

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA

UNITED STATES OF AMERICA, )  
ALABAMA DEPARTMENT OF )  
ENVIRONMENTAL MANAGEMENT, )  
AND STATE OF IOWA, )  
)  
Plaintiffs, )  
)  
v. ) Civil Action No. [\_\_\_\_\_] )  
)  
MCWANE, INC., )  
)  
Defendant. )

**CONSENT DECREE**

**WHEREAS**, Plaintiffs, the United States of America (“United States”), on behalf of the United States Environmental Protection Agency (“EPA”), the State of Alabama on behalf of the Alabama Department of Environmental Management, and the State of Iowa (collectively “Plaintiffs”), have filed a Complaint alleging that Defendant, McWane, Inc., (“McWane”) has violated numerous provisions 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.; the Clean Air Act (“CAA”), 42 U.S.C. § 7401 et seq.; the reporting requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. § 9603(a); the Clean Water Act (“CWA”), 33 U.S.C. § 1311 et seq.; the Safe Drinking Water Act (“SDWA”), 42 U.S.C. § 300f et seq.; the Emergency Planning and Community Right-to-Know Act (“EPCRA”), 42 U.S.C. § 11004(a); Ala. Code §§ 22-22-1 et seq.; 22-30-1 et seq.; and Iowa Code §§ 455B.131 et seq. and 455B.171 et seq., at twenty-eight of its various manufacturing facilities across the country;

**WHEREAS**, McWane has cooperated with the United States to investigate the violations addressed in the Complaint, has undertaken numerous corrective actions, and has established a comprehensive Environmental Management System (“EMS”) to promote future environmental compliance at all its Facilities nationwide;

**WHEREAS**, the objectives of the Parties in this Consent Decree are to document prior corrective action taken by McWane during the negotiation of this settlement, to provide for appropriate injunctive relief to complete additional corrective action, to conduct a final review of the Environmental Management System, and to assess an appropriate penalty to resolve the allegations of the Complaint;

**WHEREAS**, by agreeing to entry of this Consent Decree, McWane makes no admission of law or fact with respect to any of the allegations set forth in the Complaint filed herewith and referenced in this Consent Decree, and denies any violation of any law or regulation identified therein;

**WHEREAS**, 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, below, 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 pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b); Section 309(b) of the CWA, 33 U.S.C. § 1319(b); Sections 109(c) and 113(b) of CERCLA, 42 U.S.C. §§ 9609(c) and 9613(b); Sections

325(b)(3) and 325(c)(4) of EPCRA, 42 U.S.C. §§ 11045(c)(4) and 11045(b)(3); Section 3008(a)(1) of RCRA, 42 U.S.C. § 6928(a)(1); Section 17(a)(1) of TSCA, 15 U.S.C. § 2616(a)(1); Section 1414 of SDWA, 42 U.S.C. § 300g-3; and pursuant to 28 U.S.C. §§ 1331, 1345, and 1355, because: 1) the action arises in part under the laws of the United States; 2) the United States is a plaintiff; and 3) the action is brought in part to recover penalties incurred under Acts of Congress. Venue is proper in this judicial district pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b); Section 309(b) of the CWA, 33 U.S.C. § 1319(b); Section 109(c) of CERCLA, 42 U.S.C. § 9609(c); Sections 325(b)(3) and 325(c)(4) of EPCRA, 42 U.S.C. §§ 11045(b)(3) and 11045(c)(4); Section 3008(a)(1) of RCRA, 42 U.S.C. § 6928(a)(1); Section 17(a)(2) of TSCA, 15 U.S.C. § 2616(a)(2); and pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1395(a), because some of the events giving rise to the claims alleged in this Complaint occurred in this district, McWane conducts business in a Facility located in this district, and McWane's corporate headquarters is in this District. For purposes of this Decree, or any action to enforce this Decree, EPA and McWane consent to the Court's jurisdiction over this Decree and any such action and over McWane, and consent to venue in this judicial district. This Court has supplemental jurisdiction over the State law claims asserted by Alabama and Iowa pursuant to 28 U.S.C. § 1367.

2. Pursuant to RCRA § 3008(a)(2), 42 U.S.C. § 6928(a)(2), CAA § 113(b), 42 U.S.C. § 7413(b), CWA § 309(b), 33 U.S.C. § 1319(b); and SDWA §§ 1414(a)(1)(B) & (a)(2)(B), 42 U.S.C. §§ 300g-3(a)(1)(B) & (a)(2)(B), notice of the commencement of this action has been given to the following states: Alabama, California, Illinois, Indiana, Iowa, Missouri, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Texas, Utah, and Virginia.

3. For purposes of this Consent Decree, McWane agrees that the Complaint states claims upon which relief may be granted pursuant to RCRA, 42 U.S.C. §§ 6901 et seq., TSCA, 15 U.S.C. § 2601 et seq., the CAA, 42 U.S.C. § 7401 et seq.; the reporting requirements of CERCLA, 42 U.S.C. § 9603(a); the CWA, 33 U.S.C. § 1311 et seq.; the SDWA, 42 U.S.C. § 6901 et seq.; and EPCRA, 42 U.S.C. § 11004(a).

## **II. APPLICABILITY**

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

5. No transfer of ownership or operation of a Facility, whether in compliance with the procedures of this Paragraph or otherwise, shall relieve McWane of its obligation to ensure that the terms of the Decree are implemented, unless (1) the transferee agrees to undertake any unperformed obligations required under this Decree and to be substituted for the Defendant as a Party under the Decree and thus be bound by the terms thereof; and (2) the United States, after consultation with the appropriate State if the Facility at issue lies within one of the States, consents to relieve Defendant of its obligations. The United States' decision to refuse to approve the substitution of the transferee for the Defendant shall not be subject to judicial review.

At least thirty (30) Days prior to such transfer, McWane shall provide a copy of this Consent Decree to the proposed transferee and shall simultaneously provide written notice of the prospective transfer, together with a copy of the proposed transfer agreement, to EPA (headquarters and appropriate region), and the United States Department of Justice, in accordance with Section XIV of this Decree (Notices). Any attempt to transfer ownership or

operation of the Facility without complying with this Paragraph constitutes a violation of this Decree.

6. McWane shall (1) provide a copy of this Consent Decree to a) its President/CEO, Executive Vice Presidents, and General Counsel, b) Corporate Environmental Group, and c) leadership employees of each Facility whose duties include environmental management or compliance responsibilities (the General Manager, Plant Manager, Environmental Manager, and Maintenance Manager of each Facility); (2) place an electronic version of the Consent Decree on its EMS website; (3) post notice of lodging of the Consent Decree and its availability in a location at each Facility where legal notices are posted; and (4) place a notice of lodging of the Consent Decree and its availability in the first two McWane corporate newsletters published after the Effective Date of the Consent Decree. McWane shall also provide a copy of this Consent Decree to the principal contact at any contractor or other agent retained to perform Work required under this Consent Decree, and shall condition any such contract upon performance of the Work in conformity with the terms of this Consent Decree.

7. In any action to enforce this Consent Decree, McWane shall not 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, except as may be permitted under Section IX (Force Majeure) of this Consent Decree.

### **III. DEFINITIONS**

8. Except as otherwise provided in this Consent Decree (including its Appendices), definitions for the terms presented herein shall be incorporated from the following statutes and their corresponding regulations: RCRA, as amended, 42 U.S.C. § 6903; TSCA, 15 U.S.C.

§ 2602; CAA, 42 U.S.C. § 7602; the reporting requirements of CERCLA, 42 U.S.C. § 9601; CWA, 33 U.S.C. § 1362; SDWA, 42 U.S.C. § 6903; EPCRA, 42 U.S.C. § 11049; Ala Code §§ 22-22-1, 22-28-2, and 22-30-3, and Iowa Code §§ 455B.131 et seq. and 455B.171 et seq.

In the case of a conflict between the federal and state definitions, federal definitions shall control.

Whenever the terms set forth below are used in this Consent Decree, the following definitions shall apply:

- a. ADEM shall mean the Alabama Department of Environmental Management and any of its successor departments or agencies;
- b. Complaint shall mean the complaint filed by the United States and the States in this action;
- c. Consent Decree or Decree shall mean this Decree and all Appendices attached hereto (listed in Section XXIII). In the event of any conflict between this Decree and any Appendix hereto, this Decree shall control;
- d. 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 or applicable state holiday, the period shall run until the close of business of the next business day;
- e. Defendant or McWane shall mean McWane, Inc. and its subsidiaries and operating divisions;
- f. EPA shall mean the United States Environmental Protection Agency and any of its successor departments or agencies;
- g. EPA EMS Standard means the EPA's *Compliance-Focused Environmental Management System - Enforcement Agreement Guidance* (Document number

EPA-330/9-97-002R), Revised June 2005;

h. Effective Date is defined in Section XV;

i. EMS Element shall mean each of the individual subjects covered  
in the EPA EMS Standard;

j. Facility shall refer to any one or more of the following McWane

Facilities:

**EPA Region 2**

Kennedy Valve Company, Elmira, New York

Amerex Corporation, Scotch Plains, New Jersey

Atlantic States, Phillipsburg, New Jersey

**EPA Region 3**

Tyler Pipe Company, Macungie, Pennsylvania

Manchester Tank Company, Petersburg, Virginia

**EPA Region 4**

M&H Valve Company, Anniston, Alabama

Union Foundry, Anniston, Alabama

Empire Coke Company, Sipsey Mine, Birmingham, Alabama

M&H Valve Company Landfill, 1251 Parkwood Drive, Anniston, Alabama

Empire Coke Company, Dilworth Mine, Sipsey, Alabama

Empire Coke Company, Dilworth Washer, Sipsey, Alabama

Empire Coke Company, Rice Chapel Mine, Sipsey, Alabama

Empire Coke Company, Tuscaloosa, Alabama

Amerex Corporation, Trussville, Alabama

Manchester Tank Company, Crossville, Tennessee

**EPA Region 5**

Manchester Tank Company, Quincy, Illinois

Manchester Tank Company, Bedford, Indiana

Manchester Tank Company, Elkhart, Indiana

Clow Water Systems Company, Coshocton, Ohio

**EPA Region 6**

Manchester Tank Company, Lubbock, Texas

Tyler Pipe Company, Tyler, Texas

**EPA Region 7**

Clow Valve Company, Oskaloosa, Iowa

Mitrisin Disposal Site, Oskaloosa, Iowa

Manchester Tank Company, Hannibal, Missouri

Tyler Pipe Company, Marshfield, Missouri

**EPA Region 8**

Pacific States Cast Iron Pipe Company, Provo, Utah

**EPA Region 9**

Anaco, Corona, California

Clow Valve, Corona, California

k. Interest shall mean the interest specified in 28 U.S.C. § 1961.

