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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA, Plaintiff, v. NCH CORPORATION, NATIONAL CHEMSEARCH CORPORATION OF NEW JERSEY, INC., AMERICAN ALLSAFE CO., INC. d/b/a CERTIFIED LABORATORIES OF NEW JERSEY, INC., MOHAWK LABORATORIES OF NEW JERSEY, INC., or as a DIVISION OF NCH CORPORATION, FMC CORPORATION and LISBETH HIGGINS, Defendants.	CIVIL ACTION NO. 98-5268 (SDW)
UNITED STATES OF AMERICA, Plaintiff, v. FMC CORPORATION, and LISBETH HIGGINS, Defendants.	CIVIL ACTION NO. 01-0476 (JCL)

CONSENT DECREE

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I. HIGGINS FARM SUPERFUND SITE BACKGROUND

A. The United States of America ("United States"), on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), in 1998 filed the Complaint, Civil Action Number 98-5268 (SDW) in this matter pursuant to Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9607, as amended. In May 1999, the United States filed its Amended Complaint.

B. The United States in its Amended Complaint, naming NCH Corporation, FMC Corporation and Lisbeth Higgins as defendants, seeks: (1) reimbursement of response costs incurred by EPA and the Department of Justice for response actions at the Higgins Farm Superfund Site ("Higgins Farm" or "Site"), in Franklin Township, Somerset County, New Jersey, together with accrued interest pursuant to Section 107 of CERCLA, 42 U.S.C. §9607; and (2) a declaration of liability for future response costs to be incurred at Higgins Farm.

C. In accordance with the National Contingency Plan, 40 C.F.R. Part 300 (as amended) ("NCP"), and Section 121(f)(1)(F) of CERCLA, 42 U.S.C. § 9621(f)(1)(F), EPA has notified the State of New Jersey (the "State") of negotiations with potentially responsible parties regarding Higgins Farm, and EPA has provided the State with an opportunity to participate in such negotiations and be a party to this Consent Decree.

D. In accordance with Section 122(j)(1) of CERCLA, 42 U.S.C. § 9622(j)(1), EPA has notified the National Oceanic and Atmospheric Administration ("NOAA") of the Department of Commerce, and the United States Department of Interior Fish and Wildlife Service ("FWS"), of negotiations with potentially responsible parties regarding the release of hazardous substances that may have resulted in injury to the natural resources under Federal trusteeship.

E. Defendant Lisbeth Higgins ("Settling Defendant") does not admit any liability to the United States arising out of the transactions or occurrences alleged in the Amended Complaint.

F. Pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, EPA placed the Higgins Farm on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register in March 30, 1989.

G. In response to a release or a substantial threat of a release of a hazardous substance(s) at or from the Higgins Farm, EPA conducted a Remedial Investigation and Feasibility Study ("RI/FS") for the permanent groundwater remedy at the Higgins Farm pursuant to 40 C.F.R. Part 300.430 from 1990 until 1992.

H. On September 24, 1990, EPA issued a Record of Decision ("1990 ROD"). The 1990 ROD provided, as an interim remedy, the installation of an alternate water supply for certain residences near the Higgins Farm. By May 1993, the alternate water supply had been installed.

I. On September 30, 1992, EPA issued a second Record of Decision for Higgins Farm ("1992 ROD") that documents EPA's selection of a permanent remedial action for Higgins Farm. The remedial action selected in the 1992 ROD provided for the design and construction of an on-site extraction and treatment system for contaminated ground water, with discharge of the treated ground water to an on-site surface water body. The design and construction of the treatment plant occurred between February 1993 and May 1998. The treatment plant at Higgins Farm commenced operations in May 1998, and continues to operate.

II. HIGGINS DISPOSAL SUPERFUND SITE BACKGROUND

J. On January 31, 2001, FMC Corporation filed a complaint (Civil Action Number 01-0476 (JCL)) seeking reimbursement for response actions it undertook at the Higgins Disposal Superfund Site ("Higgins Disposal" or "Site").

K. The United States, on behalf of the EPA, in June 2001 filed its Complaint (Civil Action Number 01-2946 (KSH)) pursuant to Section 107 of CERCLA, 42 U.S.C. § 9607, as amended, naming FMC and Lisbeth Higgins as defendants and seeking (1) reimbursement of response costs incurred by EPA and the Department of Justice for response actions at Higgins Disposal, in Kingston, Somerset County, New Jersey, together with accrued interest; and (2) a declaration of liability for future response costs to be incurred at Higgins Disposal.

L. The Court consolidated civil action numbers 01-0476 (JCL) and 01-2946 (KSH). The controlling civil action number is 01-0476 (JCL).

M. In accordance with the NCP and Section 121(f)(1)(F) of CERCLA, 42 U.S.C. § 9621(F)(1)(F), EPA has notified the State of New Jersey of negotiations with potentially responsible parties regarding Higgins Disposal, and EPA has provided the State with an opportunity to participate in such negotiations and be a party to this Consent Decree.

N. In accordance with Section 122(j)(1) of CERCLA, 42 U.S.C. § 9622(j)(1), EPA has notified NOAA and FWS of negotiations with potentially responsible parties regarding the release of hazardous substances that may have resulted in injury to the natural resources under Federal trusteeship.

O. The Settling Defendant does not admit any liability to the United States arising out of the transactions or occurrences alleged in the United States' Complaint, Civil Action No. 01-2946 (JCL).

P. Pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, EPA placed Higgins Disposal on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B, in August, 1990.

