339501

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

IN THE MATTER OF	
APEX COLOR WORKS, INC. AUTOCAR, INC. CONTINENTAL CAN CO. DEL VAL INK & COLOR EMERSON QUIET COOL ENGELHARD MINERALS FERDON EQUIPMENT CORP. G & W LABORATORIES GULF OIL CORPORATION INLAND STEEL CONTAINER LIGHTMAN DRUM COMPANY MAAS & WALDSTEIN CO. MORAN TOWING & TRANSPORTATION CO. NEW JERSEY AMERICAN WAREHOUSE PENNSBURY COATINGS CO. PERTH AMBOY DRY DOCK CO. PUBLIC SERVICE ELECTRIC & GAS CO. REX PACKAGING CO. SEVERNA CORP. TECHNICON CORP. TRANSCO PRODUCTS WESTERN ELECTRIC	ADMINISTRATIVE ORDER Index No. II-CERCLA-50107
Respondents.	
Proceeding Under Section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9606(a)	

JURISDICTION

1. This Order is issued to the above-captioned Respondents by the United States Environmental Protection Agency (EPA) pursuant to the authority vested in the President of the United States by §106(a) of the Comprehensive Environ-

mental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. §9606(a), delegated to the Administrator of the EPA by Executive Order 12316, 46 Fed. Reg. 42237 (August 14, 1981), and redelegated to the Regional Administrator, EPA Region II on March 17, 1983. Notice of this Order has been given to the State of New Jersey, Department of Environmental Protection (NJDEP) as required by 42 U.S.C. §9606(a).

DEFINITIONS

2. As used in this Order, unless the context clearly requires some other meaning, the following terms shall have the following meanings:

A. EPA shall mean the United States Environmental Protection Agency.

B. APEX COLOR WORKS, INC., AUTOCAR, INC., CONTINENTAL CAN CO., DEL VAL INK & COLOR, EMERSON QUIET COOL, ENGELHARD MINERALS, FERDON EQUIPMENT CORP., G & W LABORATORIES, GULF OIL CORPORATION, INLAND STEEL CONTAINER , LIGHTMAN DRUM CO., MAAS & WALDSTEIN CO., MORAN TOWING AND TRANSPORTATION CO., NEW JERSEY AMERICAN WAREHOUSE, PENNSBURY COATINGS CO., PERTH AMBOY DRY DOCK CO., PUBLIC SERVICE ELECTRIC & GAS CO., REX PACKAGING CO., SEVERNA CORP., TECHNICON CORP., TRANSCO PRODUCTS CO. and WESTERN ELECTRIC are Respondents under this Order and, on information and belief, are corporations authorized to do business in the State of New Jersey. The Respondents named in this paragraph shall also be known as Generator Repondents.

C. GENERAL DYNAMICS CORP., NATIONAL STARCH AND CHEM-

ICAL CORP., and U.S. GYPSUM CO. are Respondents under another CERCLA §106 Administrative Order described further below, and, on information and belief, are corporations authorized to do business in the State of New Jersey. The Respondents named in this paragraph were named in an Administrative Order, Index No. II-CERCLA-50105, issued by EPA on December 19, 1984, in connection with the Duane Marine Salvage Corp. site in Perth Amboy, New Jersey. This prior Order was issued with respect to the same set of facts recited in the section of this Order entitled "FINDINGS."

D. AMERICAN CAN, INC., B & E ELECTROFORM CO., CHEVRON USA, INC., CONSOLIDATED RAIL CORP., COSDEN OIL AND CHEMICAL CO., INC., DIAMOND SHAMROCK CORP., EASTERN STERLING PLASTICS, FORD MOTOR COMPANY, GENERAL ELECTRIC CO., GENERAL MOTORS CORP., GUSMER CORP., HOKE, INC., HYATT ROLLER BEARING, INMONT CORPORATION, ITT MARLOWE PUMP, LOCKHEED ELECTRONICS CORP., METZ METALLURGICAL CORP., MIDLAND GLASS CO., INC., NASSAU RECYCLE CORP., ORBIT TOOL AND DIE CORP., PAINTMASTER, PORT AUTHORITY TRANS-HUDSON CORP., REVLON, INC., SEA-LAND CORPORATION, TEMPCON, TENNECO CHEMICALS, INC., TWO GUYS DEPARTMENT STORES, and WEST ESSEX PRINTING PLATES, INC. are Respondents under another CERCLA §106 Administrative Order described further below, and, on information and belief, are corporations authorized to do business in the State of New Jersey. The Respondents named in this paragraph were named in an Administrative Order, Index No. II-CERCLA-50102, issued by EPA on December 4, 1984, in connection with the Duane Marine Salvage