Interest shall be compounded annually on October 1st of each year;

l. Notify and Submit and other terms signifying an obligation to transmit or communicate documents and information shall mean to deliver in-person, transmit by

facsimile or electronically (if an email address is provided), deposit in the United States mail, or dispatch by express courier in accordance with Section XIV (Notifications) of this Consent Decree no later than the day that such transmission or communication is required by this Consent Decree. Should such day be a weekend day or a federal holiday, the delivery, deposit, or dispatch shall be due on the next business day. Response deadlines shall be calculated from the date of actual receipt of the document(s) requiring a response;

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

n. Parties shall mean the United States, the States, and McWane;

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

p. States shall mean the Alabama Department of Environmental Management, on behalf of the State of Alabama, and the State of Iowa. Rights afforded to the States under this Consent Decree are limited to Facilities within the respective States;

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

r. Work shall mean any activity that McWane must perform to comply with the requirements of this Decree, including Appendices.

#### **IV. CIVIL PENALTY**

9. Within thirty (30) Days after the Effective Date of this Consent Decree, McWane shall pay the United States and the States the sum of \$4,000,000.00 as a civil penalty, together with Interest accruing from the date on which the Consent Decree is lodged with the Court, as set forth below:

a. McWane shall pay \$91,467.00 plus accrued Interest to the United States as a civil penalty related to the CWA SPCC violations alleged in the Complaint. Defendant shall pay the civil penalty due by FedWire Electronic Funds Transfer (“EFT”) to the U.S. Department of Justice in accordance with written instructions to be provided to Defendant, following entry of the Consent Decree, by the Financial Litigation Unit of the U.S. Attorney's Office for the Northern District of Alabama (1801 Fourth Avenue North; Birmingham, AL 35203). At the time of payment, Defendant shall send a copy of the EFT authorization form and the EFT transaction record, together with a transmittal letter, which shall state that the payment is for the civil penalty owed pursuant to the Consent Decree in United States v. McWane, Inc., and shall reference the civil action number and DOJ case number 90-5-1-1-08282, to the United States in accordance with Section XIV of this Decree (Notices); by email to [acctreceivable.CINWD@epa.gov](mailto:acctreceivable.CINWD@epa.gov); and by mail to:

EPA Cincinnati Finance Office  
26 Martin Luther King Drive  
Cincinnati, Ohio 45268

b. McWane shall pay \$10,941.00 plus accrued Interest to the “EPA Hazardous Substance Superfund” as a civil penalty related to the CERCLA Section 103 violations alleged in the Complaint, by FedWire Electronic Funds Transfer (EFT or wire transfer) to the U.S. Department of Justice account in accordance with written instructions to be provided by the Financial Litigation Unit of the U.S. Attorney’s Office for the Northern District of Alabama (1801 Fourth Avenue North, Birmingham, AL 35203) to McWane following entry of the Consent Decree. Any payments received by the Department of Justice after 4:00 P.M. (Eastern Time) will be credited on the next business day. At the time of payment, Defendant shall send a copy of the EFT authorization form and the EFT transaction record, together with a

transmittal letter, which shall state that the payment is for the civil penalty owed pursuant to the Consent Decree in United States v. McWane, Inc., and shall reference the civil action number, the EPA Regions in which the CERCLA 103 violations occurred, and DOJ case number 90-5-1-1-08282, to the United States in accordance with Section XIV of this Decree (Notices); by email to [acctsreceivable.CINWD@epa.gov](mailto:acctsreceivable.CINWD@epa.gov); and by mail to:

EPA Cincinnati Finance Office  
26 Martin Luther King Drive  
Cincinnati, Ohio 45268

c. McWane shall pay \$3,472,789.00 plus accrued Interest to the United States as a civil penalty related to the balance of the claims alleged in the Complaint, by FedWire Electronic Funds Transfer (EFT) to the U.S. Department of Justice, in accordance with written instructions to be provided by the Financial Litigation Unit of the U.S. Attorney's Office for the Northern District of Alabama (1801 Fourth Avenue North; Birmingham, AL 35203) to McWane following entry of the Consent Decree. At the time of payment, McWane shall send a copy of the EFT authorization form and the EFT transaction record, together with a transmittal letter, to the United States in accordance with Section XIV of this Decree (Notices); by email to [acctsreceivable.CINWD@epa.gov](mailto:acctsreceivable.CINWD@epa.gov); and by mail to:

EPA Cincinnati Finance Office  
26 Martin Luther King Drive  
Cincinnati, Ohio 45268

The transmittal letter shall state that the payment is for the civil penalty owed pursuant to the Consent Decree in United States v. McWane Inc., and shall reference the civil action number and DOJ case number 90-5-1-1-08282.

d. Within thirty (30) Days after the Effective Date of this Consent

Decree, McWane shall pay the sum of \$424,803.00 plus accrued Interest as a civil penalty to the

States as follows:

i. A check in the amount of \$332,000.00 plus accrued Interest payable to the Alabama Department of Environmental Management at:

Office of General Counsel  
Attention: Rebecca E. Patty  
Alabama Department of Environmental Management  
1400 Coliseum Boulevard  
Montgomery, AL 36110-2059

ii. A check in the amount of \$92,803.00 plus accrued Interest payable to the State of Iowa at:

David R. Sheridan  
Assistant Attorney General  
Environmental Law Division  
Lucas State Office Bldg.  
321 E. 12th Street, Room 018  
Des Moines, IA 50319

10. McWane shall not deduct any penalties paid under this Decree pursuant to this Section or Section VIII (Stipulated Penalties) in calculating its federal or state or local income tax.

## **V. COMPLIANCE REQUIREMENTS**

11. Previously Completed Corrective Action. Prior to the lodging of this Consent Decree, McWane corrected nearly all the violations alleged in the Complaint by performing the corrective actions identified in Appendix 1 (Corrective Action Summary) of this Consent Decree, which includes a certification in compliance with Paragraph 35 that all corrective actions identified in Appendix 1 have been fully completed as of the date of lodging of this Consent Decree. McWane shall maintain documentation existing as of the date of lodging of the Consent

Decree of all such corrective actions, in accordance with Section XI (Information and Document Retention) of this Decree.

12. Storm Water Pollution Prevention Plans (SWPPP). McWane has modified the SWPPP procedure in its EMS in accordance with comments provided by EPA. The modified procedure is provided in Appendix 2. McWane shall implement the modified procedure at all Facilities as set forth in Appendix 2 and shall continue to revise the SWPPP procedure as appropriate.

13. Clow Water Systems Company, Coshocton, Ohio. McWane shall operate and monitor the cupola furnace at the Clow Water Facility in Coshocton in compliance with the conditions in the Ohio EPA Permit to Install (Permit #06-07432) and Appendix 3 (CAA Compliance Measures at Clow Water Systems, Coshocton, Ohio) of this Consent Decree, which requires, among other things, that emissions of particulate matter (PM) from the exhaust stack for the cupola furnace shall not exceed 0.078 lbs per ton of molten iron produced, and which establishes a schedule for stack tests to assess compliance with this emission limit.

14. Environmental Management Systems. During the course of negotiations culminating in this Consent Decree, McWane has continued to develop and implement, with EPA input and assistance, a comprehensive company-wide environmental management system (“EMS”), to promote compliance with all environmental requirements, achieve pollution prevention, and accomplish pollution reduction at McWane Facilities, and to enhance overall environmental performance.

a. McWane, as of the date of lodging of this Consent Decree has engaged a qualified EMS Auditor, Steve Rowley, approved by EPA, to conduct an Audit of the operation of the EMS at the Union Foundry Facility in Anniston, Alabama and at the Clow Water

Facility in Coshocton, Ohio, to identify and evaluate program gaps relative to the EPA EMS Standard as more fully described in subparagraph (b), below. The EMS Auditor was required by EPA: (1) not to have been involved in the development of the EMS or the EPA EMS Standard; (2) not to have any direct financial stake in the outcome of the EMS Audit conducted pursuant to this Consent Decree; (3) to satisfy the EMS Auditor qualification requirements of Table 1 of ISO 19011 (First edition, 2002-10-01); (4) to have expertise and competence in regulatory programs under federal and state environmental laws; and (5) to have at least a bachelor's degree from an accredited institution. McWane has not had any other contractual or financial relationship with the EMS Auditor. Should Mr. Rowley be unable to complete his EMS Auditor responsibilities, McWane shall submit to EPA for approval the name of a substitute EMS Auditor meeting the above qualifications.

b. The audit criteria shall consist of the EPA EMS Standard, and any other EMS standards or criteria deemed appropriate by McWane. The EMS Audit shall evaluate the adequacy of EMS implementation relative to the Audit criteria, from top management down, throughout each major organizational unit at the Union Foundry and Clow Water facilities, and identify areas of concern. McWane shall conduct an EMS Audit in accordance with the provisions of ISO 19011 (First edition, 2002-10-01), and shall address the following issues:

- i. Whether there is a defined system, subsystem, program, or planned task for each EMS Element as listed in the EPA EMS Standard;
- ii. To what extent the system, subsystem, program, or task has been implemented, and is being utilized according to the EPA EMS Standard;

iii. Whether each Facility operation's internal self-assessment procedures for programs and tasks comprising the EMS meet the EPA EMS Standard;

iv. Whether McWane is effectively communicating relevant environmental requirements to affected parts of the organization, contractors, and on-site service providers;

v. Whether further improvements should be made to the EMS to conform to the provisions of the EPA EMS Standard;

vi. Whether there are material deviations from McWane's written requirements or procedures; and

vii. Whether there is a process in place to promote continual improvement.

c. Representatives from McWane (other than those employed at the Facility being audited), EPA, and the States may participate in the EMS Audit as observers and answer questions posed by or discuss issues raised by the EMS Auditor, but may not interfere with the independent judgment of the EMS Auditor. McWane shall notify EPA Headquarters and the appropriate EPA Region, in accordance with Section XIV (Notices) of this Consent Decree, at least ten (10) Days before the commencement of each on-site portion of the EMS Audit.

d. McWane shall direct the EMS Auditor to develop and submit simultaneously to McWane and EPA an EMS Audit Report for the EMS Audit for each selected facility within sixty (60) Days following the completion of the final on-site portion of the EMS

Audit at that Facility. The EMS Audit Report shall present the audit findings and shall contain the following information:

- i. The audit's scope, including the period of time covered by the audit;
- ii. The date(s) the on-site portions of the audit were conducted;
- iii. The identification of audit team members for each facility;
- iv. The identification of McWane representatives and regulatory agency personnel observing the audit;
- v. The names of the individuals to whom the EMS Auditor provided the EMS Audit Report;
- vi. A summary of the audit process, including any obstacles encountered;
- vii. Detailed audit findings, including the basis for each finding and each area of concern identified. The auditor shall distinguish between material deviations from the EMS standard that must be corrected ("Audit Findings") and recommendations for optional EMS enhancements ("Recommendations");
- viii. Identification of any Audit Findings corrected, or Recommendations addressed, during the audit and a description of the corrective measures and when they were implemented; and,
- ix. Certification by the EMS Auditor that the EMS Audit was conducted in accordance with the provisions of ISO 19011 (First edition, 2002-10-01).