Q. In response to a release or a substantial threat of a release of a hazardous

substances at or from Higgins Disposal, EPA conducted a Remedial Investigation and Feasibility Study ("RI/FS") for Higgins Disposal pursuant to 40 C.F.R. §300.430 from 1992 through 1996.

R. On September 30, 1997, EPA issued a Record of Decision ("1997 ROD") that documents EPA's selection of a remedial action for Higgins Disposal. The remedial action selected in the 1997 ROD has two components. The first component involves the installation of an alternative water supply for the residents affected by the contaminated groundwater. The second component involves the construction of an on-site ground water extraction system and pipeline to transmit the contaminated groundwater to Higgins Farm for treatment. By September 1999, the alternate water supply had been installed.

S. On December 9, 2002, EPA issued an Explanation of Significant Differences ("2002 ESD") for Higgins Disposal. Pursuant to the 2002 ESD, the second component of the remedial action selected in the 1997 ROD has been changed to the installation of an on-site groundwater treatment system.

T. In a Partial Consent Decree entered by the court on September 16, 2004, FMC Corporation agreed to design, construct and operate the on-site ground water extraction, treatment and reinjection system for Higgins Disposal as set forth in the 2002 ESD. Due to site conditions discovered after the ESD was issued, reinjection was modified to discharge of the treated groundwater to an on-site surface water body. FMC completed construction of the groundwater treatment system, and has been operating and maintaining the system since February 2006.

U. The United States has reviewed the Financial Information submitted by Settling Defendant to determine whether Settling Defendant is financially able to pay response costs incurred and to be incurred at the Sites. Based upon this Financial Information, the United States has determined that Settling Defendant is able to pay the amounts specified in Section VII.

V. 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 implementation of this Consent Decree will avoid prolonged and complicated litigation between the Parties, and that this Consent Decree is fair, reasonable, and in the public interest.

NOW, THEREFORE, with the consent of the Parties to this Decree, it is hereby Ordered, Adjudged, and Decreed:

III. JURISDICTION

1. This Court has jurisdiction over the subject matter of these actions pursuant to 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. §§ 9606, 9607, and 9613(b). This Court also has personal jurisdiction over the Settling Defendant. Settling Defendant waives all objections and defenses that she may have to jurisdiction of the Court or to venue in this District. Settling

Defendant consents to and shall not challenge the terms of this Consent Decree or this Court's jurisdiction to enter and enforce this Consent Decree.

IV. PARTIES BOUND

2. This Consent Decree applies to and is binding upon the United States and upon the Settling Defendant, Mrs. Lisbeth Higgins, and upon her heirs, successors in title to the Properties, and any assigns to the Properties.

V. DEFINITIONS

3. Unless otherwise expressly provided herein, terms used in this Consent Decree which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Consent Decree or in the appendices attached hereto and incorporated hereunder, the following definitions shall apply:

"Agricultural Easement and Restrictions" or "AER" shall mean certain agricultural easements and restrictions regarding development with respect to the Properties as required by Paragraph 6.

"CERCLA" shall mean the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §§9601, *et seq.*

"Consent Decree" shall mean this Decree and all appendices attached hereto (listed in Section XX). In the event of conflict between this Decree and any appendix, this Decree shall control.

"Conservation Organization" shall mean a corporation or trust whose purposes include the acquisition and preservation of land or farmland areas in a natural, agricultural, scenic or open condition, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and which, in the case of a private organization, has received tax exemption as a not-for-profit organization under Section 501(c)(3) of the 1954 U.S. Internal Revenue Code Section 501(c)(3)"). "Conservation Organization" includes, without limitation, entities defined as "charitable conservancies" under N.J.S.A. Section 13:8B-2(a). The final determination whether any organization qualifies as a "Conservation Organization" shall be within the sole, unreviewable discretion of EPA.

"Day" shall mean a calendar day unless expressly stated to be a working day. "Working day" shall mean a day other than a Saturday, Sunday, or Federal holiday. In computing any period of time under this Consent 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 working day.

"DOJ" shall mean the United States Department of Justice and any successor departments, agencies or instrumentalities of the United States.

"Environmental Restriction and Easement" or "ERE" shall mean the instrument by which the Settling Defendant shall establish certain access easements and environmental restrictions with respect to the Properties to ensure non-interference with, or protectiveness of, the remedial measures performed or to be performed at the Sites as described in Section XV and in "EPA Model Easement for Access and Institutional Controls."

"Explanation of Significant Differences" or "ESD" shall mean the EPA Explanation of Significant Differences relating to Higgins Disposal signed on December 9, 2002, by the Regional Administrator, EPA Region 2, or his or her delegate, and all attachments thereto. The ESD is attached as Appendix A.

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

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

"Financial Information" shall mean those financial documents identified in Appendix B.

"Grantee" shall mean any governmental body or Conservation Organization approved by EPA as described in Paragraph 6 of this Consent Decree.

"Interest" shall mean interest at the rate specified for interest on investments of the Hazardous Substance Superfund established by 26 U.S.C. Section 9507, compounded on October 1 of each year, in accordance with 42 U.S.C. Section 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

"National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, including any amendments thereto.

"Paragraph" shall mean a portion of this Consent Decree identified by an Arabic numeral or an upper or lower case letter.

"Parties" shall mean the United States and the Settling Defendant.

"Plaintiff" shall mean the United States.

