does it limit or affect any duty or obligation of Defendants to maintain documents, records, or other information imposed by applicable federal or state laws, regulations, or permits.

XII. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS

59. This Consent Decree resolves the civil claims of the United States and the Commonwealth for the violations alleged in the Complaint filed in this action through the date of lodging.

60. The United States and the Commonwealth reserve all legal and equitable remedies available to enforce the provisions of this Consent Decree. This Consent Decree shall not be construed to limit the rights of the United States or the Commonwealth to obtain penalties or injunctive relief under the Federal or Massachusetts Acts or implementing regulations, or under other federal or state laws, regulations, or permit conditions, except as expressly provided in Paragraph 59, and Defendants reserve and retain their rights to defend against any such claim by the United States or the Commonwealth for penalties or injunctive relief. The United States and the Commonwealth further reserve all legal and equitable remedies to address any

endangerment to the public health or welfare or the environment arising at, or posed by, Defendants' Facilities, whether related to the violations addressed in this Consent Decree or otherwise, and Defendants reserve all defenses to any such action.

61. In any subsequent administrative or judicial proceeding initiated by the United States or the Commonwealth for injunctive relief, civil penalties, other appropriate relief relating to the Facilities or Defendants' violations, Defendants shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States or the Commonwealth in the subsequent proceeding were or should have been brought in the instant case, except with respect to claims that have been specifically resolved pursuant to Paragraph 59.

62. This Consent Decree is not a permit, or a modification of any permit, under any federal, state, or local laws or regulations. Defendants are responsible for achieving and maintaining complete compliance with all applicable federal, state, and local laws, regulations, and permits; and Defendants' compliance with this Consent Decree shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. The United States and the Commonwealth do not, by their consent to the entry of this Consent Decree, warrant or aver in any manner that Defendants' compliance with any aspect of this Consent Decree will result in compliance with provisions of the Federal Act, the Massachusetts Act, the MA, RI, NH, or ME SIPs, or any other provision of federal, state, or local law, regulation, or permit.

63. This Consent Decree does not limit or affect the rights of Defendants, the United States, or the Commonwealth against any third parties, not party to this Consent Decree, nor does

it limit the rights of third parties, not party to this Consent Decree, against Defendants, except as otherwise provided by law.

64. This Consent Decree shall not be construed to create rights in, or grant any cause of action to, any third party not party to this Consent Decree.

XIII. COSTS

65. Each party shall bear its own costs of this action, including attorneys' fees, except that the United States and the Commonwealth shall be entitled to collect the costs (including attorneys' fees) incurred in any successful action necessary to collect any portion of the civil penalty or any stipulated penalties due but not paid by Defendants.

XIV. NOTICES

66. Unless otherwise specified in this Decree, whenever notifications, submissions, or communications are required by this Consent Decree, they shall be made in writing and addressed as follows:

As to the United States:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
Box 7611 Ben Franklin Station
Washington, D.C. 20044-7611
Re: DOJ No. 90-5-2-1-11436

EES Case Management Unit
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
Re: DOJ No. 90-5-2-1-11436

Thomas T. Olivier
Assistant Regional Counsel
U.S. EPA, Region 1
5 Post Office Square
Suite 100 – OES04-4
Boston, MA 02109-3912
Email: olivier.tom@epa.gov

As to EPA:

Thomas T. Olivier
Assistant Regional Counsel
U.S. EPA, Region 1
5 Post Office Square
Suite 100 – OES04-4
Boston, MA 02109-3912
Email: olivier.tom@epa.gov

Christine Sansevero
Senior Enforcement Coordinator
U.S. EPA, Region 1
5 Post Office Square
Suite 100 – OES04-2
Boston, MA 02109-3912
Email: sansevero.christine@epa.gov

As to the Commonwealth or MassDEP by email:

christophe.courchesne@mass.gov, and
jeanne.argento@mass.gov

As to the Commonwealth by mail:

Christophe Courchesne
Chief and Assistant Attorney General
Environmental Protection Division
Office of the Attorney General
One Ashburton Place, 18th Floor
Boston, MA 02108

Jeanne Argento
Counsel
MassDEP Northeast Regional Office
205B Lowell Street
Wilmington, MA 01887

As to MassDEP by mail:

Jeanne Argento
Counsel
MassDEP Northeast Regional Office
205B Lowell Street
Wilmington, MA 01887

As to Defendants:

Paul Scoff, Esquire
Sprague Operating Resources, LLC
185 International Drive
Portsmouth, NH 03801
pscoff@spragueenergy.com

Jay Leduc
Director of Health, Safety, Environment & Sustainability
Sprague Operating Resources, LLC
185 International Drive
Portsmouth, NH 03801
jleduc@spragueenergy.com

67. Any Party may, by written notice to the other Parties, change its designated notice recipient or notice address provided above.

68. Notices submitted pursuant to this Section shall be deemed submitted upon mailing, unless otherwise provided in this Consent Decree or by mutual agreement of the Parties in writing.