Corp. site in Perth Amboy, New Jersey. This prior Order was issued with respect to the same set of facts recited in the section of this Order entitled "FINDINGS."

E. DUANE MARINE SALVAGE CORP. (DUANE MARINE) is a Respondent under the prior Administrative Order, Index No. II-CERCLA-50102, issued by EPA on December 4, 1984. On information and belief, Duane Marine is a corporation organized under the laws of the State of New York and authorized to do business in the State of New Jersey during all periods of time relevant to this Administrative Order.

F. LECARREAUX shall mean Edward Lecarreaux, a Respondent under the prior Administrative Order, Index No. II-CERCLA-50102, and an individual.

G. Respondents shall mean and reference all parties set forth in paragraphs B, C, D, E and F, both jointly and severally.

H. The Facility shall mean a parcel of property owned by Respondent LECARREAUX and located at 26 Washington Street, Perth Amboy, Middlesex County, New Jersey. The Facility occupies Block 238, Lots 5, 5R, 6, and 6R on the tax map of Middlesex County, City of Perth Amboy and comprises real property that falls within the definition of "Facility" as set forth in §101(9) of CERCLA, 42 U.S.C. §9601(9).

I. CERCLA shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §9601 *et seq.*, P.L. 96-510.

J. Hazardous Substance shall mean any substance

that falls within the definition of "Hazardous Substance" as defined in Section 101(14) of CERCLA, 42 U.S.C. §9601(14).

K. Immediate Corrective Actions shall mean the actions required of the Respondents by this Administrative Order.

L. Designated Coordinator shall mean the person designated by any Respondent or by Respondents jointly, which person shall be charged with the duty of being at all times knowledgeable of the performance of all work performed pursuant to this Order.

M. On-Scene Coordinator (OSC) shall mean the person designated by EPA to be responsible for on-scene monitoring of all actions and activities required pursuant to this Order, and for receipt of all items submitted to EPA under this Order. The OSC shall additionally be responsible for coordinating and directing any EPA immediate removal, as defined in the National Contingency Plan, which may be conducted at the Facility.

N. National Contingency Plan (NCP) shall mean the National Oil and Hazardous Substances Contingency Plan promulgated by EPA pursuant to §105 of CERCLA, 42 U.S.C. §9605, at 40 C.F.R. Part 300, and all amendments or modifications thereto.

O. Remedial Action shall have the meaning set forth in §300.6 of the NCP.

PARTIES BOUND

3. This Order shall apply to and be binding on all Respondents, both jointly and severally, as well as on their officers, employees, agents, contractors, consultants,

successors, assigns, and subsidiaries.

FINDINGS

4. Each Respondent to this Order is a person, as defined in §101(21) of CERCLA, 42 U.S.C. §9601(21), and a responsible party within the intent of §107(a) of CERCLA, 42 U.S.C. §9607(a). Each Respondent is jointly and severally liable with each and every other Respondent under this Order and under the prior Orders of December 4, 1984, Index No. II-CERCLA-50102, and December 19, 1984, Index No. II-CERCLA-50105, for carrying out the provisions of the within Order.

5. Commencing in or about April, 1975, and continuing until in or about July, 1980, Respondent LECARREAUX, through DUANE MARINE, owned and operated a business offering to the public waste collection, transportation, blending, storage, treatment, and disposal services.

6. LECARREAUX was president and chief operating officer of Respondent DUANE MARINE, at all times pertinent to this Order. In connection with the operation of his business, LECARREAUX owned a parcel of land (the Facility) at 26 Washington Street, Perth Amboy, New Jersey. This parcel of land is designated Block 238, Lots 5, 5R, 6, and 6R, Perth Amboy, Middlesex County, New Jersey.