"Properties" shall mean that portion of the Higgins Farm owned by Settling Defendant located on Route 518 in Franklin Township, Somerset County, New Jersey and identified as Block 5.02, Lot 26.01 on the Tax Map of Franklin Township, Somerset County, New Jersey, and that portion of the Higgins Disposal owned by Settling Defendant located at 121 Laurel Avenue in Franklin Township, Somerset County, New Jersey, and identified as Block 5.02, Lot 171 on the Tax Map of Franklin Township, Somerset County, New Jersey.

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

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

"Settling Defendant" shall mean Mrs. Lisbeth Higgins.

"Sites" shall mean the Higgins Farm Superfund Site, located on Route 518 in Franklin Township, Somerset County, New Jersey, and generally shown on the map attached as Appendix C; the Higgins Disposal Superfund Site, located on Laurel Avenue, Kingston, Somerset County, New Jersey, and generally shown on the map attached as Appendix D; and all real property onto which or under which hazardous substances have migrated from these properties. The Higgins Farm Superfund Site is herein referred to as "Higgins Farm." The Higgins Disposal Superfund Site is herein referred to as "Higgins Disposal."

"State" shall mean the State of New Jersey.

"Trust Account Interest," shall mean all interest accrued in the Bank of New York, Account No. 617-4326531, North Fork Bank, Account No. 4446014864, and Lakeland Bank, Account No. 12002209 accounts from December 31, 2006 until the date of payment to the United States pursuant to Paragraph 5 of this Consent Decree.

"United States" shall mean the United States of America, including all of its departments, agencies and instrumentalities, which includes EPA and any federal natural resource trustee.

VI. STATEMENT OF PURPOSE

4. By entering into this Consent Decree, the mutual objectives of the Parties are for the Settling Defendant to make a cash payment to address liability for the Sites as provided in the Covenant Not to Sue by Plaintiff in Section XI, subject to the Reservation of Rights by the United States in Section XII, and to file the EREs and AERs as required by this Consent Decree.

VII. REIMBURSEMENT OF RESPONSE COSTS

5. Payments by Settling Defendant for Response Costs at Both Sites

a. Within thirty (30) days of the entry of this Consent Decree, Settling Defendant shall pay to the EPA Hazardous Substance Superfund the principal sum of $1,323,831.00, plus any Trust Account Interest. Payment shall be made by FedWire Electronic Funds Transfer ("EFT") to the U.S. Department of Justice account in accordance with current EFT procedures, referencing USAO File Number 1998-V-02168, EPA Site/Spill ID Number 02-W9 and EPA Site/Spill ID Number 02-3C, and DOJ Case numbers 90-11-3-1486/1. Payment shall be made in accordance with instructions provided to the Settling Defendant by the Financial Litigation Unit of the United States Attorney's Office for the District of New Jersey following lodging of the Consent Decree. Any payment received by the Department of Justice after 4:00 p.m. (Eastern Time) will be credited on the next business day.

b. At the time of payment, Settling Defendant shall send notice that payment has been made to the United States and to EPA in accordance with Section XVIII (Notices and Submissions).

c. If Settling Defendant fails to make the payment required by this Paragraph by the required due date, Interest shall continue to accrue on the unpaid balance through the date of payment.

VIII. AGRICULTURAL EASEMENTS

6. Agricultural Easement and Restrictions

Settling Defendant shall submit the following to EPA within forty-five (45) days of entry of this Consent Decree,

(i) a letter naming and requesting approval of a governmental body or Conservation Organization ("Grantee") to whom the Settling Defendant proposes to donate the Agricultural Easement Restrictions ("AER") with respect to the Properties; and

(ii) a letter from the proposed Grantee signed by a person with authority to speak for the Grantee and addressed to EPA stating that the proposed Grantee is willing to accept the AER for the Properties as Grantee, and to enforce the AER.

If Settling Defendant proposes to donate the AER for either or both of the Properties to a governmental body, the governmental body must be one whose purposes include the acquisition, conservation, and/or preservation of land or "open space" as defined in N.J.S.A. 40:55D-5 in

their natural, agricultural, scenic, or open condition. The determination of whether a governmental body is acceptable as a Grantee of the AER shall be within the sole, unreviewable discretion of EPA. If Settling Defendant proposes to donate the AER for either or both of the Properties to a Conservation Organization, the determination of whether a Conservation Organization is acceptable as a Grantee of the AER shall be within the sole, unreviewable discretion of EPA.

EPA will notify Settling Defendant in writing of its determination whether Settling Defendant's proposed Grantee is acceptable. If EPA informs the Settling Defendant that a proposed Grantee is acceptable, Settling Defendant shall, within thirty (30) days of receipt of EPA's written approval, commence the procedures described below:

a. Settling Defendant shall submit to the approved Grantee fully executed AERs, including, without limitation, subordination agreements or releases as required by Paragraph 6b, title work as required by Paragraph 6c, and a legal description of the Higgins Disposal and Higgins Farm properties, in a form enforceable under the laws of the State of New Jersey.

b. Except as requested by Settling Defendant and approved by EPA, the AER shall be granted with warranty covenants, free and clear of all prior liens and encumbrances, except as provided herein, and shall be acceptable under real property conveyancing laws, standards, and practices of the State of New Jersey. Provided, however, that the AER shall be subject to the ERE; EPA's Superfund lien on each Property, and New Jersey Department of Environmental Protection Spill Fund Lien on each Property; any easements, restrictions, or access agreements required by EPA pursuant to CERCLA for the implementation of response activities at the Sites; and any easements, restrictions, or access agreements required on the Properties by public utilities or other entities for water, electricity, public sanitation, telephone, or cable service. If there are other prior liens or encumbrances on the Properties, Settling Defendant shall obtain, and submit concurrently with the executed AERs, executed releases or subordination agreements from holders of such prior liens and encumbrances (except as otherwise requested by the Settling Defendant and approved by EPA).