XV. 26 U.S.C. SECTION 162(f)(2)(A)(ii) IDENTIFICATION

69. For purposes of the identification requirement of Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), performance of Section II (Applicability), Paragraph 5; Section V (Compliance Requirements), Paragraphs 14-16, 20, and Appendices C-I; Section VII (Reporting), Paragraphs 21, 23, and 24; and Section XI (Information Collection and Retention), Paragraphs 53-56, is restitution or required to come into compliance with law.

XVI. EFFECTIVE DATE

70. The Effective Date of this Consent Decree shall be the date upon which this Consent Decree is entered by the Court or a motion to enter the Consent Decree is granted, whichever occurs first, as recorded on the Court's docket.

XVII. RETENTION OF JURISDICTION

71. The Court shall retain jurisdiction over this case until termination of this Consent Decree, for the purpose of resolving disputes arising under this Decree or entering orders modifying this Decree, pursuant to Sections X and XVIII, or effectuating or enforcing compliance with the terms of this Decree.

XVIII. MODIFICATION

72. The terms of this Consent Decree, including any attached appendices, may be modified only by a subsequent written agreement signed by all the Parties. Where the modification constitutes a material change to this Decree, it shall be effective only upon approval by the Court.

73. Any disputes concerning modification of this Decree shall be resolved pursuant to Section X (Dispute Resolution), provided, however, that, instead of the burden of proof provided

by Paragraph 51, the Party seeking the modification bears the burden of demonstrating that it is entitled to the requested modification in accordance with Federal Rule of Civil Procedure 60(b).

XIX. TERMINATION

74. After Defendants have completed the requirements of Section VI (Compliance Requirements), have obtained plan approvals or other permits for the Facilities containing provisions at least as stringent as the applicable requirements of this Consent Decree, have maintained satisfactory compliance with this Consent Decree for a period of five (5) years, and have paid the civil penalty and any accrued stipulated penalties as required by this Consent Decree, Defendants may serve upon Plaintiffs a Request for Termination, stating that Defendants have satisfied those requirements, together with all necessary supporting documentation.

75. Following receipt by Plaintiffs of Defendants' Request for Termination, the Parties shall confer informally concerning the Request and any disagreement that the Parties may have as to whether Defendants have satisfactorily complied with the requirements for termination of this Consent Decree. If Plaintiffs agree that the Decree may be terminated, the Parties shall submit for the Court's approval a joint stipulation terminating the Decree. Upon termination of the Consent Decree, the limitations in the Consent Decree on throughput and operation of Heated Tanks contained in Appendices C through I shall no longer apply; provided, however, that any such limitations contained in plan approvals or other permits for the Facilities shall apply according to their terms and the applicable requirements of federal and state law.

76. If Plaintiffs do not agree that the Decree may be terminated, Defendants may invoke Dispute Resolution under Section X. However, Defendants shall not seek Dispute Resolution of any dispute regarding termination until 45 Days after service of its Request for Termination.

XX. PUBLIC PARTICIPATION

77. This Consent Decree shall be lodged with the Court for a period of not less than 30 Days for public notice and comment in accordance with 28 C.F.R. § 50.7. The United States reserves the right to withdraw or withhold its consent to the entry of this Consent Decree if the comments regarding the Consent Decree disclose facts or considerations indicating that the Consent Decree is inappropriate, improper, or inadequate. Defendants consent to entry of this Consent Decree without further notice and agree not to withdraw from or oppose entry of this Consent Decree by the Court or to challenge any provision of the Decree, unless the United States has notified Defendants in writing that it no longer supports entry of the Decree.

XXI. SIGNATORIES/SERVICE

78. Each undersigned representative of Defendants, the Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice, and the Assistant Attorney General signing on behalf of the Attorney General of Massachusetts certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind the Party he or she represents to this document.

79. This Consent Decree may be signed in counterparts, and its validity shall not be challenged on that basis. Defendants agree to accept service of process by mail with respect to all matters arising under or relating to this Consent Decree and to waive the formal service requirements set forth in Rules 4 and 5 of the Federal Rules of Civil Procedure and any applicable Local Rules of this Court including, but not limited to, service of a summons. Defendants need not file an answer to the Complaint in this action unless or until the Court expressly declines to enter this Consent Decree.

XXII. INTEGRATION

80. This Consent Decree constitutes the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in the Decree and supersedes all prior agreements and understandings, whether oral or written, concerning the settlement embodied herein. Other than deliverables that are subsequently submitted and approved pursuant to this Decree, the Parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Consent Decree.

XXIII. FINAL JUDGMENT

81. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment of the Court as to the United States, the Commonwealth, and Defendants. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

XXIV. APPENDICES

82. The following Appendices are attached to and part of this Consent Decree:

"Appendix A" is a map depicting Tanks 148, 193, 194, 195, 17, 18, 1001, and 1002 at the Everett Facility;

"Appendix B" is a map depicting Tank 11 at the Quincy Facility;

"Appendix C" establishes additional injunctive requirements related to the Everett Facility;

"Appendix D" establishes additional injunctive requirements related to the Quincy Facility;

"Appendix E" establishes additional injunctive requirements related to the New Bedford Facility;

"Appendix F" establishes additional injunctive requirements related to the Searsport Facility;

"Appendix G" establishes additional injunctive requirements related to the South Portland Facility;

"Appendix H" establishes additional injunctive requirements related to the River Road Facility; and

"Appendix I" establishes additional injunctive requirements related to the Providence Facility.