7. From 1975 to 1980, LECARREAUX directed the operation of the Facility, including the operation of the Facility for blending, storage, treatment of wastes, and its ultimate use as a facility for the disposal of wastes, which

contained Hazardous Substances.

8. From 1975 to 1980, the Generator Respondents made arrangements with DUANE MARINE for DUANE MARINE's transport and ultimate disposal of their wastes, including Hazardous Substances. Those wastes and hazardous substances presently are being released and/or threaten to be released from the Facility to the environment.

9. In or about July, 1980, LECARREAUX and DUANE MARINE abandoned the Facility, which at the time contained various chemical wastes stored in tanks, drums, truck trailers, and rolloff containers. Except insofar as they have been released from the facility, those chemical wastes, which contain Hazardous Substances, remain at the Facility as of the date of issuance of this Order.

10. EPA and NJDEP personnel have inspected the Facility on numerous occasions between 1981 and 1984 to observe and identify those Hazardous Substances being released into the environment from the Facility.

11. NJDEP inspections at the Facility, sampling and chemical analyses, and environmental surveys conducted at the Facility have indicated that hazardous substances being released into the environment from the facility have contaminated, or threaten to contaminate, ground water, air, soil, and surface water including the Arthur Kill, a portion of the Hudson River estuarine system.

12. Sampling and analyses of the contents of various containers, including tanks and rolloff dumpsters, at the Facility

were conducted by EPA and NJDEP during the period between June 1981 and July 1984. Results of those analyses indicate that the materials released into the environment and threatening release to the environment from the Facility contain, among other constituents, benzene, toluene, ethylbenzene, chlorobenzene, trichloroethylene, trichloroethane, 1,1,2,2-tetrachloroethane, bromoform, dichlorobromomethane, methylene chloride, 1,2-dichloroethane, 1,2-dichloropropane, phthalates, phenol, arsenic, chromium, lead, silver, selenium, and polychlorinated biphenyls (PCBs).

13. Each of the aforementioned chemicals is a hazardous substance within the meaning of §101(14) of CERCLA, 42 U.S.C. §9601(14).

14. Respondents' wastes at the Facility, including Hazardous Substances, have been released uncontrollably into the environment since at least as early as 1980 from spills, leaking 55-gallon drums, and leaking trailers and rolloff containers in numerous areas of the Facility, including but not limited to the area of the Facility immediately contiguous with the Arthur Kill.

15. On July 7, 1980, a major fire at the General Cable Company located on Washington Street, Perth Amboy, New Jersey, spread to the DUANE MARINE facility, resulting in the destruction of several buildings, boats, and vehicles on the DUANE MARINE property. Approximately 2000 55-gallon drums of waste chemicals located at the facility were consumed during the fire.

16. The continued release of hazardous substances is evidenced by a recent oil spill from the Facility. On July 12,

1984, oil was observed by State and Federal environmental agencies to be flowing directly into the Arthur Kill from several seeps along the edge of the Facility. Sampling and analyses of the oil showed it to contain PCBs.

17. Additional evidence of past and continued releases includes oil-stained soil at the Facility. The NJDEP has reported that rainwater has caused displacement of material from the Facility to the Arthur Kill. Moreover, in July, 1984, a trenching operation was conducted in connection with the above-referenced oil spill, and oil was revealed to be floating on the water table.

18. The chemicals listed in paragraph 12, supra, including but not limited to PCBs, arsenic, chromium, lead, and selenium, are considered to have "high toxicity" according to Sax, N. I., Dangerous Properties of Industrial Materials, 6th Edition, 1984. A chemical exhibiting "high toxicity" poses a threat to life, or may cause permanent impairment or death, based on a single exposure, or continuous or repeated exposures.

19. Examination of analyses of samples collected at the Facility indicates the presence of the animal and human carcinogens benzene and PCBs. Other adverse human health effects resulting from exposure to the substances listed in paragraph 12, supra, include, but are not limited to, irritation or burning of skin and/or eyes upon contact, and dizziness or suffocation due to inhalation of vapors.