c. Settling Defendant shall obtain a current title insurance commitment and certification of title prepared in accordance with conveyancing laws, standards and practices of the State of New Jersey, running to the Grantee, insuring and certifying, respectively, that Settling Defendant holds good, clear and marketable title to the Properties, and listing any encumbrances to be provided to the Grantee, along with associated release(s) and subordination agreement(s). The certification shall be provided by an insured title examiner. If such title insurance commitment, title certification, or other evidence of title reveals a defect in title, Settling Defendant shall notify EPA in writing of the defect and shall correct such defect, if and as required by EPA.

d. Once the Grantee has indicated in writing that the terms of the proposed

AER are acceptable, EPA will determine whether the AER as drafted, and the title and any necessary releases and subordination agreements, are acceptable. If the AER and any necessary releases and subordination agreements are not acceptable to EPA, EPA will so notify the Settling Defendant in writing. Within seven (7) business days of Settling Defendant's receipt of EPA's notification, Settling Defendant shall commence action to correct the deficiencies. No transfer of the AER shall occur unless and until EPA has reviewed and approved the AER, releases and subordination agreements and has so notified the Settling Defendant in writing. Within 21 days of Settling Defendant's receipt of EPA's written approval of the AER, releases and subordination agreements, Settling Defendant shall record said AER with the Somerset County Clerk's Office at Settling Defendant's sole cost and expense. Settling Defendant shall notify EPA of the recording of the AER no later than ten (10) days after Settling Defendant has recorded the AER.

e. As soon as practicable after the recording of the AER, Settling Defendant shall submit to the Grantee a final title insurance policy and title certification updated through the date of recording the AER or the other title evidence acceptable to EPA. If EPA determines that there have been any additional liens or encumbrances on the Properties since the effective date of the original commitment or report or other title evidence to impair the title, Settling Defendant shall (except as otherwise requested by Settling Defendant and approved by EPA) ensure that the record title is good, clear and marketable and that all security or interest holders are bound by and subject to the AER in accordance with the real property conveyancing laws, standards and practices of the State of New Jersey.

f. Within 30 days of recording the AER, Settling Defendant shall provide the Grantee and EPA with a certified copy of the original recorded AER showing the clerk's recording stamps. If the certified copy is not available within 30 days of recording the AER, Settling Defendant shall so notify EPA and provide EPA with the certified copy as soon as it is available.

g. Prior to recording the AER, Settling Defendant shall record the ERE pursuant to Paragraph 25.c. The rights, restrictions and any other interests established by the AER shall be subordinate to the rights, restrictions and any other interests established by the ERE.

h. Settling Defendant shall not sell, transfer, assign, mortgage, dispose or otherwise convey any interest in either or both Properties, or any portion thereof, other than the recording of the ERE, unless prior to such sale, transfer, assignment, mortgage, disposition or conveyance, Settling Defendant has recorded an AER and ERE, according to the processes set forth in this Paragraph and Paragraph 25.c.

i. The Settling Defendant shall provide EPA, the approved Grantee and its representatives or assignees with unrestricted access at all reasonable times to the Sites for the purpose of conducting activities pursuant to the AER and the ERE. Notwithstanding anything in this Paragraph, with regard to the Sites the approved Grantee shall have all access authorities it

may have pursuant to Title 4 of the New Jersey Statutes Annotated and Title 2 of the New Jersey Administrative Code.

7. If Settling Defendant fails to submit to EPA the items noted in subparagraphs 6(i) and (ii) within forty-five (45) days after entry of this Consent Decree, Settling Defendant shall document for EPA the efforts it has made to identify a Grantee(s) and shall submit that documentation to EPA within sixty(60) days after date of entry of this Consent Decree. If EPA determines that Settling Defendant has made a good-faith effort to identify a Grantee, EPA shall have the sole, unreviewable discretion to grant or deny Settling Defendant additional time to identify a Grantee(s). If EPA determines that Settling Defendant has not made a good-faith effort to identify a Grantee(s), then Settling Defendant is subject to the Stipulated Penalty Provisions in Section IX (Failure to Comply with Consent Decree). If Settling Defendant identifies a Grantee(s) acceptable to EPA, during the additional time period granted by EPA, Settling Defendant shall commence the procedures outlined in subparagraphs 6.a. through 6.i, within thirty (30) days of Settling Defendant's receipt of EPA's written determination that the proposed Grantee is acceptable to EPA.

Notwithstanding any other provision in this Consent Decree, EPA shall, starting forty-five (45) days after the entry date of this Consent Decree, have the right to select a Grantee(s) who will receive the AER for either or both of the Properties. If EPA selects a Grantee, EPA will notify Settling Defendant of the selection in writing. Once notified of EPA's selection, Settling Defendant shall donate the AER to the Grantee(s) selected by EPA pursuant to the procedures set forth in subparagraphs 6.a. through 6.i. Any selection of a Grantee(s) by EPA shall be made at the sole, unreviewable discretion of EPA.

IX. FAILURE TO COMPLY WITH CONSENT DECREE

8. Interest on Late Payments. If Settling Defendant fails to make any payment required by Section VII or this Section IX by the required due date, Interest shall continue to accrue on the unpaid balance through the date of payment.