Dated and entered this 15th day of January 2021, 2020.

/s/ Leo T. Sorokin
LEO T. SOROKIN, UNITED STATES DISTRICT JUDGE

FOR THE UNITED STATES OF AMERICA

Dated: December 30, 2020

/s/ *Ellen M. Mahan*
ELLEN M. MAHAN
Deputy Section Chief
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice

Dated: December 30, 2020

/s/ *David L. Weigert*
DAVID L. WEIGERT
Senior Counsel
PATRICK B. BRYAN
Trial Attorney
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
(202) 514-0133 (DW)
(202) 616-8299 (PB)
david.weigert@usdoj.gov
patrick.bryan@usdoj.gov

ANDREW E. LELLING
United States Attorney
District of Massachusetts

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY

Dated: December 3, 2020

/s/ *Carl Dierker*
CARL DIERKER
Regional Counsel
U.S. Environmental Protection Agency, Region I

Dated: December 3, 2020

/s/ *Thomas T. Olivier*
THOMAS T. OLIVIER
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region I
Office of Regional Counsel

FOR THE COMMONWEALTH OF MASSACHUSETTS

MAURA HEALEY
ATTORNEY GENERAL

Dated: November 20, 2020

CHRISTOPHE COURCHESNE, BBO#660507
Assistant Attorney General and Chief
Environmental Protection Division
Office of the Attorney General
One Ashburton Place, 18th Floor
Boston, MA 02108
(617) 963-2423
christophe.courchesne@state.ma.us

FOR DEFENDANTS

SPRAGUE RESOURCES LP

Dated: 11/23, 2020

PAUL SCOFF
Vice President, General Counsel, Chief Compliance Officer
And Secretary
185 International Drive
Portsmouth, NH 03801