e. Within ninety (90) Days of receiving the EMS Audit Report, McWane shall develop and submit for approval to EPA, in consultation with the States, a response to the EMS Audit Report (the "Audit Response and Action Plan") addressing all Audit Findings, evaluating whether there is any need for conducting a root cause analysis, and

identifying appropriate actions or measures that should be implemented to achieve conformance with the EPA EMS Standard, including a proposed schedule to complete such actions or measures. As an Appendix to the Audit Response and Action Plan, McWane shall include, for EPA's review and comment only, a response to the EMS Audit Report addressing all Recommendations, evaluating whether there is any need for conducting a root cause analysis or implementing measures to address the Recommendations, including a proposed schedule to complete such actions or measures. For the purposes of this subsection, all submissions should be provided to the EPA Special Litigation and Projects Division, as identified in Section XIV (Notices).

f. Upon written approval by EPA pursuant to Paragraph 15, McWane shall implement the Audit Response and Action Plan according to the approved schedule.

g. Following completion of corrective measures pursuant to the Audit Response and Action Plan, or in the event of an EMS Audit in which no instances of nonconformance with the EMS Standard are found, McWane shall submit a Request for Certification of EMS Implementation to the EMS Auditor. The EMS Auditor shall, as necessary, reinspect the respective Facility (i.e., conduct a "Certification Review") and submit to McWane a written statement identifying those Audit Findings that have been addressed and any that have not, including an explanation describing the failure to address or correct, as appropriate, any Audit Findings. McWane shall correct in a timely manner any outstanding Audit Findings identified during the Certification Review. When the EMS Auditor concludes that all Audit Findings have been addressed at the respective Facility, the EMS Auditor shall issue to McWane a Certification of EMS Implementation for the Facility, indicating that the EMS is fully

implemented and conforms to the EMS Standard. Within ten (10) Days of receipt, McWane shall submit a copy of each Certification of EMS Implementation to EPA.

h. McWane shall develop, and submit to EPA for review and comment, proposed EMS improvements based on the results of the Audit Response and Action Plan, to be incorporated into McWane's EMS at all Facilities.

15. EPA Approval. After review of any work plan, report, or other item that is required to be submitted, or revised and resubmitted to EPA for approval pursuant to this Consent Decree, EPA, after consultation with the States, 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.

16. If a submission submitted pursuant to Paragraph 15 is approved, McWane 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), McWane shall, upon written direction from EPA, take all actions required by the approved plan, report, or other item that EPA determines are technically severable from any disapproved portions, subject to McWane's right to dispute only the specified conditions, or the disapproved portions and the severability of the approved portions, under Section X of this Decree (Dispute Resolution).

17. If the submission is disapproved in whole or in part pursuant to Paragraph 15(c) or 15(d), McWane shall, within forty-five (45) Days or such other period as the Parties agree to in writing, correct all deficiencies in the content of the submission and resubmit the plan, report, or other item, or disapproved portion thereof, for approval, in accordance with the preceding

Paragraphs. If the resubmission is approved in whole or in part, McWane shall proceed in accordance with the preceding Paragraph.

18. Any stipulated penalties applicable to the original submission, as provided in Section VIII of this Decree, shall accrue during the forty-five (45)-Day period or other agreed period, but shall not be payable unless the resubmission is untimely or is again disapproved in whole or in part; provided that, if the original submission was so deficient as to constitute a material breach of McWane's obligations under this Decree, the stipulated penalties applicable to the original submission shall be due and payable notwithstanding any subsequent resubmission.

19. If a resubmitted plan, report, or other item, or portion thereof, is disapproved in whole or in part, EPA, after consultation with the States, may again require McWane to correct any deficiencies in the content of the submission in accordance with the preceding Paragraphs, or may itself correct any deficiencies, subject to McWane's right to invoke Dispute Resolution and the right of EPA to seek stipulated penalties as provided in the preceding Paragraphs. If the resubmission is approved or corrected in whole or in part, McWane shall proceed in accordance with Paragraphs 16 and 17.

20. Permits. Where any compliance obligation under this Section requires McWane to obtain a federal, state, or local permit or approval, McWane shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals.

McWane may seek relief under the provisions of Section IX of this Consent Decree (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 McWane has submitted timely and complete applications and has taken all other actions necessary to timely obtain all such permits or approvals.

## VI. SUPPLEMENTAL ENVIRONMENTAL PROJECTS

21. McWane shall implement and complete the following Supplemental Environmental Projects (“SEPs”) in accordance with the terms and schedules set forth in Appendix 5 of this Consent Decree. McWane may use contractors or consultants in planning and implementing these SEPs:

- Greenwood Park Storm Water Management Area (“Greenwood Park SEP”);
- Mercury Emissions Reduction Projects at Pacific States Cast Iron Pipe Co. and Tyler Pipe (Texas) Facilities (“Mercury Reduction SEPs”);
- Water Quality and Habitat Improvement in the Chemung SubBasin (“Chemung SubBasin SEP”);
- Volatile Organic Compound Elimination - Replacement of Wet Paint Booth with Powder Coating Process at Manchester Tank & Equipment, Bedford, Indiana;
- Volatile Organic Compound Elimination - Replacement of Wet Paint Booth with Powder Coating Process at M&H Valve, Anniston, AL Facility (collectively “Paint Booth SEPs”); and
- Diesel Emissions Reduction Projects (“Diesel Emissions SEP”)

22. With regard to each SEP described in Appendix 5, McWane certifies the truth and accuracy of each of the following:

- a. that all cost information provided to EPA in connection with EPA's approval of each SEP is complete and accurate; that the estimated costs of the SEPs (except for

the Chemung SubBasin SEP and the Diesel Emissions Reduction Projects) have been calculated in good faith according to protocols consistent with those used by McWane to evaluate projects for corporate review and approval; that McWane in good faith believes that they comport with EPA's SEP policy regarding eligible SEP costs; and that McWane in good faith estimates the cost to implement each SEP as follows:

- Greenwood Park SEP - \$3,353,800;
- Mercury Reduction SEPs - no less than \$600,000, with a maximum expenditure of \$1,500,000 at each of the Pacific States Cast Iron Pipe Co. and Tyler Pipe Facilities;
- Chemung SubBasin SEP - \$90,250 for streambank projects;
- Diesel Emissions SEPs - \$90,000 for engine retrofits;
- Paint Booth SEPs - \$3,500,000 and \$620,000, respectively; and

b. that, as of the date of executing this Decree, McWane is not required to perform or develop any of the SEPs by any federal, state, or local law or regulation and is not required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other action in any forum;

c. that the SEPs are not projects that McWane was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this Decree;

d. that McWane has not received and will not receive credit for the SEP in any other enforcement action; and

e. that McWane will not receive any reimbursement for any portion of the SEP from any other person.

23. If McWane satisfactorily completes any SEP listed in Paragraph 21, but spends less than the maximum amount of the SEP cost estimate set forth in Paragraph 22, McWane may reallocate the cost savings to make up for any cost over-runs on any of the other SEPs listed in Paragraph 21, other than the Diesel Emissions SEP, provided that any reallocation of cost savings from either of the Paint Booth SEPs to either the Mercury Reduction SEP or the Chemung SubBasin SEP shall be augmented by McWane by an additional 25%. Any net cost savings after such re-allocation (and not including any augmentation) shall be spent on one or more of the following additional SEPs, which shall be completed in accordance with the terms and schedules set forth in Appendix 5:

- Caldwell Conservation Project
- Solid Waste Bunker Enclosure Project – Clow Water
- Additional Diesel Emissions Reduction Projects

24. SEP Completion Report. Within thirty (30) Days of the date of completion of each SEP in Appendix 5, McWane shall submit a SEP Completion Report to EPA, in accordance with Section XIV of this Consent Decree (Notices). The SEP Completion Report shall contain the following information:

- a. A narrative description of the development and/or implementation of the SEP, including a discussion of the process involved and the technology utilized;
- b. a description of any problems encountered in completing the SEP and the solutions thereto;
- c. final cost documentation for the SEP, as compared to the expected cost projected for the SEP as set forth in Paragraph 22(a);

d. certification that the SEP has been fully implemented pursuant to the provisions of this Decree; and

e. a description of the environmental and public health benefits resulting from implementation of the SEP (with a quantification of the benefits and pollutant reductions, if feasible).

25. EPA pursuant to Section XI (Information Collection and Retention) of this Consent Decree may require information in addition to that described in the preceding Paragraph, in order to evaluate McWane's completion report.

26. Each submission required under this Section shall be signed by an official with knowledge of the SEP and shall bear the certification language set forth in Paragraph 35.

27. After receiving the SEP Completion Report, and following consultation with the States, EPA shall determine and notify McWane whether or not McWane has satisfactorily completed the SEP in accordance with this Consent Decree.

28. As of the date of lodging of this Consent Decree and until EPA approval of the Final SEP Report, McWane shall maintain complete documentation of the final cost estimates and actual costs of design, construction, and operation for each SEP.

29. Any public statement, oral or written, in print, film, or other media, made by McWane making reference to the SEP under this Decree from the date of its execution of this Decree shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action, United States et al v. McWane, Inc., taken on behalf of the U.S. Environmental Protection Agency to enforce federal environmental laws."

30. For federal income tax purposes, McWane agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.

## **VII. REPORTING REQUIREMENTS**

31. Within thirty (30) Days after the end of each calendar-quarter after the Effective Date of this Consent Decree and until completion of the obligations set forth in Sections IV (Civil Penalty), VI (SEPs) (through completion of construction), and VIII (Stipulated Penalties) and Paragraphs 12 (SWPPs) and 14-20 (EMS, Approval of Deliverables, and Permits), McWane shall submit to EPA a report for the preceding calendar quarter (quarters shall end on January 31, April 30, July 31, and October 31 of each year) and thereafter annually with respect to the requirements of Paragraph 13. This report shall include: (a) the status of any compliance measures required under Section V of this Decree (Compliance Requirements); (b) completion of milestones; (c) problems encountered or anticipated in complying with the terms of this Consent Decree, together with implemented or proposed solutions; (d) status of any permit applications relating to the Work under this Consent Decree; (e) “significant matters” under the McWane EMS (a copy of the current protocol for which is provided in Appendix 4 of the CD); (f) a list of categories of reports submitted to State environmental agencies; and (g) a discussion of McWane’s progress in satisfying its SEP obligations under Section VI of this Decree, including, at a minimum, a narrative description of activities undertaken, the status of any construction or compliance measures, the completion of any milestones set forth in the SEP Work Plan attached as Appendix 5 to this Decree, and a summary of SEP costs incurred since the previous report.