9. Stipulated Penalty

a. If any amounts due under Paragraph 5 are not paid by the required date, or Settling Defendant fails to comply with the requirements and schedules set forth in Section VIII with respect to the AER or with the requirements set forth in Section XV with respect to the ERE, Settling Defendant shall be in violation of this Consent Decree and shall pay to EPA as a stipulated penalty, in addition to the Interest due pursuant to Paragraph 5, the following amounts per violation per day:

Penalty Per Violation Per Day	Period of Noncompliance
$1,500	1st through 14th day

$2,500	15th through 30th day
$5,000	31st day and beyond

b. Stipulated penalties are due and payable within 30 days of the date of the demand for payment of a penalty by EPA. All payments to the United States under this Paragraph shall be identified as "stipulated penalties" and shall be remitted via Electronic Fund Transfer ("EFT"), along with the following information, to EPA's Account with Mellon Bank, Pittsburgh, Pennsylvania, as follows:

i. Amount of payment
ii. Title of Mellon Bank account to receive the payment: **EPA**
iii. Account code for Mellon Bank account receiving the payment: **9108544**
iv. Mellon Bank Routing Number: **043000261**
v. Name of Party making payment
vi. EPA case Number: **98-5268-01-0476**
vii. Site Spill Identifier Nos. **02-W9** (Higgins Farm) and **02-3C** (Higgins Disposal)

c. On the date the EFT payment is made, Settling Defendant shall send a letter indicating that the payment is for stipulated penalties and shall reference EPA Region 2, the Site/Spill ID Numbers 02-W9 (Higgins Farm) and 02-3C (Higgins Disposal), the EPA Case Number 98-5268-01-0476, and the name and address of the party making the payment. The letter shall be sent to the United States as provided in Section XVIII (Notices and Submission) and to U.S. EPA, 26 West Martin Luther King Drive, Attention: FINANCE, MS: NWD, Cincinnati, Ohio 45268.

d. Penalties shall accrue as provided above regardless of whether EPA has notified Settling Defendant of the violation or made a demand for payment, but need only be paid upon demand. All penalties shall begin to accrue on the day after payment is due or the day a violation occurs and shall continue to accrue through the date of payment or the final day of the noncompliance or completion of the activity. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Decree.

e. In addition to the Stipulated Penalty payments required by this Section and any other remedies or sanctions available to the Untied States by virtue of Settling Defendant's failure to comply with the requirements of this Consent Decree, if Settling Defendant fails or refuses to comply with any term or condition of this Consent Decree, Settling Defendant shall be subject to enforcement action pursuant to Section 122(h)(3) of CERCLA, 42 U.S.C. Section 9622(h)(3).

10. If the United States brings an action to enforce this Consent Decree, Settling

Defendant shall reimburse the United States for all costs of such action, including but not limited to costs of attorney time.

11. Payments made under this Section shall be in addition to any other remedies or actions available to the United States by virtue of Settling Defendant's failure to comply with the requirements of this Consent Decree.

12. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive payment of any portion of the stipulated penalties that have accrued pursuant to this Consent Decree. Payment of stipulated penalties shall not excuse Settling Defendant from payment as required by Section VI or from performance of any other requirements of this Consent Decree.

X. RELEASE OF NOTICES OF FEDERAL LIEN

13. EPA will file Releases of Notices of Federal Lien ("Releases") for both Sites in the Clerk's Office, Somerset County, State of New Jersey, after Settling Defendant makes all payments to EPA required pursuant to this Consent Decree and fulfills all of the requirements of Paragraph 6 of this Consent Decree to EPA's satisfaction. The Releases shall be filed with respect to the Notice of Federal Lien recorded in the Somerset County Clerk Mortgage Book 3374, Pages 380 - 383, on November 20, 2000, and the Notice of Federal Lien recorded in Somerset County Mortgage Book 2023, Page 317 on July 12, 1991 and the Amendment to Notice of Lien thereto.

XI. COVENANTS NOT TO SUE BY PLAINTIFF

14. Except as specifically provided in Section XII (Reservation of Rights by United States), the United States covenants not to sue or to take administrative action against Settling Defendant pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9707(a), with regard to the Sites. With respect to present and future liability, this covenant shall take effect upon receipt by EPA of all amounts required by Section VII (Reimbursement of Response Costs), and any amount due under Section IX (Failure to Comply with Consent Decree), and the actions required pursuant to Section VIII (Agricultural Easement) and Section XV (Access and Institutional Controls). This covenant not to sue is conditioned upon the satisfactory performance by Settling Defendant of her obligations under this Consent Decree. This covenant not to sue is also conditioned upon the veracity and completeness of the Financial Information provided to EPA by the Settling Defendant. If the Financial Information is subsequently determined by EPA to be false or, in any material respect, inaccurate, Settling Defendant shall forfeit all payments made pursuant to this Consent Decree and this covenant not to sue and the contribution protection in Paragraph 22 shall be null and void. Such forfeiture shall not constitute liquidated damages and shall not in any way foreclose the United States' right to pursue any other causes of action arising from Settling Defendant's false or materially inaccurate information. This covenant not to sue extends only to Settling Defendant and does not extend to

any other person.