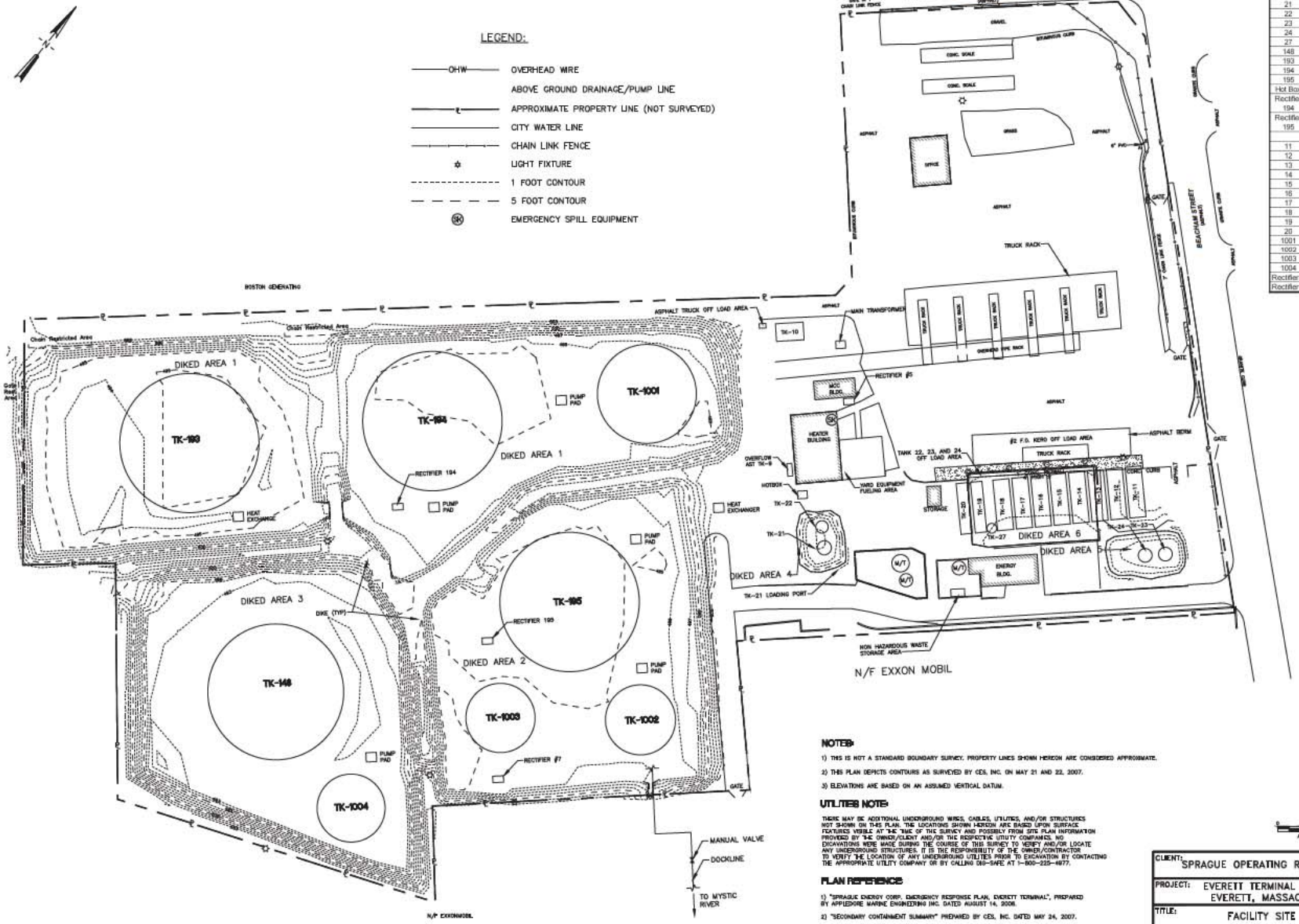
SPRAGUE OPERATING RESOURCES, LLC

Dated: 11/23, 2020

PAUL SCOFF
Vice President, General Counsel, Chief Compliance Officer
And Secretary
185 International Drive
Portsmouth, NH 03801

APPENDIX A

Tank No.	Product Stored	Max Safe-Fill Capacity (bbls)	Max Safe-Fill Capacity (gallons)	Shell Capacity (bbls)	Shell Capacity (gallons)
9	MobilTherm 603	7	275	7	275
10	Evotherm P25	224	9,412	249	10,462
21	MobilTherm 603	425	17,882	476	20,011
22	No. 2 Fuel Oil	343	14,448	387	16,276
23	Kerosene	645	27,13[illegible]	712	29,914
24	No. 2 Fuel Oil	647	27,21[illegible]	714	29,993
27	MobilTherm 603	43	1,791	47	1,966
148	Asphalt	76,726	3,222,492	79,763	3,3[illegible]
193	Asphalt	76,968	3,233,496	80,763	3,3[illegible]
194	Asphalt	74,705	3,137,610	77,812	3,[illegible]
195	Asphalt	77,673	3,262,296	80,446	3,[illegible]
Hot Box	Asphalt	7	292	8	[illegible]
Rectifier 194	Insulating Oil	2	90	2	[illegible]
Rectifier 195	Insulating Oil	1	25	1	[illegible]
OUT OF SERVICE TANKS					
11	OOS	1,066	44,772	1,130	[illegible]
12	OOS	1,066	44,772	1,130	[illegible]
13	OOS	1,066	44,772	1,130	[illegible]
14	OOS	1,066	44,772	1,130	[illegible]
15	OOS	1,066	44,772	1,130	[illegible]
16	OOS	1,066	44,772	1,130	[illegible]
17	OOS	1,066	44,772	1,130	[illegible]
18	OOS	1,066	44,772	1,130	[illegible]
19	OOS	498	20,916	580	[illegible]
20	OOS	498	20,916	580	[illegible]
1001	OOS	38,791	1,629,222	40,305	1,[illegible]
1002	OOS	19,094	801,948	20,100	[illegible]
1003	OOS	18,800	789,600	19,791	[illegible]
1004	OOS	19,094	801,948	20,100	[illegible]
Rectifier 5	OOS	N/A	N/A	2	[illegible]
Rectifier 7	OOS	N/A	N/A	2	[illegible]



NOTES:

1) THIS IS NOT A STANDARD BOUNDARY SURVEY. PROPERTY LINES SHOWN HEREON ARE CONSIDERED APPROXIMATE.

2) THIS PLAN DEPICTS CONTOURS AS SURVEYED BY CES, INC. ON MAY 21 AND 22, 2007.

3) ELEVATIONS ARE BASED ON AN ASSUMED VERTICAL DATUM.

UTILITIES NOTE:

THERE MAY BE ADDITIONAL UNDERGROUND WIRES, CABLES, UTILITIES, AND/OR STRUCTURES NOT SHOWN ON THIS PLAN. THE LOCATIONS SHOWN HEREON ARE BASED UPON SURFACE FEATURES VISIBLE AT THE TIME OF THE SURVEY AND POSSIBLY FROM SITE PLAN INFORMATION PROVIDED BY THE OWNER/CLIENT AND/OR THE RESPECTIVE UTILITY COMPANIES. NO EXCAVATIONS WERE MADE DURING THE COURSE OF THIS SURVEY TO VERIFY AND/OR LOCATE ANY UNDERGROUND STRUCTURES. IT IS THE RESPONSIBILITY OF THE OWNER/CONTRACTOR TO VERIFY THE LOCATION OF ANY UNDERGROUND UTILITIES PRIOR TO EXCAVATION BY CONTACTING THE APPROPRIATE UTILITY COMPANY OR BY CALLING DIG-SAFE AT 1-800-225-4977.

PLAN REFERENCES

1) "SPRAGUE ENERGY CORP. EMERGENCY RESPONSE PLAN, EVERETT TERMINAL", PREPARED BY APPLEMORE MARINE ENGINEERING INC. DATED AUGUST 14, 2006.

2) "SECONDARY CONTAINMENT SUMMARY" PREPARED BY CES, INC. DATED MAY 24, 2007.

3) THIS PLAN DEPICTS CONTOURS AS SURVEYED BY CES, INC. ON MAY 21 AND 22, 2007. ELEVATIONS ARE BASED ON AN ASSUMED VERTICAL DATUM.