32. The report shall also include a description of any non-compliance with the requirements of this Consent Decree and an explanation of the likely cause of the violation and of the remedial steps taken, or to be taken, to prevent or minimize such violation. If McWane violates, or has reason to believe that it may violate, any requirement of this Consent Decree, McWane shall notify EPA and the States of such violation and its likely duration, in writing,

within ten (10) business days of the day McWane first becomes aware of the violation, with an explanation of the violations 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 report is due, McWane shall so state in the report. McWane shall investigate the cause of the violation and shall then submit an amendment to the report, including a full explanation of the cause of the violation, within thirty (30) Days of the day McWane becomes aware of the cause of the violation. Nothing in this Paragraph or the following Paragraph relieves McWane of its obligation to provide the notice required by Section IX of this Consent Decree (Force Majeure).

33. Whenever any event affecting McWane's performance under this Decree, or the performance of its Facilities, may pose an imminent and substantial endangerment to the public health or welfare or the environment, McWane shall notify EPA Headquarters, as per Section XIV (Notices), as well as the appropriate EPA Emergency Response, orally or by electronic or facsimile transmission as soon as possible, but no later than 24 hours after McWane first knew of, or should have known of, the violation or event posing the threat. This notice requirement is in addition to the requirement to provide notice of a violation of this Consent Decree set forth in the preceding Paragraph.

34. All reports and reporting obligations shall be submitted to the persons designated in Section XIV of this Consent Decree (Notices) for EPA Headquarters, the U.S. Department of Justice, and any EPA Regional and/or State representatives identified for the Region and State in which the applicable Facility is located.

35. Each report submitted by McWane under this Section shall be signed by a responsible corporate official of McWane (as defined in 40 C.F.R. § 270.11(a)) and shall 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 am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

This certification requirement does not apply to emergency notifications where compliance would be impractical.

36. The reporting requirements of this Consent Decree do not relieve McWane of any reporting obligations required by any federal, state, or local law, regulation, permit, or other requirement.

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

### **VIII. STIPULATED PENALTIES**

38. McWane shall be liable for stipulated penalties to the United States for violations of this Consent Decree specified in Paragraphs 39-43, 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.

39. Payment of Penalty. If McWane fails to pay the civil penalty required to be paid under Section IV of this Decree (Civil Penalty) when due, McWane shall pay a stipulated penalty of \$1,000 per day for each Day that the payment is late for the first ten (10) Days, together with Interest. Thereafter, McWane shall pay \$5,000 per day for each Day that the payment is late, with Interest. These stipulated penalties shall also apply to any late payment of the civil penalties owed to the States. Any stipulated penalties due and owing to the United States or the States under this Paragraph shall be paid together with payment of the civil penalty, without demand by the United States or the States.

40. Payment Methods. Late payment of the civil penalty shall be made in accordance with Section IV (Civil Penalty), Paragraph 9(b). Stipulated penalties shall be paid in accordance with Paragraphs 41, 42 and 43 below. All transmittal correspondence shall state that any such payment is for late payment of the civil penalty due under this Decree, or for stipulated penalties for late payment, as applicable, and shall include the identifying information set forth in Paragraph 9 above.

41. Compliance Requirements. The following stipulated penalties shall accrue per violation per Day for each violation of the requirements identified in Section V for the Clow Water Systems Company, Coshocton, Ohio:

(a) For failure to monitor pressure drop across the Cupola Scrubber System as specified in Appendix 3 to this Consent Decree:

<u>Period of Noncompliance</u>	<u>Penalty per Day</u>
1 through 3 Days per calendar quarter	\$1,500
4 through 10 Days per calendar quarter	\$2,500
Greater than 10 Days per calendar quarter	\$3,750

(b) For failure to operate the Cupola Scrubber System so that the 3-hour average total pressure drop across the entire System does not fall below the minimum levels specified in Appendix 3 to this Consent Decree:

<u>Period of Noncompliance</u>	<u>Penalty per Day</u>
1st Day in any calendar month	\$0
2 to 6 Days per calendar month	\$1,000
7 through 12 Days per calendar month	\$2,000
Greater than 12 Days per calendar month	\$3,000

(c) For failure to meet the emission limitation of 0.078 lbs/ton of particulate matter at the outlet from the Cupola Scrubber System as specified in Appendix 3:

<u>Period of Noncompliance</u>	<u>Penalty per Day</u>
1st 50 Days after a failed stack test	\$1,000(x)
Next 50 Days after a failed stack test	\$2,000(x)
Over 100 Days after a failed stack test	\$3,000(x)

--where x derives from the degree of deviation from the 0.078 emission limitation as follows:

For emissions between 0.079 and 0.120 lbs/ton, x = 1

For emissions between 0.121 and 0.160 lbs/ton, x = 2

For emissions between 0.161 and 0.200 lbs/ton, x = 3

For emissions above 0.201 lbs/ton, x = 4

(1) Rounding shall be as follows: 0.00049 and below shall be rounded down and 0.00050 and above shall be rounded up.

(2) Pursuant to Section 113(e)(2) of the CAA, penalties will accrue from the date of the failed stack test until McWane establishes through a subsequent stack test that "continuous compliance has been achieved."

(3) The compliance date is the date of the successful stack test, not the date on which the results showing compliance is received. This means the minimum period required to establish renewed compliance is fifty (50) Days.

(4) If a stack test shows the facility to be out of compliance following one or more stack tests showing compliance, then McWane shall have a grace period of fifty (50) Days to bring the facility back into compliance before penalties will start to accrue. Subsequent stack test failures will not be subject to this grace period unless McWane has passed at least one intervening stack test and can demonstrate 95% compliance with 3-hour average pressure drop and water flow operating parameter requirements since the prior successful stack test. Solely for the purpose of determining whether a grace period exists for a subsequent stack test failure, Clow shall be deemed to be in 100% compliance if no three-hour average is out of compliance during the relevant period. If any three-hour average is out of compliance during the relevant time period, the ratio of actual number of minutes of operation in compliance to total minutes of operation shall be used to calculate whether Clow is within 95% compliance.

42. Reporting Requirements. The following stipulated penalties shall accrue per violation per day for each violation of the reporting requirements of Section VII of this Consent Decree (Reporting Requirements):

<u>Period of Noncompliance</u>	<u>Penalty Per Violation Per Day</u>
1st through 14th Day	\$1,000.00
15th through 30th Day	\$1,250.00

31st Day and beyond \$2,000.00

43. Failure to meet SEP Requirements.

a. If McWane fails to satisfactorily complete the SEP in accordance with the terms and within the final deadlines set forth in Appendix 5, McWane shall pay stipulated penalties, upon written demand from the United States, in the following amounts for each Day the SEP remains incomplete:

<u>Period of Noncompliance</u>	<u>Penalty Per Violation Per Day</u>
1st through 7th Day	\$100.00
8th through 21st Day	\$250.00
22nd through 30th Day	\$500.00
Greater than 30 Days	\$1,000.00

b. Should stipulated penalties accrued under the foregoing sub-paragraph exceed half the estimated cost of the SEP as set forth in Paragraph 22(a), or if the United States otherwise determines that McWane has abandoned the SEP and/or is no longer making a good faith effort to satisfactorily complete the project, then McWane shall pay, upon written demand from the United States, a stipulated penalty equivalent to 125% of the estimated SEP cost as identified in Paragraph 22(a), less any stipulated penalties paid pursuant to the foregoing sub-paragraph. This payment will substitute for the SEP completion requirements for that SEP.

c. Notwithstanding Paragraph 43(b), if the Bedford Paint Booth SEP is deemed abandoned pursuant to Appendix 5, Section I(5) but has been fully installed and operated for a total period of at least three (3) years prior to abandonment, then the stipulated penalty shall be equivalent to 25% of the estimated SEP cost identified in Paragraph 22(a). If the

Bedford Paint Booth SEP has been fully installed but has operated for less than three years at the time of abandonment, then the stipulated penalty shall be equivalent to 75% of the estimated SEP cost. This Subparagraph applies only to the Bedford Paint Booth SEP.

44. 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.

45. If McWane fails to pay stipulated penalties according to the terms of this Consent Decree, McWane shall be liable for Interest on such penalties, as provided for in 28 U.S.C. § 1961, accruing as of the date payment became due.

46. Stipulated penalties shall accrue regardless of whether the United States has notified McWane of a violation or made a stipulated penalty demand.

47. McWane shall pay any stipulated penalty within thirty (30) Days of receiving the United States' written demand.

48. The United States may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due under this Consent Decree.

49. Stipulated penalties shall continue to accrue as provided in this Section for any failures of performance or violations that continue during any Dispute Resolution, but need not be paid until the following:

a. If the dispute is resolved by agreement or by a decision of the United States that is not appealed to the Court, McWane shall pay accrued penalties determined to be owing by such agreement or decision, together with Interest, to the United States within

thirty (30) Days of the effective date of the agreement or the receipt of the United States' decision or order.

b. If the dispute is appealed to the Court and the United States prevails in whole or in part, McWane shall pay all accrued penalties determined by the Court to be owed, together with Interest, within sixty (60) Days of receiving the final appellate court decision.

50. McWane shall pay stipulated penalties owing to the United States in the manner set forth and with the confirmation notices required by Paragraph 9(c), 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.

51. McWane shall not deduct stipulated penalties paid under this Section in calculating its state and federal income tax.

52. Nothing in this Section shall be construed to limit the United States from seeking any remedy otherwise provided by law for McWane's failure to pay any stipulated penalties.

53. Subject to the provisions of Section XII of this Consent Decree (Effect of Settlement/Reservation of Rights), the stipulated penalties provided for in this Consent Decree shall be in addition to any other rights, remedies, or sanctions available to the United States for McWane's violation of this Consent Decree or applicable law. Where a violation of this Consent Decree is also a violation of relevant statutory or regulatory requirements, McWane shall be allowed a credit for any stipulated penalties paid against any statutory penalties imposed for such violation.

## **IX. FORCE MAJEURE**

54. A force majeure event is defined as any event arising from causes beyond the control of McWane, of any entity controlled by McWane, or of McWane's contractors, that delays or prevents the performance of any obligation under this Consent Decree despite McWane's best efforts to fulfill the obligation. The requirement that McWane 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 such event (a) as it is occurring and (b) after it has occurred to prevent or minimize any resulting delay to the greatest extent possible. Force Majeure does not include McWane's financial inability to perform any obligation under this Consent Decree.

55. 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, McWane shall provide notice orally or by electronic or facsimile transmission as soon as possible, as provided in Section XIV of this Consent Decree (Notices), but not later than ten (10) business days after the time when McWane first knew that the event might cause a delay. Within thirty (30) Days thereafter, McWane shall provide to EPA Headquarters, DOJ, and any EPA Regional and/or State representatives identified for the Region and State in which the applicable Facility is located, a written explanation and description of the reasons for the delay; 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; McWane's 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 McWane, such event may cause or contribute to an endangerment to public health, welfare or the environment. McWane

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 McWane 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. McWane shall be deemed to know of any circumstance of which McWane, or any entity controlled by McWane, knew or should have known. This shall also apply to circumstances of which McWane's contractors knew or should have known and communicated to the McWane project manager.