20. Another fire at the Facility involving some substances listed in paragraph 12, supra, could result in creation

of toxic by-products, including, but not limited to, poisonous gases of chlorides produced in a fire containing 1,1,2-trichloroethane, which is present at the Facility. Further, in a fire, PCBs may form chlorinated dibenzofurans and dioxins. One such chlorinated dioxin is 2,3,7,8-tetrachlorodibenzo-p-dioxin, one of the most acutely toxic substances known.

21. The Facility is located in a densely populated area, and is within 0.2 mile of a residence. Approximately 5,000 people live within 1 mile of the Facility.

22. In July, 1984, EPA initiated security measures at the Facility, including repairing a fence and boarding windows to block access to a deteriorating building. Despite these measures, evidence of vandalism continues to be observed at the Facility. Fencing has again been torn down, and the boards on building windows removed. EPA employees have observed children playing at the facility. EPA also has observed that drums containing hazardous materials have been tampered with since EPA completed its site security measures.

23. The threat of exposure to the public and the environment at the facility is multifold. Continued site access by individuals permits them to come into direct contact with hazardous substances. In addition, there is the potential for fire and subsequent release of fumes from the Facility. A trailer burned at the Facility in September, 1983. Remnants of fireworks were found scattered at the Facility on July 13, 1984.

24. A series of NJDEP site inspection reports dated July 7-9, 1980, June 12, 1981, August 11-12, 1981, September 2, 1981, November 19, 1981, November 1, 1982, November 8, 1982, May 17, 1984, June 17, 1984, and July 17, 1984 describe a continually worsening environmental situation at the Facility, involving increasing releases and threatened releases of Hazardous Substances to the environment from deteriorating containers.

25. A federal Centers for Disease Control (CDC) representative visited the Facility on February 16, 1984. CDC has determined that the Facility represents an immediate and imminent threat to human health because of both the immediate threat of direct contact and the potential for continuing hazards due to the spread of the contaminants from the facility.

26. Hazardous Substances threaten continuing release from the Facility into the environment absent the taking of immediate corrective action at the Facility. Immediate corrective action is appropriate at the Facility to prevent and/or mitigate immediate and significant risk of harm to human health and/or the environment.

27. On December 4, 1984, EPA issued an Administrative Order, Index No. II-CERCLA-50102, to the 30 Respondents named in paragraph 2, sections D, E, and F of this Order. That Order was amended by letter memorandum dated December 18, 1984.

28. EPA met with those Respondents who requested a conference to discuss the terms of the prior Order. The meeting took place on December 13, 1984, in offices reserved for the purpose by EPA in New York City. The New Jersey Department of Environmental Protection was also represented at the meeting.

29. At the close of EPA's presentation at the December 13 meeting, EPA advised the Respondents that the prior Order was to take effect, according to its terms, on December 14, 1984.

30. After conferring privately among themselves, at the close of the meeting the Respondents advised EPA that they intended to comply with the terms of the prior Order.

31. A committee was formed to represent the Respondents as a group. The chairman of the technical committee is Robert M. Blanchfield, Manager, Waste Management, Inmont Corporation. Mr. Blanchfield is to serve as the Respondents' Designated Coordinator, pursuant to the terms of paragraph 48 of this Order. The Respondents undertook certain emergency response measures required under prior Order Index No. II-CERCLA-50102. Those emergency measures were completed during the week of December 14, 1984.

32. On December 19, 1984, EPA issued an Administrative Order, Index No. II-CERCLA-50105, to the 3 Respondents named in paragraph 2, section C of this Order.

33. The two prior Orders mentioned in paragraphs 27 and 32 of this section, were amended by letter memorandum dated January 16, 1985.

34. On January 23, 1985, EPA withdrew its Orders with respect to former Respondents Bell Laboratories, Division of American Telephone & Telegraph Co.; Bird & Son, Inc.; NL Industries; Rusty Scupper Restaurant; and Township of Mahwah. These five parties had been named in the original Order, Index No. II-CERCLA-50102. Supplemental information, evaluated by EPA, was found to demonstrate to EPA's satisfaction that the

information originally in EPA's possession failed to establish that these five parties were potentially responsible parties under CERCLA for the environmental conditions to which EPA's December 4, 1984, Order was addressed.