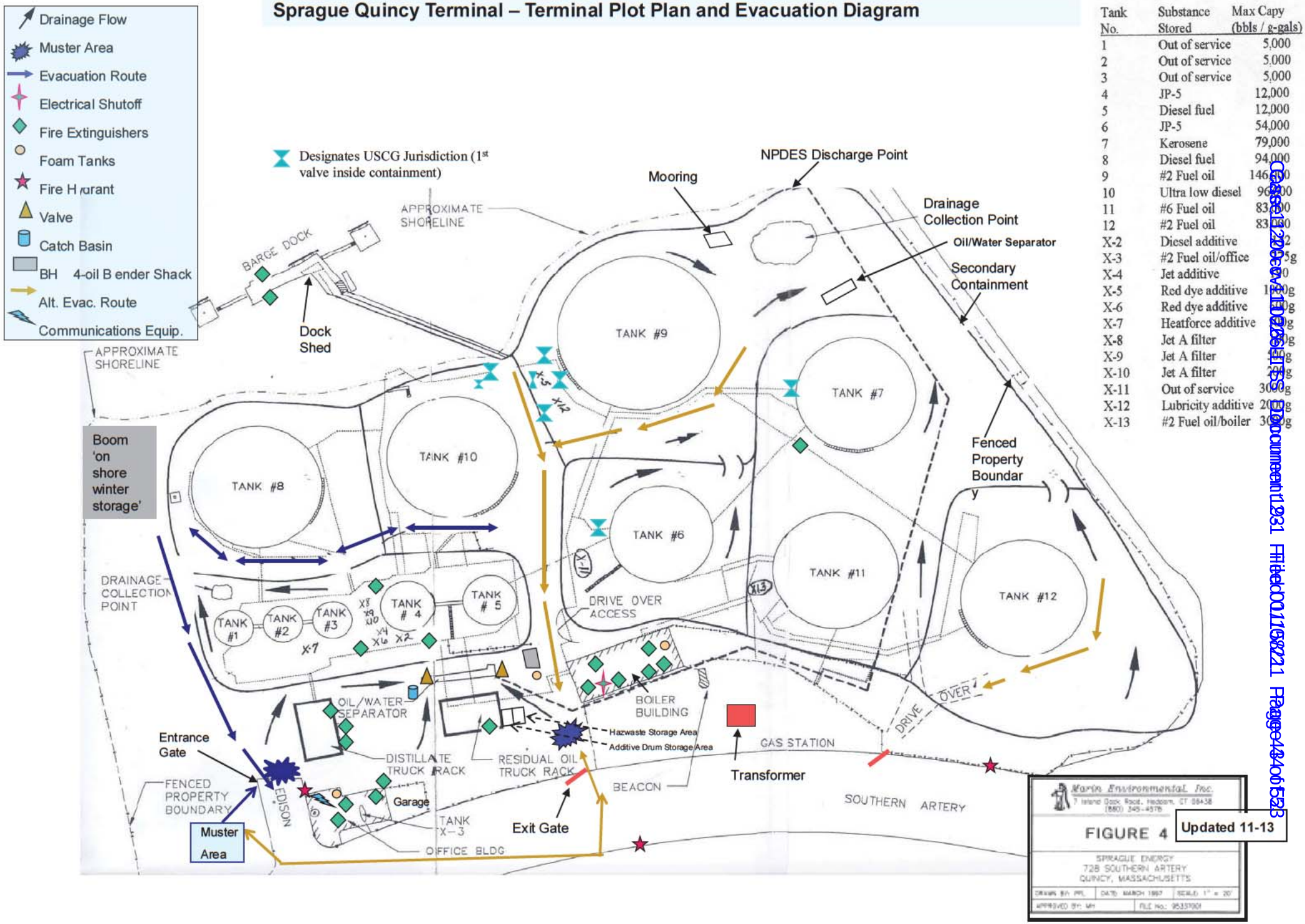
CLIENT: SPRAGUE OPERATING RESOURCES LLC			
PROJECT: EVERETT TERMINAL ONE PLAN EVERETT, MASSACHUSETTS			
TITLE: FACILITY SITE PLAN			
DESIGNED: JAP	DRAWN: STM	CHECKED: JAP	APPROVED: SLP
SCALE: 1" = 40'	DATE: 06/18/18	FILE NO.: 8758D002	PROJECT NO.: 8758-000

GeoInsight
Practical in Nature

FIGURE NO.: 2

APPENDIX B

Sprague Quincy Terminal – Terminal Plot Plan and Evacuation Diagram



Tank No.	Substance Stored	Max Capy (bbls / g-gals)
1	Out of service	5,000
2	Out of service	5,000
3	Out of service	5,000
4	JP-5	12,000
5	Diesel fuel	12,000
6	JP-5	54,000
7	Kerosene	79,000
8	Diesel fuel	94,000
9	#2 Fuel oil	146,000
10	Ultra low diesel	96,000
11	#6 Fuel oil	83,000
12	#2 Fuel oil	83,000
X-2	Diesel additive	2
X-3	#2 Fuel oil/office	5g
X-4	Jet additive	0
X-5	Red dye additive	0g
X-6	Red dye additive	0g
X-7	Heatforce additive	0g
X-8	Jet A filter	0g
X-9	Jet A filter	0g
X-10	Jet A filter	0g
X-11	Out of service	3000g
X-12	Lubricity additive	200g
X-13	#2 Fuel oil/boiler	300g

Case 1:20-cv-11128-FDS Document 1-2 Filed 06/11/20 Page 49 of 53

Appendix C: Everett Facility Compliance Requirements

1. On the Effective Date of this Consent Decree, Defendants shall be restricted to a facility-wide throughput limit at the Everett Facility of not more than ninety million (90,000,000) gallons of asphalt, on a rolling 12-month period, to be stored exclusively in Heated Tanks (as defined in Paragraph 8 of the Consent Decree) 148, 193, 194 and 195, as defined in Paragraph 8 of the Consent Decree.