56. If the United States, after consultation with the States, agrees 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 United States, 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 United States will notify McWane in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure event.

57. If the United States does not agree that the delay or anticipated delay has been or will be caused by a force majeure event, the United States will notify McWane in writing of its decision.

58. If McWane elects to invoke the dispute resolution procedures set forth in Section X (Dispute Resolution), it shall do so no later than fifteen (15) Days after receipt of the United States' notice. In any such proceeding, McWane 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 McWane complied with the requirements of Paragraphs 54 and 55, above. If McWane carries this burden, the delay at issue shall be deemed not to be a violation by McWane of the affected obligation of this Consent Decree identified to the United States and the Court.

## **X. DISPUTE RESOLUTION**

59. Unless otherwise expressly provided for in this Consent Decree, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve all disputes arising under or with respect to this Consent Decree. McWane's failure to seek resolution of a dispute under this Section shall preclude McWane from raising any such issue as a defense to an action by the United States to enforce any obligation of McWane arising under this Decree.

60. Informal Dispute Resolution. Any dispute subject to Dispute Resolution under this Consent Decree shall first be the subject of informal negotiations, which may include any third-party assisted, non-binding alternative dispute resolution process agreeable to the United States and McWane. The dispute shall be considered to have arisen on the date that the United States has received a written Notice of Dispute. Such Notice of Dispute shall state clearly the matter in dispute. The period of informal negotiations shall not exceed twenty (20) Days from the date that the United States receives the Notice of Dispute, unless that period is modified by written agreement. If McWane and the United States, following consultation with the States, cannot resolve a dispute by informal negotiations, then the position of the United States shall be considered binding, unless, within thirty (30) Days after the conclusion of the informal negotiation period, McWane invokes the formal dispute resolution procedures as set forth below.

61. Formal Dispute Resolution. McWane shall invoke formal dispute resolution procedures, within the time period provided in the preceding Paragraph, by serving on the United States a written Statement of Position regarding the matter in dispute. The Statement of Position shall include any factual data, analysis, or opinion supporting McWane's position and any supporting documentation relied upon by McWane.

62. The United States, following consultation with the States, shall serve its Statement of Position within forty-five (45) Days of receipt of McWane's Statement of Position. The United States' Statement of Position shall include or clearly reference any factual data, analysis, or opinion supporting that position and any supporting documentation relied upon by the United States. Where appropriate, EPA may allow submission of supplemental statements of position by the parties to the dispute. The United States Statement of Position shall be binding on McWane, unless McWane files a motion for judicial review of the dispute in accordance with the following Paragraph.

63. McWane may seek judicial review of the dispute by filing with the Court and serving on the United States, in accordance with Section XIV of this Consent Decree (Notices), a motion requesting judicial resolution of the dispute. The motion must be filed within ten (10) business days of receipt of the United States' Statement of Position pursuant to the preceding Paragraph. The motion shall contain a written statement of McWane's 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.

64. The United States shall respond to McWane's motion within the time period allowed by the Local Rules of this Court. McWane may file a reply memorandum, to the extent permitted by the Local Rules.

65. Standard of Review

a. Disputes Concerning Matters Accorded Record Review. In any dispute accorded review on the administrative record under applicable principles of administrative law, EPA shall compile an administrative record of the dispute containing all Statements of Position, including supporting documentation and referenced data or information, and McWane shall have the burden of demonstrating, based on the administrative record, that the position of the United States is arbitrary and capricious or otherwise not in accordance with law.

b. Other Disputes. In any other dispute, McWane shall bear the burden of demonstrating that its position complies with and furthers the objectives of this Consent Decree.

66. The invocation of dispute resolution procedures under this Section shall not, by itself, extend, postpone, or affect in any way any obligation of McWane under this Consent Decree, unless and until final resolution of the dispute so provides or unless ordered by the Court. 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 49. If McWane does 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**

67. The United States, and the States, and their representatives, including attorneys, contractors, and consultants, from the date of lodging of this Consent Decree shall have the right of entry into McWane Facilities at all reasonable times, upon presentation of appropriate identification, to:

- a. monitor the progress of activities required under this Consent Decree;
- b. verify corrective action identified in Appendix 1 and any data or information submitted to the United States in accordance with the terms of this Consent Decree;
- c. obtain documentary evidence, including photographs and similar data related to activities required under this Consent Decree; and
- d. assess McWane's compliance with this Consent Decree.

Upon arrival, if the United States has not previously given notice to McWane of the entry authorized by this paragraph, the United States shall notify McWane, by e-mail or phone, of the entry. Notice under this paragraph shall be given to Jeet Radia (at JRadia@mcwane.com or (205) 323-8284) or to any successor designated by McWane in writing.

68. Unless otherwise provided in this Consent Decree, until five years after completion of the obligations set forth in Sections V (Compliance Requirements), VI (SEPs) (through completion of construction) and VIII (Stipulated Penalties), McWane shall retain, and shall contractually require its 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 its or its contractors' or agents' possession or control, or that come into its or its contractors' or agents' possession or control, and that relate in any manner to McWane's

performance of its 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 request by the United States, McWane shall provide, within thirty (30) Days or such other period as the Parties agree to in writing, copies of any non-privileged documents, records, or other information required to be maintained under this Paragraph.

69. At the conclusion of the information-retention period provided in the preceding Paragraph, McWane shall notify EPA at least ninety (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, McWane shall deliver any such documents, records, or other information to EPA. McWane may assert that certain documents, records, or other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If McWane asserts such a privilege, it shall provide the following: (1) the title of the document, record, or information; (2) the date of the document, record, or information; (3) the name and title of each author of the document, record, or information; (4) the name and title of each addressee and recipient; (5) a description of the subject of the document, record, or information; and (6) the privilege asserted by McWane. However, no documents, records, or other information required to be generated or received pursuant to this Consent Decree shall be withheld on grounds of privilege.

70. McWane may also assert, pursuant to the procedures and standards set forth in 40 C.F.R. Part 2 and any applicable State law, that information required to be provided under this Section is protected as Confidential Business Information (“CBI”).

71. 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 States pursuant to applicable federal or state laws, regulations, or permits, nor does it limit or affect any duty or obligation of McWane to maintain documents, records, or other information imposed by applicable federal or state laws, regulations, or permits.

## **XII. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS**

72. Except as provided in Paragraph 73 this Consent Decree resolves the civil claims of the United States and the States for the violations specifically alleged in the Complaint filed in this action through the date of the lodging of the Consent Decree. No other violations, if any, are resolved by this Consent Decree.

73. This covenant not to sue is expressly conditioned upon complete and satisfactory performance of the requirements set forth herein. The United States and the States 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 States to obtain penalties or injunctive relief under the federal environmental statutes or their implementing regulations, or under other federal or state laws, regulations, or permit conditions, except as expressly specified in Paragraph 72. The United States and the States further retain all authority and reserve all rights to take any and all actions authorized by law to protect human health and the environment, including all legal and equitable remedies to address any imminent and substantial endangerment to the public health or welfare or the environment arising at, or posed by, McWane's Facilities, whether related to the violations addressed in this Consent Decree or otherwise. The United States further retains all authority to seek future injunctive relief and corrective action relating to exceedences of maximum allowable concentrations of

arsenic in groundwater at the Clow Water Facility in Coshocton, Ohio, as described in the Complaint and to seek penalties for any future such violations; however, any claim for penalties for violations occurring prior to the Effective Date of this Consent Decree is resolved by this Consent Decree.

74. This Consent Decree is not a permit, or a modification of any permit, under any federal, state, or local laws or regulations. McWane is responsible for achieving and maintaining complete compliance with all applicable federal, state, and local laws, regulations, and permits; and McWane's compliance with this Consent Decree shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as specifically set forth herein. The United States does not, by its consent to the entry of this Consent Decree, warrant or aver in any manner that McWane's compliance with any aspect of this Consent Decree will result in compliance with any provisions of federal, state, or local laws, regulations, or permits.

75. This Consent Decree does not limit or affect the rights of McWane or of the United States 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 McWane, except as otherwise provided by law.

76. 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**

77. The Parties shall bear their own costs of this action, including attorneys' fees, except that the United States and the States shall be entitled to collect the costs (including attorneys' fees) incurred in any action necessary to collect any portion of the civil penalty or any stipulated penalties or costs due under this Consent Decree but not paid by McWane.

#### **XIV. NOTICES**

78. Unless otherwise specified herein, whenever notifications, submissions, or communications as defined in Paragraph 8(l) are required by this Consent Decree, they shall be made in writing and addressed as follows:

To the United States:

Chief, Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
Re: DOJ No. 90-5-1-1-08282

Deborah Reyher  
Fax - (202) 514-0097  
if by regular mail or post office express mail:  
Box 7611 Ben Franklin Station  
Washington, D.C. 20044-7611  
if by private overnight service:  
601 D Street, NW, 2nd floor  
Washington, D.C. 20004  
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United States Attorney for Northern District Alabama  
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Washington D.C. 20460

To Region 5:

Compliance Tracker, AE-17J  
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To the State of Alabama:

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

80. The Parties may modify this Section XIV (Notifications) and Paragraph 8(1) of this Consent Decree by written agreement.

#### **XV. EFFECTIVE DATE**

81. 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; provided, however, that McWane hereby agrees that it shall be bound, from the date of its execution of this Decree, to perform obligations scheduled in this Consent Decree to occur prior to the Effective Date.

#### **XVI. RETENTION OF JURISDICTION**

82. 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 (Dispute Resolution) and XVII (Modification), or effectuating or enforcing compliance with the terms of this Decree.

#### **XVII. MODIFICATION**

83. Except as specifically provided for herein, there shall be no modifications or amendments of this Consent Decree without the written agreement of the Parties to this Consent Decree. Changes to provisions of this Consent Decree that expressly allow for change upon written agreement, and changes to the provisions of Appendices 1 through 5 hereto, may be made

without approval by the Court upon written agreement between the Parties, and upon execution shall become enforceable under this Consent Decree and shall be filed with the Court. Any other modifications agreed to by the Parties shall be effective only upon approval by the Court.

A Party's refusal to agree to a modification of this Consent Decree shall not be subject to dispute resolution or judicial review.

84. In the event that a transferee of property under Section II of this Consent Decree should desire to become a party to this Consent Decree and subject to all its terms and provisions, it may do so upon written approval of the United States pursuant to Section II (Applicability) of this Consent Decree, in which event a supplemental signature page will be affixed to this Consent Decree and filed with the Court.

#### **XVIII. TERMINATION**

85. This Consent Decree may be terminated when the United States determines, after consultation with the States, that McWane has satisfactorily completed performance of its compliance, SEP, and reporting obligations under Sections V, VI and VII of this Decree, provided that McWane has fulfilled all other obligations of this Decree, including payment of the civil penalty under Section IV of this Decree and any outstanding stipulated penalties under Section VIII. The Parties shall file with the Court an appropriate stipulation reciting that the requirements of the Consent Decree have been met and requesting termination of the Decree.