35. On March 11, 1985, the Respondents to the two prior Orders, Index Nos. II-CERCLA-50102 and II-CERCLA-50105, received EPA's comments to a Detailed Work Plan that was prepared and submitted pursuant to certain provisions of the two prior Orders. EPA's comments, as modified by agreement with the Respondents, served to amend the Detailed Work Plan. The EPA-Approved Work Plan is incorporated into this Order as Attachment I.

36. On March 25, 1985, Respondents to the two prior Orders began to carry out the work detailed in the EPA-Approved Work Plan.

DETERMINATION

Based upon the FINDINGS set forth above and the entire administrative record, EPA has determined that the release and threat of release of Hazardous Substances to the environment from the Facility may present an imminent and substantial endangerment to the public health, welfare, and the environment within the meaning of §106(a) of CERCLA, 42 U.S.C. §9606(a).

ORDER

Based upon the foregoing FINDINGS and DETERMINATION, IT IS HEREBY ORDERED that to protect the public health, wel-

fare and the environment, it is necessary that certain actions be taken to abate the release and threat of release of Hazardous Substances at and from the Facility into the environment. Respondents shall undertake immediate corrective actions at the facility in accordance with the directives and schedule specified below. All activities set forth below shall be initiated and completed as soon as possible even though maximum time periods for their completion are specified herein.

37. On the date this Order becomes effective, Respondents herein shall join with the Respondents to the prior Orders of December 4, 1984, Index No. II-CERCLA-50102, and of December 19, 1984, Index No. II-CERCLA-50105, in maintaining a 24-hour security guard at the Facility sufficient to prevent unauthorized access. Such security shall be retained until the completion of work pursuant to this Order. Furthermore, Respondents shall be responsible for maintaining the fence around the Facility until completion of work pursuant to this Order.

38. On the date this Order becomes effective, Respondents herein shall join the Respondents to the prior Orders of December 4 and December 19, 1984, Index Nos. II-CERCLA-50102 and II-CERCLA-50105, in performing the removal work outlined in the EPA-Approved Work Plan incorporated into this Order as Attachment I, including (but not necessarily limited to) the steps outlined below.

39. The Respondents shall perform a complete inventory of wastes present at the facility at the commencement of the immediate corrective action. Such inventory shall be submitted to EPA within 5 days of commencement of work under

the EPA-approved Work Plan.

40. The contents of all tanks and bulk containers present at the facility shall be sampled. Chemical analyses shall be performed on these samples in conformance with EPA Quality Assurance/Quality Control methodologies. Where inspection of these contents reveals several phases to be present, i.e., sludge, aqueous, oil, each phase shall be sampled individually.

41. Samples from representative drums shall be taken and analyzed as in paragraph 40, supra.

42. Visibly contaminated soil shall be sampled and analyzed as in paragraph 40, supra. Final determination of what constitutes visibly contaminated soil will be made by the OSC. Verification of adequate removal of contaminated soil shall be performed by means of appropriate soil sampling and analysis.

43. For the purposes of apprising EPA of progress under this Order and providing assurances that qualified persons will be performing the immediate corrective actions, prior to conducting any sampling and analyses or removing from the site any hazardous substance, Respondents shall provide EPA with the names, titles, qualifications, and applicable permit numbers of all persons who will be engaged in these immediate corrective actions.

44. All activities required of Respondents under the terms of this Order shall be performed only by well-qualified persons possessing all necessary permits, licenses, and other authorizations required by federal, state, and local governments.

45. In addition, all data, information, and records shall be available to EPA on request, and all employees of all persons, including contractors, who engage in activity under this Order shall be available to and shall cooperate with the United States and/or EPA. No data, information, or records shall be destroyed without either the express written approval of EPA or a written offer by the Respondents to provide such material to EPA, followed by EPA's acknowledgement of receipt of such offer and the passage of 90 days during which EPA has not accepted such offer in whole or in part.