2. On the Effective Date of this Consent Decree, Defendants shall discontinue use of Heated Tanks 17, 18, 1001, and 1002, as defined in Paragraph 8 of the Consent Decree.

3. Within sixty (60) days after the Effective Date of this Consent Decree, Defendants shall submit to the Massachusetts Department of Environmental Protection ("MassDEP") an application for a non-major comprehensive plan approval (AQ02, submitted electronically via MassDEP's electronic filing procedures) for the operation of four Heated Tanks and the asphalt loading / dispensing rack at the Everett Facility. The application shall include the restriction of ninety million (90,000,000) gallons of asphalt, on a rolling 12-month period, to be stored exclusively in Heated Tanks 148, 193, 194 and 195. Defendants shall not store or transfer any No. 6 residual fuel oil at or through the Everett Facility. MassDEP has determined that, with regard to the application, the foregoing throughput restriction is consistent with an emission limitation representing Best Available Control Technology under 310 CMR 7.02 for VOC at the Everett Facility.

4. Defendants shall comply with the requirements of 310 CMR 7.00, including but not limited to the plan application requirements of 310 CMR 7.02, as they pertain to any present or future activities that Defendants may conduct at the Everett Facility. In particular, without limiting the foregoing, Defendants shall not switch the type of product (*e.g.*, asphalt, No. 6 oil) stored in a Heated Tank unless and until it applies for and obtains from MassDEP a modification to its comprehensive plan approval.

5. Defendants shall respond within thirty (30) days to any request by MassDEP for additional information regarding its application for a plan approval submitted under Paragraph 3 or any modification filed under Paragraph 4 and shall provide to MassDEP such other and additional information and materials as MassDEP may reasonably request, under 310 CMR 7.02 and this Consent Decree, in order to facilitate MassDEP's review.

6. Section X (Dispute Resolution) of this Consent Decree shall not apply to MassDEP's review of and decision on the plan approval application submitted under Paragraph 3 or any application for modification of the plan approval filed under Paragraph 4.

Appendix D: Quincy Facility Compliance Requirements

1. Commencing on the Effective Date of this Consent Decree, Defendants shall be restricted to a facility-wide throughput limit at the Quincy Facility of not more than twenty-five million (25,000,000) gallons of No. 6 residual fuel oil ("#6 oil"), on a rolling 12-month basis, to be stored exclusively in Tank 11, as defined in Paragraph 8 of the Consent Decree.

2. Within thirty (30) Days after the Effective Date of this Consent Decree, Defendants shall submit to EPA and the Massachusetts Department of Environmental Protection ("MassDEP") for review and approval an operation and maintenance plan ("O&M Plan") for the existing carbon bed system that services Tank 11 ("Carbon Bed").

   a. The Carbon Bed O&M Plan shall include all standard operating and maintenance procedures for the Carbon Bed.

   b. The Carbon Bed O&M Plan shall include provisions for continuous operation of the Carbon Bed whenever #6 oil is being loaded into Tank 11, and for non-continuous operation of the Carbon Bed when #6 oil is stored in Tank 11 and the prevailing winds are directed toward abutting residential areas.

   c. In order to provide for non-continuous operation of the Carbon Bed when #6 oil is stored in Tank 11, the Carbon Bed O&M Plan shall specify:

      i. meteorological and operational conditions (including, at a minimum, wind speed, wind direction, and neighbor complaints) and the parameters for those conditions that would trigger automatic or manual activation or shut-down of the Carbon Bed; and
      ii. the operating procedure used to determine that the Carbon Bed is activated and effective when #6 oil is stored in Tank 11 and the prevailing winds are directed toward abutting residential areas.

   d. The Carbon Bed O&M Plan shall also specify:

      i. the carbon media replacement schedule;
      ii. the parameters used to determine the proper function or malfunction of the Carbon Bed; and
      iii. a schedule for routine maintenance of the Carbon Bed, consistent with the maintenance procedures recommended by the Carbon Bed's manufacturer.

3. Immediately upon receipt of EPA and MassDEP approvals of the Carbon Bed O&M Plan, Defendants shall operate and maintain the Carbon Bed in accordance with the Carbon Bed O&M Plan.