XII. RESERVATION OF RIGHTS BY UNITED STATES

15. The United States reserves, and this Consent Decree is without prejudice to, all rights against Settling Defendant with respect to all matters not expressly included within the Covenant Not to Sue by United States in Paragraph 14. Notwithstanding any other provision of this Consent Decree, the United States reserves all rights against Settling Defendant with respect to:

a. liability for failure of Settling Defendant to meet a requirement of this Consent Decree;

b. criminal liability;

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

d. liability, based upon Settling Defendant's ownership or operation of the Sites, or upon Settling Defendant's transportation, treatment, storage, or disposal, or the arrangement for transportation, treatment, storage or disposal, of a hazardous substance or solid waste at or in connection with the Sites, after signature of this Consent Decree by Settling Defendant; and

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

16. Notwithstanding any other provision of this Consent Decree, EPA reserves, and this Consent Decree is without prejudice to, the right to reinstitute or reopen this action, or to commence a new action seeking relief other than as provided in this Consent Decree, if the Financial Information provided by Settling Defendant, or the financial certification made by Settling Defendant in Paragraph 34, is false or, in any material respect, inaccurate.

17. Nothing in this Consent Decree is intended to be nor shall it be construed as a release, covenant not to sue, or compromise of any claim or cause of action, administrative or judicial, civil or criminal, past or future in law or in equity, that the United States may have against any person, firm, corporation or other entity not a signatory to this Consent Decree.

XIII. COVENANTS BY SETTLING DEFENDANT

18. Settling Defendant covenants not to sue and agrees not to assert any claims or causes of action against the United States, or their contractors or employees, with respect to the Sites or this Consent Decree including, but not limited to:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund established by 26 U.S.C. § 9507, based on CERCLA Sections 106(b)(2), 107, 111, 112, 113, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, 9613, or any other provision of law;

b. any claims against the United States under CERCLA Sections 107 or 113, 42 U.S.C. §§ 9607 and 9613, relating to the Sites;

c. any claims arising out of response actions at or in connection with the Sites, including any claim under the United States Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law.

Except as provided in Paragraph 20 (waiver of claims) and Paragraph 24 (waiver of claim splitting defenses), these covenants not to sue shall not apply in the event that the United States brings a cause of action or issues an order pursuant to the reservations set forth in Section XI (Covenants Not to Sue by Plaintiff), but only to the extent that Settling Defendant's claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

19. Nothing in this Consent Decree shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

20. Settling Defendant agrees not to assert any CERCLA claims or causes of action that she may have for all matters relating to the Sites, including for contribution, against any other person. This waiver shall not apply with respect to any defense, claim, or cause of action that Settling Defendant may have against any person if such person asserts a claim or cause of action relating to the Sites against Settling Defendant.

XIV. EFFECT OF SETTLEMENT / CONTRIBUTION PROTECTION

21. Nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Decree. The United States reserves any and all rights (including but not limited to, any right of contribution), defenses, claims, demands, and causes of action that it may have with respect to any matter, transaction, or occurrence relating in any way to the Sites against any person not a Party hereto.

22. The Parties agree, and by entering this Consent Decree this Court finds, that the Settling Defendant is entitled, as of the Effective Date of this Consent Decree, to protection from contribution actions or claims as provided by CERCLA Section 113(f)(2), 42 U.S.C. § 9613(f)(2)and 122(h)(4), 42 U.S.C. Section 9622(h)(4) for "matters addressed" in this Consent Decree. The "matters addressed" in this Consent Decree are all response actions taken or to be

taken and all response costs incurred or to be incurred , at or in connection with the Sites, by the United States or any other person, other than the State, except (1) response costs or response actions as to which the United States has reserved its rights under this Consent Decree (except for claims for failure to comply with this Decree), in the event that the United States asserts rights against Settling Defendant coming within the scope of such reservations, and (2) any costs for natural resource damages or response costs incurred or to be incurred by the State of New Jersey at, or in connection with, the Higgins Farm Site or Higgins Disposal Site.

23. The Settling Defendant also agrees that with respect to any suit or claim for contribution brought against it for matters related to this Consent Decree, it will notify DOJ and EPA in writing within 10 days of service of the complaint on it. In addition, Settling Defendant shall notify DOJ and EPA within 10 days of service or receipt of any Motion for Summary Judgment, and within 10 days of receipt of any order from a court setting a case for trial, for matters related to this Consent Decree.

24. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, recovery of response costs, natural resource damages or other relief relating to the Sites, Settling Defendant shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, the entire controversy doctrine or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the covenants not to sue set forth in Section XI (Covenants Not to Sue by Plaintiff).

XV. ACCESS AND INSTITUTIONAL CONTROLS

25. The Settling Defendant shall:

Access:

a. commencing on the date of lodging of this Consent Decree, provide the United States, including EPA and its contractors, with access at all reasonable times to the Sites, or such other property owned or controlled by her, for the purpose of conducting any response activity related to the Sites, including, but not limited to, the following activities:

1. Monitoring, investigation, removal, remedial or other activities at the Sites;

2. Verifying any data or information submitted to the United States;

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

4. Obtaining samples;

5. Assessing the need for, planning, or implementing additional response actions at or near the Sites;

6. Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Settling Defendant or its agents, consistent with Section XVI (Access to Information);

7. Assessing Settling Defendant's compliance with this Consent Decree; and

8. Determining whether the Sites or other property are being used in a manner that is prohibited or restricted, or that may need to be prohibited or restricted, by or pursuant to this Consent Decree;