86. If the United States, after consultation with the States, does not agree that the Decree may be terminated, McWane may invoke Dispute Resolution under Section X of this Decree. In such case, all time periods and deadlines established under Section X may be extended by sixty (60) Days, or more by the agreement of the Parties.

## **XIX. PUBLIC PARTICIPATION**

87. This Consent Decree shall be lodged with the Court for a period of not less than thirty (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 if the comments regarding the Consent Decree disclose facts or considerations indicating that the Consent Decree is inappropriate, improper, or inadequate. McWane consents to entry of this Consent Decree without further notice and agrees 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 McWane in writing that it no longer supports entry of the Decree.

## **XX. SIGNATORIES/SERVICE**

88. Each undersigned representative of McWane, the Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice, or her designate, and the States 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.

89. This Consent Decree may be signed in counterparts, and its validity shall not be challenged on that basis. McWane agrees 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.

## **XXI. INTEGRATION**

90. 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 Decree and supersede all prior agreements and understandings, whether oral or written, concerning the settlement embodied herein. Other than the Appendices, which are attached to and incorporated in this Decree, no other document, nor any representation, inducement, agreement, understanding, or promise, constitutes any part of this Decree or the settlement it represents, nor shall it be used in construing the terms of this Decree.

## **XXII. FINAL JUDGMENT**

91. 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 States, and McWane. 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.

## **XXIII. APPENDICES**

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

Appendix 1 is McWane's Corrective Action Cost Synopsis;

Appendix 2 is McWane's modified Storm Water Pollution Prevention Plan procedure;

Appendix 3 is the CAA Compliance Measures at Clow Water Systems, Coshocton, Ohio;

Appendix 4 is McWane's current EMS protocol for Notification of Significant Matters; and

Appendix 5 is the summary of Supplemental Environmental Projects.

Dated and entered this \_\_\_ day of \_\_\_\_\_, 2010.

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UNITED STATES DISTRICT JUDGE  
NORTHERN DISTRICT OF ALABAMA

FOR PLAINTIFF UNITED STATES OF AMERICA:

Date: \_\_\_\_\_

\_\_\_\_\_  
Ignacia S. Moreno  
Assistant Attorney General  
Environment and Natural Resources Division  
U.S. Department of Justice  
10th & Pennsylvania Avenue, NW  
Washington, D.C. 20530

Date: \_\_\_\_\_

\_\_\_\_\_  
Deborah M. Reyher  
Senior Counsel  
Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611, Ben Franklin Station  
Washington, D.C. 20044  
(202) 514-4113

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JOYCE WHITE VANCE  
United States Attorney  
for the Northern District of Alabama

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Assistant United States Attorney  
Northern District of Alabama

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:

WE HEREBY CONSENT to the entry of the Consent Decree in the United States v. \_\_\_\_\_, Civil Action No. \_\_\_\_\_, subject to the public notice and comment requirements of 28 C.F.R. § 50.7.

FOR THE UNITED STATES OF ENVIRONMENTAL PROTECTION AGENCY:

DATE: July 3, 2010   
CYNTHIA GILES  
Assistant Administrator  
Office of Enforcement and Compliance Assurance  
United States Environmental Protection Agency

DATE: June 24, 2010   
ADAM M. KUSHNER  
Office Director  
Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance  
United States Environmental Protection Agency

DATE: June 24, 2010   
BERNADETTE RAPPOLD  
Division Director  
Special Litigation and Projects Division  
Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance  
United States Environmental Protection Agency

DATE: June 24, 2010   
PETER W. MOORE  
Special Litigation and Projects Division  
Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance  
United States Environmental Protection Agency

DATE:

*Walter W. Karolyk*

*for*  
Bharat Mathur  
Acting Regional Administrator  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Boulevard  
Mail Code R-19J  
Chicago, Illinois 60604

*FINAL CONSENT DECREE* - March 15, 2010

FOR THE STATE OF ALABAMA

Date: 4/2/10

  
\_\_\_\_\_  
John P. Hagood  
Director  
Alabama Department of Environmental Management  
1400 Coliseum Boulevard  
Montgomery, AL 36110-2059

FOR THE STATE OF IOWA

Date: \_\_\_\_\_

6/25/10

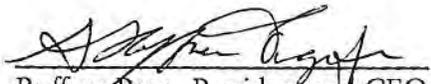
THOMAS J. MILLER  
ATTORNEY GENERAL  
OF THE STATE OF IOWA



DAVID R. SHERIDAN  
Assistant Attorney General  
Environmental Law Division  
Iowa Department of Justice  
Lucas State Office Building  
321 E. 12th Street, Ground Flr.  
Des Moines, IA 50319  
(515) 281-5351

*FINAL CONSENT DECREE* - March 15, 2010

FOR McWANE:

  
Ruffner Page, President and CEO

Date: 3/24/10

## Appendix 1

The following costs reflect the best reasonably available estimate McWane has of the costs it expended on the items described in the Complaint.

### McWane Corrective Action Cost Synopsis

<b>Amerex, AL -</b>	\$709,500 -	Wastewater; Universal Waste (UW), Superfund Amendments and Reauthorization Act (SARA) 313
<b>Amerex, NJ -</b>	\$1,050 -	Toxic Release Inventory (TRI); SARA 313; UW; Spill Prevention, Control and Countermeasures (SPCC)
<b>Anaco, CA -</b>	\$33,250 -	SPCC, TRI Form R (“Form R”)
<b>Clow Valve -</b>	\$555,015 -	National Pollutant Discharge Elimination System (NPDES), Hazardous Waste (HW), SPCC
<b>Clow Water -</b>	\$1,563,078 -	Clean Air Act (CAA) Title V (Title V), CAA Prevention of Significant Deterioration (PSD), Stormwater, Wastewater Permit to Install (PTI), Stormwater Pollution prevention Plan (SWPPP), SPCC, HW
<b>Clow Corona -</b>	\$67,050 -	Stormwater, NPDES, HW
<b>Dilworth Mine -</b>	\$0	Stormwater, SPCC
<b>Dilworth Washer -</b>	\$0	NPDES
<b>Empire Coke -</b>	\$400 -	HW, Used Oil
<b>Kennedy Valve -</b>	\$347,797 -	NPDES, Stormwater, SPCC
<b>M&amp;H Valve Anniston -</b>	\$1,364,700 -	Air Permit, Fugitive Dust, NPDES, HW, UW, SPCC
<b>M&amp;H Valve Calhoun -</b>	\$250,000 -	Stormwater
<b>Manchester TX -</b>	\$26,000 -	UW, NPDES, Stormwater, HW
<b>Manchester IL -</b>	\$5,700 -	Waste streams, Form Rs, Air Permit
<b>Manchester VA -</b>	\$57,000 -	SWPPP, Stormwater
<b>Manchester Bedford -</b>	\$37,169 -	UW, SPCC, Wastewater
<b>Manchester Elkhart -</b>	\$9,155 -	SPCC, Air Permit, HW
<b>Manchester, TN -</b>	\$33,435 -	Air Permits, Stormwater, SPCC, Tier II Chemical Inventory Reporting (Tier II)
<b>Mitrisin Disposal Site -</b>	\$76,276	Groundwater
<b>Pac States -</b>	\$545,350 -	HW, Solid Waste (SW), Air Permit, SPCC
<b>Rice Chapel Mine -</b>	\$0	NPDES
<b>Sipsey Mine -</b>	\$0	NPDES; Stormwater, Wastewater
<b>Tyler Coupling -</b>	\$5,900 -	UW, SPCC
<b>Tyler, PA -</b>	\$8,500 -	Air Emissions, SPCC, HW
<b>Tyler, TX -</b>	\$1,129,500 -	Air permits, Stormwater, UW, SPCC, SWPPP, SW, NPDES
<b>Union Foundry -</b>	\$823,720 -	Air Permit, Stormwater, SPCC, PCB, SWPPP
<b>TOTAL</b>	<b>\$7,649,545</b>	

## **Amerex Corporation, Trussville, Alabama**

### *i. Air*

The Amerex facility: implemented new recordkeeping procedures, with a task to maintain those procedures, and requested a letter from JCDH verifying that newly constructed units were in compliance with SMOP rule requirements.

Costs associated with the aforementioned air findings: no reasonably available estimate of associated costs.

### *ii. PCB*

The Amerex facility: developed and implemented a procedure to segregate and dispose of materials whereby any capacitors and lighting ballasts not specifically labeled “non PCB” are presumed to contain PCBs.

Costs associated with the aforementioned PCB finding: no reasonably available estimate of associated costs.

### *iii. Solid and Hazardous Waste*

The Amerex facility: implemented a procedure to routinely conduct comprehensive SARA 313 TRI threshold determinations; instituted a program to collect and dispose of aerosol drainage waste as “hazardous waste;” obtained a “return to generator” sheet, filed it, and reviewed manifest tracking procedures to ensure adequacy; included HID bulbs in the facility’s universal waste management program; placed dated labels on universal waste lamp containers to ensure disposal within one year; and modified the facility’s medical waste management plan to include blood-borne pathogen procedures.

Costs associated with the aforementioned solid and hazardous waste findings: \$3,500

### *iv. Water*

The Amerex facility: installed and implemented a closed-loop system; and installed various discharge monitoring equipment, including a calibrated flume, flow meter and sampler.

Costs associated with the aforementioned water findings: \$706,000

## **Amerex Corporation, Scotch Plains, New Jersey**

### *i. Solid and Hazardous Waste*

The Amerex facility: conducted a comprehensive SARA chemical threshold determination in support of annual TRI reporting and documented its findings; and began shipping florescent bulbs in labeled, approved containers to an approved disposal facility.

Costs associated with the aforementioned solid and hazardous waste findings: \$550

*ii. Spill Prevention*

The Amerex facility: drafted and implemented an SPCC plan.

Costs associated with the aforementioned spill prevention finding: \$500

**Anaco, Corona, California**

*i. Right-To-Know*

The Anaco facility: submitted Form R reports for 2000-04.

Costs associated with the aforementioned right-to-know finding: \$29,450

*ii. Spill Prevention*

The Anaco facility: completed curbing of the secondary containment area; prepared an updated inventory of all aboveground storage containers; updated its SPCC plan and had it certified; and prepared a substantial harm criteria form.

Costs associated with the aforementioned spill prevention findings: \$3,800

*iii. Water*

The Anaco facility: redefined the facility so that the facility's operations are covered under the adjacent Clow Valve Company NPDES permit.

Costs associated with the aforementioned water finding: no reasonably available estimate of associated costs.

**Clow Valve Company, Corona, California**

*i. Air*

The Clow Valve facility: implemented recordkeeping procedures to ensure VOC emissions from paint booths are captured on coating usage charts.

Costs associated with the aforementioned air findings: no reasonably available estimate of associated costs.

*ii. PCB*

The Clow Valve facility: identified whether transformers contained PCBs and marked them accordingly.