46. With respect to all chemical analyses and all disposal operations conducted in compliance with this Order, (e.g., with respect to waste haulers or disposal facilities) the complying Respondent(s) shall provide the OSC with the identity of and, if applicable, licensing identification numbers of all persons or entities performing such work within 2 (two) working days of selection of such persons, companies, or facilities.

47. All sampling and analyses shall conform to EPA Quality Assurance/Quality Control procedures as directed by the OSC and in conformance with Section 10 of the EPA publication entitled "Test Methods for Evaluating Solid Waste" (SW-846). Except as may otherwise be directed by EPA, Respondents shall use Chain of Custody Procedures as set forth in Section 1.3 of SW-846.

48. Not later than the effective date of this Order, Respondents shall contact the Designated Coordinator who was

selected in accordance with the specifications of the prior Order of December 4, 1984, Index No. II-CERCLA-50102, by the Respondents to that Order. The Designated Coordinator is Robert M. Blanchfield of the Inmont Corporation. Mr. Blanchfield can be reached at 1255 Broad Street, Clifton, New Jersey 07015, telephone (201) 365-3537. The Designated Coordinator shall be responsible for oversight of the implementation of this Order. The name, address, and telephone number of the EPA Region II On-Scene Coordinator is: Bruce Sprague, On-Scene Coordinator, Response and Prevention Branch, EPA Region II, Woodbridge Ave., Edison, New Jersey 08817, 201-321-6656.

49. As appropriate during the course of implementation of the immediate corrective actions at the Facility, Respondents or their consultants or contractors, acting through the Designated Coordinator, may confer with the OSC concerning the Removal Program. Based upon new circumstances or new information not in the possession of EPA on the date of this Order, the Designated Coordinator may request in writing approval of a modification of the EPA-approved work plan from the OSC. If approved by the OSC, such modification shall be implemented immediately by Respondents.

50. In the event of an inability or anticipated inability on the part of Respondents, or any of them, to perform any of the activities required under the Order, the Designated Coordinator shall immediately inform the OSC of the reason for, and date and length of such inability to perform and the actions taken or to be taken by Respondents, or any of them, to avoid

or mitigate the impact of such inability to perform, including the proposed schedule for such actions.

51. In the event of a significant change in conditions at the Facility, the Designated Coordinator shall notify the OSC immediately at the following emergency telephone numbers: 201-548-8730 or 201-321-6670. Until the OSC provides direction, Respondents may, at their discretion, take reasonable measures under the circumstances. Respondents shall remain liable for any adverse consequences of such measures. In the event the OSC determines that the activities performed pursuant to this Order, or significant changes in conditions at the Facility, pose a substantial threat of immediate and significant risk of harm to human life or health or the environment, EPA may order Respondents to stop further implementation of the immediate corrective actions or to take other and further actions reasonably necessary to abate the threat. This provision is not to be construed so as to limit to any rights EPA may have under §300.65 of the NCP or any other applicable provision of the NCP, or under any other applicable law or regulation.

52. All actions and activities carried out by Respondents pursuant to this Order shall be done in accordance with all applicable federal, State, and local laws, regulations, and requirements.

53. All waste disposal conducted by Respondents pursuant to this Order shall comply with all requirements of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §6901 et seq., the Toxic Substances Control Act (TSCA), 15

U.S.C. §2601 et seq., and all regulations promulgated pursuant thereto, as well as all applicable State laws and regulations.

54. Each Respondent to this Order shall individually send to EPA a written statement indicating whether it intends to rely upon the actions taken by the Duane Marine Steering Committee pursuant to the terms of the prior Orders. This writing shall effectively communicate to EPA each Respondent's intention to comply, or not to comply, with this Order. This communication shall be submitted to EPA no later than a date that is 21 days after receipt by the Committee of contractors' responses to the bid solicitation package that has been proposed by the Committee. The precise schedule for solicitation and recepit of such bids is incorporated into the EPA-Approved Work Plan that is attached to this Order.

55. All work pursuant to this Order shall be completed within six months of the effective date of this Order.

56. Failure of any Respondent to expeditiously and completely carry out the terms of this Order may result in EPA's taking the required actions unilaterally, pursuant to §104(a)(1) of CERCLA, 42 U.S.C. §9604(a)(1).