Institutional Controls:

b. commencing on the date of lodging of this Consent Decree, refrain from using the Sites, or such other property owned or controlled by her, in any manner that would interfere with or adversely affect the implementation, integrity or protectiveness of the remedial measures to be performed at the Sites; and

c. execute and record in the Clerk's Office, or other appropriate land records office of Somerset County, State of New Jersey, the Environmental Restrictions and Easements ("ERE") for both Properties, running with the land, that (i) grants a right of access for the purpose of conducting response activities at the Sites, and (ii) grants the right to enforce land/water use restrictions listed in Paragraph 25.b of this Consent Decree, or other restrictions that EPA determines are necessary to implement, ensure non-interference with, or ensure the protectiveness of the remedial measures to be performed at the Site. Settling Defendant shall grant the access rights and the rights to enforce the land/water use restrictions to (i) the United States, on behalf of EPA, and its representatives, (ii) FMC Corporation for the Higgins Disposal Property, and (iii) NCH Corporation for the Higgins Farm Property. Settling Defendant shall, within 30 days of entry of this Consent Decree submit to EPA for review and approval with respect to such property:

1. a draft ERE, in substantially the form attached hereto as Appendix E, that is enforceable under the laws of the State of New Jersey, free and clear of all prior liens and encumbrances (except as approved by EPA), and acceptable under the Attorney General's Title Regulations promulgated pursuant to 40 U.S.C. § 255; and

2. current title commitment or report prepared in accordance with the U.S. Department of Justice Standards for the Preparation of Title Evidence in Land Acquisitions

by the United States (1970) (the "Standards").

26. Within 15 days of EPA's approval and acceptance of the EREs, Settling Defendant shall order an update of the title searches and, if it is determined that nothing has occurred since the effective date of the commitment or report to affect the title adversely, record the easements with the Clerk's Office of Somerset County. Within 15 days of recording the EREs, Settling Defendant shall provide EPA with final title evidence acceptable under the Standards, and a certified copy of the original recorded easements showing the clerk's recording stamps. If the certified copy is not available within 15 days of recording the ERE, Settling Defendant shall notify EPA and provide EPA with the certified copy as soon as it is available.

27. If EPA determines that land/water use restrictions in the form of state or local laws, regulations, ordinances or other governmental controls are needed to implement response activities at the Sites, ensure the integrity and protectiveness thereof, or ensure non-interference therewith, Settling Defendant shall cooperate with EPA's efforts to secure such governmental controls.

28. Notwithstanding any provision of this Consent Decree, the United States retains all of its access authorities and rights, as well as all of its rights to require land/water use restrictions, including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statute or regulations.

XVI. ACCESS TO INFORMATION

29. Settling Defendant shall provide to EPA, upon request, copies of all records, reports, or information (hereinafter referred to as "records") within her possession or control or that of her contractors or agents relating to activities at the Sites, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, photographs or other documents or information related to the Sites.

30. Confidential Business Information and Privileged Documents.

a. Settling Defendant may assert business confidentiality claims covering part or all of the documents or information submitted to Plaintiff under this Consent Decree to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. 2.203(b). Records determined to be confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies records when they are submitted to EPA, or if EPA has notified Settling Defendant that the records are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2, Subpart B, the public may be given access to such documents or information without further notice to Settling Defendant.

b. Settling Defendant may assert that certain records are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Settling Defendant asserts such a privilege in lieu of providing records, she shall provide Plaintiff with the following: 1) the title of the record; 2) the date of the record; 3) the name and title of the author of the record; 4) the name and title of each addressee and recipient; 5) a description of the subject of the record; and 6) the privilege asserted by Settling Defendant. If a claim of privilege applies only to a portion of a record, the record shall be provided to Plaintiff in redacted form to mask the privileged information only. Settling Defendant shall retain all records that she claims to be privileged until the United States has had a reasonable opportunity to dispute the privilege claim and any such dispute has been resolved in the Settling Defendants' favor. However, no records created or generated pursuant to the requirements of the Consent Decree shall be withheld on the grounds that they are privileged.

31. No claim of confidentiality shall be made with respect to any data, including but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at or around the Sites.

XVII. RETENTION OF RECORDS

32. Until ten years after the entry of this Consent Decree, Settling Defendant shall preserve and retain all records and documents now in her possession or control, or which come into her possession or control, that relate in any manner to response actions taken at the Sites or the liability of any person under CERCLA with respect to the Sites.

33. After the conclusion of the document retention period in the preceding paragraph, Settling Defendant shall notify EPA and DOJ at least 90 days prior to the destruction of any such records or documents, and, upon request by EPA and DOJ, Settling Defendant shall deliver any such records or documents to EPA. Settling Defendant may assert that certain records are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Settling Defendant asserts such a privilege, they shall provide EPA with the following: 1) the title of the record; 2) the date of the record; 3) the name and title of the author of the record; 4) the name and title of each addressee and recipient; 5) a description of the subject of the record; and 6) the privilege asserted. If a claim of privilege applies only to a portion of a record, the record shall be provided to Plaintiff in redacted form to mask the privileged information only. Settling Defendant shall retain all records that she claims to be privileged until the United States has had a reasonable opportunity to dispute the privilege claim and any such dispute has been resolved in the Settling Defendants' favor. However, no records created or generated pursuant to the requirements of this or any other settlement with the United States shall be withheld on the grounds that they are privileged.

34. Settling Defendant hereby certifies that, to the best of her knowledge and belief, after thorough inquiry, she has:

a. not altered, mutilated, discarded, destroyed or otherwise disposed of any records, reports, or other information relating to her potential liability regarding the Sites since notification of potential liability by the United States or the State or the filing of suit against her regarding the Sites, and that she has fully complied with any and all EPA requests for information regarding the Sites and Settling Defendant's financial circumstances pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927;

b. submitted to EPA Financial Information that fairly, accurately, and materially sets forth her financial circumstances, and that those circumstances have not materially changed between the time the Financial Information was submitted to EPA and the time Settling Defendant executes this Consent Decree; and

c. fully disclosed the existence of all insurance policies that may cover claims relating to cleanup of the Sites.