Costs associated with the aforementioned PCB finding: no reasonably available estimate of associated costs.

*iii. Right-to-Know*

The Clow Valve facility: prepared a threshold inventory of chemical usage and releases and submitted amended filings for certain chemicals/years.

Costs associated with the aforementioned right-to-know findings: no reasonably available estimate of associated costs.

*iv. Solid and Hazardous Waste*

The Clow Valve facility has entered into a Consent Agreement to address the cleanup of oil staining in the chip storage area, as well as a much larger undertaking which is intended to address "areas of concern" on the entire site. All site investigation and interim cleanup work to date has been accomplished in accordance with the Consent Agreement and under the direction of California regulators. Clow Valve was unable to remove potentially affected soil within the waste chip storage area until the overall site investigation was completed per California regulatory and administrative process. As part of the site investigation, 8 borings were done in the vicinity of the chip storage area with 4 samples taken at regular intervals for each boring and analyzed for constituents of concern. None of the sampling indicated any constituents of concern above state or federal cleanup levels. However, the surface was cleaned and the area covered with additional asphalt to create a secondary containment that was then lined with a solid metal liner, but until the overall site investigation was completed and the final remediation work plan approved, the City of Corona would not issue a building permit to install a roof. Clow also took the following actions: a berm and access control gates were added to the existing hazardous waste storage area; metal dust was placed in an appropriate container, characterized for disposal or recycling; a written source reduction program was prepared, and required reporting has been completed; drums of unused paint were labeled and repacked as necessary; a drum of decontamination water was characterized and disposed of appropriately; and the universal waste program was expanded to include aerosol cans and cathode ray tubes.

Costs associated with the aforementioned solid and hazardous waste findings: \$65,950

*v. Spill Prevention*

The Clow Valve facility: prepared an oil inventory; prepared an SPCC plan; and prepared a substantial harm criteria form.

Costs associated with the aforementioned spill prevention findings: no reasonably available estimate of associated costs.

*vi. Water*

The Clow Valve facility: began sending non-contact cooling water to the sanitary sewer instead of discharging it; implemented measures to address elevated levels of constituents in stormwater; and addressed staining and chip oil leaks around the chip storage area.

Costs associated with the aforementioned water findings: \$1,100

**Clow Valve Company, Oskaloosa, Iowa**

*i. Air*

The Clow Valve facility: implemented recordkeeping procedures to maintain required air permitting records; obtained construction permits for modified sources after evaluating PSD applicability; included HAP calculations in its emission inventory; and began tracking 12-month rolling averages for hydrant paint booth materials.

Costs associated with the aforementioned air findings: no reasonably available estimate of associated costs.

*ii. Right-to-Know*

The Clow Valve facility: reported a programming error on its Form R submission for 2001.

Costs associated with the aforementioned right-to-know findings: no reasonably available estimate of associated costs.

*iii. Solid and Hazardous Waste*

The Clow Valve facility: submitted and obtained various construction permits; submitted a voluntary permit application and a Title V permit application; appropriately labeled its universal waste and used oil containers, including accumulation start dates; replaced above ground storage tanks with new double-walled tanks; constructed secondary containment for waste oil storage location; posted required items where hazardous waste is generated in the foundry and machine shop; placed spill kits in the machine shop and locations where hazardous waste is generated, and implemented a listing and inspection schedule; documented notification of hazardous waste generation information to local emergency responders; placed a satellite accumulation drum located at the hydrant paint booth; designated a separate 90-day storage area for hazardous waste separate from the satellite area; developed a waste minimization plan; began dating and labeling all universal waste containers, including florescent lamps; and arranged for pick-up of medical waste and disposal of the same by a licensed contractor.

Costs associated with the aforementioned solid and hazardous waste findings: \$544,515

*iii. Spill Prevention*

The Clow Valve facility: completed secondary containment structures; and evaluated the need for diversionary systems and updated its SPCC plan for discharge accordingly.

Costs associated with the aforementioned spill prevention findings: \$8,000

*iv. Water*

The Clow Valve facility: increased the frequency of storm water sampling; updated its storm water pollution prevention plan, and created a task to do so annually; and identified and evaluated storm water discharge points.

Costs associated with the aforementioned water findings: \$2,500

**Clow Water Systems Company, Coshocton, Ohio**

*i. Air*

The Clow Water Systems facility: identified applicable BACT requirements: increased the height of the upper stack and associated wet cap to maintain cupola afterburner operating temperature; created tasks for visible emission readings and all required recordkeeping and reporting information for K009, F014, K002, K002 and K006; verified modifications; and completed emissions calculations and obtained required PTI and PSD permits.

Costs associated with the aforementioned air findings: \$1,116,497

*ii. Solid and Hazardous Waste*

The Clow Water Systems facility: characterized waste streams, and created a task to maintain annually; implemented procedures regarding hazardous waste container management; improved recordkeeping practices regarding land disposal notification forms; identified the location of emergency response equipment in contingency plan; closed a concrete pond; constructed a hazardous waste storage area; filed notice of large quantity generator status; submitted revised forms required by the state emergency response committee; created a task to include waste minimization efforts in required submissions; and invited local authorities to visit the facility and familiarize themselves with the hazardous waste onsite.

Costs associated with the aforementioned solid and hazardous waste findings: \$107,340

*iii. Spill Prevention*

The Clow Water Systems facility: updated its SPCC plan to include all required information; ensured spill kits were appropriately stocked; and installed secondary containment drainage area for large line transfer car tracks

Costs associated with the aforementioned spill prevention findings: \$76,500

*iv. Water*

The Clow Water Systems facility: determined the location and ultimate discharge point of all storm drains; identified all sources and discharge points of contaminated stormwater; reviewed, updated and revised the facility's SWPPP; included a task to ensure all required parameters are captured in storm water events; improved yard housekeeping; submitted documentation regarding authorization to sign monthly reports; completed stormwater monitoring records and submitted them; and installed a groundwater extraction system to address elevated constituent levels.

Costs associated with the aforementioned water findings: \$262,741

**Dilworth Mine, Sipsey, Alabama**

*i. Spill Prevention*

The Dilworth Mine facility: implemented waste management procedures; fully implemented its SPCC plan; and remediated surface spills.

Costs associated with the aforementioned spill prevention findings: no reasonably available estimate of associated costs.

**Dilworth Washer, Sipsey, Alabama**

*i. Water*

The Dilworth Washer facility: submitted a reissuance application.

Costs associated with the aforementioned water findings: no reasonably available estimate of associated costs.

**Empire Coke Company, Holt, Alabama**

*i. PCB*

The Empire Coke facility: identified whether transformers contained PCBs and marked them accordingly.

Costs associated with the aforementioned PCB findings: no reasonably available estimate of associated costs.

*ii. Solid and Hazardous Waste*

The Empire Coke facility: implemented the use of "hazardous waste" and "used oil" labels where appropriate.

Costs associated with the aforementioned solid and hazardous waste findings: \$400

*iii. Water*

The Empire Coke facility: revised wastewater sampling and recordkeeping procedures; complied with its SWP3, including storing lead-acid batteries in the appropriate manner, covering an oil change pit, and ensuring secondary containment around storage tanks where appropriate.

Costs associated with the aforementioned water findings: no reasonably available estimate of associated costs.

**Kennedy Valve Company, Elmira, New York**

*i. Air*

The Kennedy Valve facility: updated its emission source inventory; revised its operating procedures; enforced procedures regarding labeling of universal waste containers, including lamps and thermostats; and submitted an application for its metal coatings MACT.

Costs associated with the aforementioned air findings: no reasonably available estimate of associated costs.

*ii. PCB*

The Kennedy Valve facility: implemented procedures to segregate and dispose of ballasts, capacitors and other devices potentially containing PCBs appropriately.

Costs associated with the aforementioned PCB finding: no reasonably available estimate of associated costs.

*iii. Solid and Hazardous Waste*

The Kennedy Valve facility: updated emergency contact information in the guardhouse; relocated its satellite accumulation area for hazardous wastes closer to point of generation; and revised labeling procedures for used oil containers.

Costs associated with the aforementioned solid and hazardous waste findings: no reasonably available estimate of associated costs.

*iv. Spill Prevention*

The Kennedy Valve facility: removed surface staining near a diesel fuel aboveground storage tank, and installed secondary containment around an oil storage area; and revised its SPCC plan.

Costs associated with the aforementioned spill prevention findings: at least \$2,934

*v. Water*

The Kennedy Valve facility: applied for an NPDES permit; constructed a roll-off building to store shot blast roll off; submitted a letter of explanation regarding representative sampling from another outfall, and initiated routine sampling of the same; re-routed non contact cooling water to the sanitary sewer; revised its wastewater sampling procedures, detection parameters, and recordkeeping practices; implemented procedures to maintain records of precipitation sampling; installed an appropriate rain gauge for data sampling; ensured a responsible corporate officer signs the annual comprehensive site evaluation; augmented compliance with stormwater management housekeeping procedures; and closed two dry wells.

Costs associated with the aforementioned water findings: \$344,863

**M&H Valve Co., Anniston, Alabama**

*i. Air*

The M&H Valve facility: purchased two sand sweeper units; implemented recordkeeping practices regarding paints and solvent usage; developed a procedure to ensure all records, including supporting data, were centrally located and immediately available; and created a task to monitor and record baghouse operating hours, scrubber pressure drops, and pH levels of the scrubber.

Costs associated with the aforementioned air findings: \$64,000

*ii. PCB*

The M&H Valve facility: inspected each capacitor, updated its transformer inspection records, and implemented procedures to maintain; removed all PCB transformers; and developed a process whereby any capacitors and lighting ballasts not specifically labeled “non-PCB” are presumed to contain PCBs and disposed of accordingly.

Costs associated with the aforementioned PCB findings: no reasonably available estimate of associated costs.

*iii. Solid and Hazardous Waste*

The M&H Valve facility: reviewed hazardous waste disposal practices and modified them where appropriate to comply with large quantity generator requirements; evaluated, identified and documented all waste streams, with a task created for periodic review; disposed of hazardous wastes accordingly; created a task to perform annual universal and hazardous waste awareness training and maintain appropriate records; developed a satellite accumulation program, and ensured that all satellite waste accumulation areas were properly labeled and identified; created labels for universal lamp storage containers and created a task to maintain; developed a medical waste management plan and record retention policy; expanded its secondary containment area to accommodate oil and used oil; labeled used oil, and installed overfill protection; invited local

authorities to visit the facility and familiarize themselves with hazardous wastes onsite; and ceased pressure-washing equipment in the battery charging area.

Costs associated with the aforementioned solid and hazardous waste findings: \$1,058,000

*iv. Spill Prevention*

The M&H Valve facility: updated its SPCC plan to address generator diesel ASTs; constructed secondary containment for ASTs in accordance with its SPCC plan; constructed a berm and later removed a wet scrubber to prevent overflow of the secondary containment around the clarifier; reviewed and revised its SPCC, including secondary containment and stormwater inspection checklist; installed secondary containment in the battery charging area; installed new spill kits in appropriate areas; and evaluated the extent of potential acid release and took appropriate measures, including to prevent future release.