4. Within (60) days after the Effective Date of this Consent Decree, Defendants shall submit to MassDEP an application for a non-major comprehensive plan approval (AQ02, submitted electronically via MassDEP's electronic filing procedures) for the operation of Tank 11, which shall be used exclusively for the receipt and storage of #6 oil at the Quincy Facility. The application shall include the throughput restriction of twenty-five million (25,000,000) gallons of #6 oil, on a rolling 12-month basis, to be stored exclusively in Tank 11, and operation and maintenance of the Carbon Bed in accordance with the requirements of the EPA/MassDEP approved Carbon Bed O&M Plan. MassDEP has determined that, with regard to the application, the foregoing throughput restriction is consistent with an emission limitation representing Best Available Control Technology under 310 CMR 7.02 for VOC at the Quincy Facility.

5. Defendants shall comply with the requirements of 310 CMR 7.00, including but not limited to the plan application requirements of 310 CMR 7.02, as they pertain to any present or future activities that Defendants may conduct at the Quincy Facility. In particular, without limiting the foregoing, Defendants shall not switch the type of product (*e.g.*, asphalt, #6 oil) stored in a Heated Tank unless and until it applies for and obtains from MassDEP a modification to its comprehensive plan approval.

6. Defendants shall respond within thirty (30) days to any request by MassDEP for additional information regarding its application for a plan approval submitted under Paragraph 4, or any modification filed under Paragraph 5, and shall provide to MassDEP such other and additional information and materials as MassDEP may reasonably request, under 310 CMR 7.02 and this Consent Decree, in order to facilitate MassDEP's review.

7. Section X (Dispute Resolution) of this Consent Decree shall not apply to MassDEP's review of and decision on the plan approval application submitted under Paragraph 4, or any application for modification of the plan approval filed under Paragraph 5.

Appendix E: New Bedford Facility Compliance Requirements

1. On the Effective Date of this Consent Decree, Defendants shall discontinue any storage and dispensing of No. 6 residual fuel oil or asphalt at the New Bedford Facility.

2. Should Defendants seek to store or dispense asphalt at the New Bedford Facility, Defendants shall submit to the Massachusetts Department of Environmental Protection ("MassDEP") an application for a non-major comprehensive plan approval (AQ02, submitted electronically via MassDEP's electronic filing procedures) for not more than one Heated Tank (as defined in Paragraph 8 of the Consent Decree) associated with the proposed storage and loading / dispensing of asphalt at the New Bedford Facility.

3. Defendants shall comply with the requirements of 310 CMR 7.00, including but not limited to the plan application requirements of 310 CMR 7.02, as they pertain to any present or future activities that Defendants may conduct at the New Bedford Facility.

4. Defendants shall respond within one-hundred twenty (120) days to any request by MassDEP for additional information regarding its application for a plan approval submitted under Paragraph 2 and shall provide to MassDEP such other and additional information and materials as MassDEP may reasonably request, under 310 CMR 7.02 and this Consent Decree, in order to facilitate MassDEP's review.

5. Section X (Dispute Resolution) of this Consent Decree shall not apply to MassDEP's review of and decision on any plan approval application submitted under Paragraph 2.

Appendix F: Searsport Facility Compliance Requirements

1. Commencing on the Effective Date of this Consent Decree, at its Searsport, Maine facility ("Searsport Facility"), Defendants shall operate no more than three Heated Tanks (as defined in Paragraph 8 of the Consent Decree) containing either No. 6 residual fuel oil ("#6 oil") or asphalt, of which no more than two Heated Tanks shall contain #6 oil.

2. Commencing on the Effective Date of this Consent Decree, Defendants shall be restricted to the following facility-wide throughput limits at its Searsport Facility:

    a. 90,000,000 gallons of asphalt, on a rolling 12-month basis; and

    b. 40,000,000 gallons of #6 oil, on a rolling 12-month basis.

3. Within 60 Days after the Effective Date of this Consent Decree, Defendants shall submit to the Maine Department of Environmental Protection a license amendment application for the Searsport Facility that incorporates the terms referenced in Paragraphs 1 and 2, above.

4. Defendants shall operate in accordance with Chapter 115 of the Maine Air Pollution Control Regulations ("APCR"), including but not limited to the license application requirements of APCR Chapter 115, as they pertain to any present or future activities that Defendants may conduct at the Searsport Facility.

Appendix G: South Portland Facility Compliance Requirements

1. Commencing on the Effective Date of this Consent Decree, at its South Portland, Maine facility ("South Portland Facility"), Defendants shall operate no more than six Heated Tanks (as defined in Paragraph 8 of the Consent Decree) containing asphalt.

2. Notwithstanding Paragraph 1 above, Defendants may convert one of these six Heated Tanks from asphalt storage to #6 oil only if both of the following conditions have been met:

    a. Defendants must provide 90 days advanced notice to EPA and Maine Department of Environmental Protection ("ME DEP") of its intent to convert one Heated Tank to #6 oil operations at the South Portland Facility, and obtain advanced written approval for such conversion from EPA and ME DEP, and

    b. Defendants must offset seven (7) tons per year of VOC emissions through VOC emissions reductions at its New England facilities.

3. Commencing on the Effective Date of this Consent Decree, Defendants shall be restricted to the following facility-wide throughput limits at its South Portland Facility:

    a. 105,000,000 gallons of asphalt, on a rolling 12-month basis; and

    b. in the event #6 oil storage is resumed in accordance with paragraph 2, above, 10,000,000 gallons of #6 oil, on a rolling 12-month basis.