57. Respondents shall provide written weekly progress reports to EPA with respect to all actions and activities undertaken pursuant to this Order.

58. All submittals and notifications to EPA pursuant to this Order shall be made to the Chief, Site Investigation and Compliance Branch, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, 26 Federal Plaza, New York, New

York, 10278, Attention: Ms. Janet Feldstein, as well as to the OSC, and the Regional Counsel contact named in the final paragraph of this Order, unless otherwise provided herein.

59. Unimpeded access to the Facility shall be provided by Respondents LECARREAUX and DUANE MARINE to EPA, NJDEP, and Respondents complying with this Order as well as to their respective representatives, agents, employees, contractors, and consultants. The Respondents named in this paragraph shall permit such persons to be present on the Facility at any and all times and to observe any and all activities conducted pursuant to this Order. EPA and NJDEP representatives or agents shall also have unimpeded access to any premises other than the Facility (e.g., any laboratory) which any Respondent or its contractors, including subcontractors, or consultants may use in connection with implementation of this Order.

60. EPA and NJDEP shall have full access to all records, including but not limited to contractual documents, maintained or created by Respondents or their contractors or consultants in connection with implementation of this Order.

61. Upon request by the OSC, Respondents shall provide split samples of any material sampled in connection with implementation of this Order.

62. Neither EPA nor the United States, by issuance of this Order, assumes any liability for any injuries or damages to persons or property resulting from acts or omissions by Respondents, or any of them, or Respondents' employees, agents,

contractors, or consultants in carrying out any action or activity pursuant to this Order; nor shall EPA or the United States be held as a party to any contract entered into by Respondents, or any of them, or their officers, employees, agents, contractors, or consultants in carrying out any action or activity pursuant to this Order.

63. Nothing herein shall constitute or be construed as a satisfaction or release from liability with respect to any conditions or claims arising as a result of past, current, or future operations, ownership, or use of the Facility by Respondents, their agents, contractors, lessees, successors, or assigns. Nothing herein shall constitute a finding or admission that Respondents are the sole responsible parties in connection with releases or threatened releases of Hazardous Substances from the Facility found to be occurring in the Findings of this Order.

64. Violation of this Order as a result of Respondents' failure to comply with any provision herein, including but not limited to any failure to comply with any EPA-approved work plan prepared in compliance herewith, shall be enforceable pursuant to §§106(b) and 113(b) of CERCLA, 42 U.S.C. §§9606(b) and 9613(b). Respondents may also be subject to cost recovery, civil penalties and/or punitive damages as provided in §§106(b), 107(a), and 107(c)(3) of CERCLA, 42 U.S.C. §§9606(b), 9607(a), and 9607(c)(3), for failure to comply with the terms of this Order. Nothing herein shall preclude EPA from taking such additional enforcement actions as may be available, and/or such additional actions as may be necessary to prevent or

abate an imminent and substantial danger to the public health, welfare, or the environment arising from conditions at the Facility and recovering the costs thereof; nor shall anything herein preclude NJDEP from taking legal action pursuant to State law.

65. Not later than 5 days from the date this Order is issued, Respondents, or any of them, may request a conference with EPA to discuss this Order, including its applicability, the Findings upon which the Order is based, the appropriateness of any action or activity required to be undertaken herein, or any other issues or contentions directly relevant to the issuance of this Order which Respondents, or any of them, may have regarding this Order. Such conference is to be held not later than April 3, 1985. Such conference is not, and shall not be deemed to be, an adversary proceeding or part of a proceeding to challenge this Order, and no official stenographic record of such proceeding shall be kept. Any Respondent requesting a conference under this paragraph may appear at such conference in person or by an attorney or other designated representative. Any request for a conference shall be made to Margaret Thompson, Law Clerk, Waste and Toxic Substances Branch, Office of Regional Counsel, United States Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10278, telephone (212) 264-8067.

66. This Order shall become effective on April 5, 1985.

Date of Issuance: 3/22/85

By: Christopher J. Daggett
CHRISTOPHER J. DAGGETT
REGIONAL ADMINISTRATOR