XVIII. NOTICES AND SUBMISSIONS

35. Whenever, under the terms of this Consent Decree, notice is required to be given or a document is required to be sent by one party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of the Consent Decree with respect to the United States, EPA, DOJ, and Settling Defendant, respectively.

As to the United States:

As to DOJ:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice (DJ # 90-11-3- 1486/1 and 90-11-3-1486/2)
P.O. Box 7611
Washington, D.C. 20044-7611

As to EPA:

ATTN: Higgins Farm and Higgins Disposal Superfund Site Attorney
U.S. Environmental Protection Agency–Region 2
Office of Regional Counsel
290 Broadway, 17th Floor
New York, New York 10007-1866

ATTN: Higgins Farm Superfund Site Remedial Project Manager
U.S. Environmental Protection Agency–Region 2
290 Broadway, 19th Floor
New York, New York 10007-1866

ATTN: Higgins Disposal Superfund Site Remedial Project Manager
U.S. Environmental Protection Agency–Region 2
290 Broadway, 19th Floor
New York, New York 10007-1866

As to Notice of Payments to Finance:

U.S. EPA
26 West Martin Luther King Drive
Attention: FINANCE
MS: NWD
Cincinnati, Ohio 45268

As to Settling Defendant:

Herbert B. Bennett, Esq.
229 Nassau Street
Princeton, New Jersey 08542-4601

XIX. RETENTION OF JURISDICTION

36. This Court shall retain jurisdiction over this matter for the purpose of interpreting and enforcing the terms of this Consent Decree.

XX. INTEGRATION/APPENDICES

37. The following appendices are attached to and incorporated into this Consent Decree:

"Appendix A" is the Explanation of Significant Differences;

"Appendix B" is the list of Financial Data submitted by the Settling Defendant to the United States;

"Appendix C" is a map of the Higgins Farm Superfund Site;

"Appendix D" is a map of the Higgins Disposal Superfund Site; and

"Appendix E" is EPA Model Easement for Access and Institutional controls ("Environmental Restrictions and Easements").

XXI. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

38. This Consent Decree shall be lodged with the Court for a period of not less than 30 days for public notice and comment. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations which indicate that this Consent Decree is inappropriate, improper, or inadequate. Settling Defendant consents to the entry of this Consent Decree without further notice.

39. If for any reason this Court should decline to approve this Consent Decree in the form presented, this agreement is voidable at the sole discretion of any party and the terms of the

agreement may not be used as evidence in any litigation between the Parties.

XXII. EFFECTIVE DATE

40. The effective date of this Consent Decree shall be the date upon which it is entered by the Court.

XXIII. SIGNATORIES/SERVICE

41. The undersigned representatives for Settling Defendant to this Consent Decree and the Assistant Attorney General for the Environment and Natural Resources Division of the United States Department of Justice certifies that he or she is authorized to enter into the terms and conditions of this Consent Decree and to execute and bind legally such Party to this document.

42. Settling Defendant hereby agrees not to oppose entry of this Consent Decree by this Court or to challenge any provision of this Consent Decree, unless the United States has notified her in writing that it no longer supports entry of the Consent Decree.

43. Settling Defendant hereby agrees not to oppose entry of this Consent Decree by this Court or to challenge any provisions of the Consent Decrees involving NCH Corporation, Inc. or FMC Corporation, Inc. for the Sites.

44. Settling Defendant shall identify, on the attached signature page, the name and address of an agent who is authorized to accept service of process by mail on her behalf with respect to all matters arising under or relating to this Consent Decree. Settling Defendant hereby agrees to accept service in that manner and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court, including but not limited to, service of a summons.

XXIV. FINAL JUDGMENT

45. This Consent Decree and its appendices constitute the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in the Consent 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.

46. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment between and among the United States and the Settling Defendant. 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.

SO ORDERED THIS ___ DAY OF _____, 200_.

_____
SUSAN D. WIGENTON
United States District Judge

SO ORDERED THIS 8 DAY OF Aug, 2007

DENNIS M. CANVANAUGH
United States District Judge

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. NCH Corporation, et al., Civil Action No. 98-5268 (SDW) and United States v. FMC Corporation and Lisbeth Higgins, Civil Action No. 01-0476 (JCL) relating to the Higgins Farm and Higgins Disposal Superfund Sites.

FOR THE UNITED STATES OF AMERICA

RONALD J. TENPAS
Acting Assistant Attorney General
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Ben Franklin Station
Washington, DC 20044-7611

Date: 5/31/2007

Myles Flint, II

KATHERINE M. KANE
MYLES E. FLINT, II
PATRICIA MCKENNA
SCOTT BAUER
Trial Attorneys
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Ben Franklin Station
Washington, DC 20044-7611
(202) 307-1859

CHRISTOPHER J. CHRISTIE
United States Attorney
District of New Jersey

SUSAN STEELE
Assistant United States Attorney
District of New Jersey
970 Broad Street, Suite 700
Newark, New Jersey 07102

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FOR U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 5/11/07

GEORGE PAVLOU
Emergency and Remedial Response Division
Region 2
U.S. Environmental Protection Agency
290 Broadway
New York, New York 10007-1866

DEBORAH SCHWENK
Assistant Regional Counsel
Region 2
U.S. Environmental Protection Agency
290 Broadway
New York, New York 10007-1866

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FOR LISBETH HIGGINS

DATE: 5-3-07

Lisbeth Higgins
LISBETH HIGGINS