4. Within 60 days after the Effective Date of this Consent Decree, Sprague shall submit to EPA for approval, under Section VI (Compliance Requirements) of the Consent Decree, a design plan ("Design Plan") for the installation and operation of vents, demisters, and carbon beds (collectively, "Carbon Systems") for all Heated Tanks at the South Portland Facility.

5. Within six months after EPA approval of the Design Plan, unless the City takes the action specified in the first clause of Paragraph 8 of this Appendix G, Sprague shall install the Carbon Systems for all Heated Tanks at the South Portland Facility, in accordance with the EPA-approved Design Plan, and thereafter operate the Carbon Systems.

6. Within 120 days after the Effective Date of this Consent Decree, Sprague shall submit to EPA for review and approval, under Section VI (Compliance Requirements) of the Consent Decree, an operation and maintenance plan ("O&M Plan") for the Carbon Systems. This O&M Plan shall include, at a minimum:

    a. Provisions for operation so as to reduce local impacts of air emissions during all periods when products are stored at any of the facility's Heated Tanks.

b. Provisions for operation and maintenance in accordance with manufacturer recommendations and industry standards. The O&M Plan shall include a schedule for routine maintenance, as well as specific operational parameters used to identify proper function or malfunction.

7. Sprague shall operate and maintain the Carbon Systems in accordance with the O&M Plan approved by EPA, under Paragraph 6 of this Appendix G.

8. If the City of South Portland ("City") formally proposes to enact (by, *e.g.*, introducing proposed legislation) an ordinance or other requirement compelling Sprague to address the impact of air emissions from all Heated Tanks at its South Portland Facility in a manner at least as protective as, and conflicting with, the requirements of Paragraphs 4-7 of this Appendix G, Defendants may seek relief from the requirements of Paragraphs 4-7 under the provisions of Section IX (Force Majeure) of the Consent Decree. If Defendants obtain relief under Section IX in the form of a Force Majeure delay in implementation of Paragraphs 4-7 for longer than 90 days, then Defendants may seek further relief by submitting to EPA a written request for a permanent waiver of the obligation to implement all outstanding requirements of Paragraphs 4-7. EPA will grant or deny this waiver request in writing. Any denial of this request shall be subject to dispute resolution under Section X of the Decree. In any case, if Defendants obtain such a delay or waiver but fail to timely comply with such ordinance or other City requirement, after it is enacted, then any delay or relief from Paragraphs 4-7 under this Paragraph shall be rescinded and Paragraphs 4-7 shall be in full force and effect.

9. Within 60 Days after the Effective Date of this Consent Decree, Defendants shall submit to ME DEP a license amendment application for the South Portland Facility that incorporates the terms referenced in paragraphs 1 to 3 above.

10. Defendants shall operate in accordance with Chapter 115 of the Maine Air Pollution Control Regulations ("APCR"), including but not limited to the license application requirements of APCR Chapter 115, as they pertain to any present or future activities that Defendants may conduct at the South Portland Facility.

Appendix H: River Road Facility Compliance Requirements

1. Commencing on the Effective Date of this Consent Decree, at its River Road facility in Newington, New Hampshire ("River Road Facility"), Defendants shall operate no more than five Heated Tanks (as defined in Paragraph 8 of the Consent Decree) containing asphalt or No. 6 residual fuel oil ("#6 oil"), of which no more than two Heated Tanks shall contain #6 oil.

2. Commencing on the Effective Date of this Consent Decree, Defendants shall be restricted to the following facility-wide throughput limits at its River Road Facility:

    a. 135,000,000 gallons of asphalt, on a rolling 12-month basis

    b. 50,000,000 gallons of #6 oil, on a rolling 12-month basis

3. Within 60 Days after the Effective Date of this Consent Decree, Defendants shall submit to the New Hampshire Department of Environmental Services ("NH DES") an application for a permit to operate the River Road Facility that incorporates the terms referenced in paragraphs 1 and 2 above.

4. Defendants shall comply with the requirements of New Hampshire Code of Administrative Rules, Chapter Env-A 600 (Statewide Permit System), including but not limited to the permit application requirements of Chapter Env-A 600, as they pertain to any present or future activities that Defendants may conduct at the River Road Facility.

Appendix I: Providence Facility Compliance Requirements

1. Commencing on the Effective Date of this Consent Decree, Defendants shall operate no more than three Heated Tanks (as defined in Paragraph 8 of the Consent Decree) containing asphalt at its Allens Avenue facility, in Providence, Rhode Island ("Providence Facility").

2. Commencing on the Effective Date of this Consent Decree, Defendants shall not store or dispense any No. 6 residual fuel oil at or from the Providence Facility.

3. Commencing on the Effective Date of this Consent Decree, at the Providence Facility, Defendants shall be restricted to a facility-wide throughput limit of 90,000,000 gallons of asphalt, on a rolling 12-month basis.

4. Defendants shall comply with the requirements of Rhode Island Air Pollution Control Regulation ("APCR") 9, including but not limited to the plan application requirements of APCR 9, as they pertain to any present or future activities that Defendants may conduct at the Providence Facility.