Costs associated with the aforementioned spill prevention findings: \$66,000

*v. Water*

The M&H Valve facility: obtained a new discharge permit; performed a stormwater management study; increased the frequency of visual inspections of the storm drains; installed new piping to ensure contact water does not enter the storm drain; completed 5 and 7-month evaluations and reports for the foundry; submitted DMRs, and created a task to complete quarterly submissions; developed procedures to respond to permit exceedences, including appropriate follow-up actions; revised its SWP3 to include control and inspection of areas potentially contributing to stormwater pollution, including secondary containment areas for battery acid, oil discharge, and landfill sand erosion; updated its SWP3 and provided training, with a task created for annual training; and created a task for weekly inspections and maintenance of records.

Costs associated with the aforementioned water findings: \$176,700

**M&H Valve Co., Calhoun County, Alabama**

*i. Water*

The M&H Valve facility: purchased additional land adjacent to its landfill operations; developed an appropriate stormwater management plan; and installed drainage pipes, dams and ponds, and changed the grade of the landscape.

Costs associated with the aforementioned water findings: \$250,000

**Manchester Tank Company, Bedford, Indiana**

*i. Air*

The Manchester Tank facility: Developed procedure to control overspray; worked with consultant to verify effectiveness of procedure.

Costs associated with the aforementioned air findings: \$3165

*ii. PCB*

The Manchester Tank facility: Conducted a third party PCB Inspection to determine PCB containing items. Developed and implemented procedures to cover all aspects of PCB management and conducted appropriate training on procedures.

Costs associated with the aforementioned PCB findings: \$175.

*iii. Right-to-Know*

The Manchester Tank facility: evaluated all chemicals on-site for reporting applicability, and filed a Tier II form for reporting year 2004.

Costs associated with the aforementioned right-to-know findings: no reasonably available estimate of associated costs.

*iv. Solid and Hazardous Waste*

The Manchester Tank facility: determined it was a small quantity generator and submitted the appropriate notification; bought containers with spill containment for waste storage and purchased a paint storage building; posted emergency contact and equipment information near relevant phones; modified its satellite accumulation procedures and ensured adequate labeling and disposal procedures; labeled universal waste lamp containers and documented the beginning date of accumulation; developed a universal waste management training program; and conducted an inventory of all oil and prepared a SPCC plan.

Costs associated with the aforementioned solid and hazardous waste findings: \$22,925

*v. Water*

The Manchester Tank facility: analyzed wastewater for sulfides; implemented a task for annual testing; completed a water balance to include all regulated and non-regulated flows; implemented procedures to include all required information on monitoring records and DMR submissions, and to retrieve completed chain of custody forms from the laboratory; updated its SWP3; certified its non-stormwater discharges; included a summary of the lab analysis in its revised SWP3; implemented procedures to retain records of pH meter calibrations; and conducted inspections in accordance with best management practices and documented the inspections.

Costs associated with the aforementioned water findings: \$10,904

**Manchester Tank Company, Crossville, Tennessee**

*i. Air*

The Manchester Tank facility: implemented recordkeeping procedures, and created a task to perform routine emission calculations; posted notifications regarding acceptable materials to be placed in the incinerator for burning; and applied for, and received a permit for the F2 Annealing Furnace.

Costs associated with the aforementioned air findings: \$4935

*ii. Right-to-Know*

The Manchester Tank facility: reviewed records, and created a task to complete Tier II reporting annually.

Costs associated with the aforementioned right-to-know findings: \$2,400

*iii. Solid and Hazardous Waste*

The Manchester Tank facility: labeled used oil tanks.

Costs associated with the aforementioned solid and hazardous waste finding: no reasonably available estimate of associated costs.

*iv. Spill Prevention*

The Manchester Tank facility: revised its SPCC plan, and had it certified by a professional engineer; constructed a berm for the waste oil loading area; and completed integrity testing for all storage tanks and containers and documented the results.

Costs associated with the aforementioned spill prevention findings: \$22,600

*v. Water*

The Manchester Tank facility: moved die scrap materials indoors or undercover; and created a task to conduct weekly inspections regarding good housekeeping and stormwater exposure.

Costs associated with the aforementioned water findings: \$3,500

**Manchester Tank Company, Elkhart, Indiana**

*i. Air*

The Manchester Tank facility: completed an air emissions inventory.

Costs associated with the aforementioned air finding: \$500

*ii. PCB*

The Manchester Tank facility: developed procedures whereby any capacitors and lighting ballasts not specifically labeled as “non PCB” are assumed to contain PCBs and disposed of accordingly.

Costs associated with the aforementioned PCB findings: no reasonably available estimate of associated costs.

*iii. Right-to-Know*

The Manchester Tank facility: evaluated the applicability of EPCRA reporting requirements, and created a task to conduct a TRI chemical evaluation annually.

Costs associated with the aforementioned right-to-know findings: no reasonably available estimate of associated costs.

*iv. Solid and Hazardous Waste*

The Manchester Tank facility: provided training appropriate for large quantity generators, documented the training, and implemented a task to maintain; labeled universal waste bulb containers with the accumulation start date; and provided training on universal waste management practices, with a task to maintain the training.

Costs associated with the aforementioned solid and hazardous waste findings: \$655

*v. Spill Prevention*

The Manchester Tank facility: trained employees on the appropriate use of cleaning stations; developed an inventory of petroleum products; and prepared an SPCC plan.

Costs associated with the aforementioned spill prevention findings: \$8,000

*vi. Water*

The Manchester Tank facility: included flow information in the monitoring reports sent to the POTW.

Costs associated with the aforementioned water finding: no reasonably available estimate of associated costs.

**Manchester Tank Company, Lubbock, Texas**

*i. Air*

The Manchester Tank facility: submitted a PI-7 form for Permit by Rule Registration and begun keeping required records.

Costs associated with the aforementioned air findings: \$5,000

*ii. Solid and Hazardous Waste*

The Manchester Tank facility: performed various waste characterizations; implemented proper storage and labeling procedures; developed a universal waste management program, including disposal practices; and implemented recordkeeping practices.

Costs associated with the aforementioned solid and hazardous findings: \$3,500

*iii. Water*

The Manchester Tank facility: applied for and received an NPDES permit to discharge storm water and characterized their process waste water and disposed of it as a non hazardous waste.

Costs associated with the aforementioned water findings: \$17,500

**Manchester Tank Company, Petersburg, Virginia**

*i. Air*

The Manchester Tank facility: registered two emission sources; and implemented recordkeeping practices to determine and maintain compliance with air permits and applicable regulations.

Costs associated with the aforementioned air findings: no reasonably available estimate of associated costs.

*ii. Solid and Hazardous Waste*

The Manchester Tank facility: identified all universal waste streams, including proper disposal of universal wastes; updated its aboveground storage inventory; created a task for training; designated a waste oil storage area; and implemented procedures to ensure proper labeling, storage and disposal of hazardous wastes.

Costs associated with the aforementioned solid and hazardous findings: no reasonably available estimate of associated costs.

*iii. Water*

The Manchester Tank facility: obtained an NPDES permit; updated and revised its SWP3; recoated a roof to reduce storm water runoff; and included stormwater discharge sampling data with its SWP3.

Costs associated with the aforementioned water findings: \$57,000

**Manchester Tank Company, Quincy, Illinois**

*i. Air*

The Manchester Tank facility: submitted applications and received an updated permit for the powder-coat line; prepared an emission inventory; and improved recordkeeping and retention practices in accordance with the facility's permit for the Bayco Burnoff Oven and Lifetime Operating Permit.

Costs associated with the aforementioned air findings: \$200

*ii. Right-to-Know*

The Manchester Tank facility: completed a Form R inventory report, submitted it, and created a task in ops environmental as a reminder tickler for facility personal to ensure annual evaluation and submission.

Costs associated with the aforementioned right-to-know findings: \$1500

*iii. Solid and Hazardous Waste*

The Manchester Tank facility: documented information used to determine land disposal restrictions to the facility waste; submitted notifications to the Transportation, Storage, and Disposal facility; developed and posted emergency procedure notifications and contact information; labeled all satellite containers appropriately; implemented procedures to ensure containers are kept closed when not in use; implemented weekly inspections of the 90 day temp hazardous, satellite storage, and non-hazardous waste collection areas, and document retention policies; implemented universal waste management practices regarding fluorescent bulbs; and labeled all used oil containers appropriately. The facility also filed a RCRA Subtitle C site Identification Form (8700-12 Form) listing the facility as a small quantity generator, later filed another RCRA Subtitle C site Identification Form (8700-12 Form) changing the facility to a Conditionally Exempt Small Quantity Generator, and then later filed a RCRA Subtitle C site Identification Form (8700-12 Form) listing the plant as a Large Quantity Generator.

Costs associated with the aforementioned solid and hazardous findings: no reasonably available estimate of associated costs.

*iv. Water*

The Manchester Tank facility: inventoried all discharge sources; included flow rates on semi-annual wastewater discharge reports and completed a cover letter to attach with it semi-annual water reports and additionally a certification statement to the POTW with its semi-annual DMRs; prepared a SWP3 and submitted a " Notice of Intent for a General Permit to Discharge Storm Water Associated with Industrial Activity with the Illinois EPA Division of Water Pollution

Control; Enrolled appropriate personnel in a Class K licensing course and received Class K Certification from the Illinois EPA Water Division; an additional Class K certification from the Illinois EPA Water Division for a new Wastewater Treatment System was later issued

Costs associated with the aforementioned water findings: \$4,000

### **Mitrisin Disposal Site, Oskaloosa, Iowa**

#### *i. Water*

The Mitrisin Disposal Site facility: reviewed all groundwater sampling data, and revised its sampling and analysis plan, well installation plan, and quality assurance plan; and updated its monitoring wells, with a task created for monitoring.

Costs associated with the aforementioned water findings: \$76,276

### **Pacific States Cast Iron Pipe Company, Provo, Utah**

#### *i. Air*

The Pacific States Cast Iron Pipe facility: discontinued charging paint waste in the cupola; submitted an amended compliance certification; requested increased operational limits in its new Title V permit; implemented recordkeeping policies regarding compliance with its fugitive dust plan and visual emission opacity inspections; and retrieved a copy of its amended annual compliance certification.

Costs associated with the aforementioned air findings: \$335,800

#### *ii. Right-to-Know*

The Pacific States Cast Iron Pipe facility: located records to ensure compliance with EPCRA.

Costs associated with the aforementioned right-to-know finding: no reasonably available estimate of associated costs.

#### *iii. Spill Prevention*

The Pacific States Cast Iron Pipe facility: revised its SPCC plan; discontinued use of its paint storage area; modified its practices regarding aboveground storage tanks to ensure compliance with its SPCC; installed secondary containment around the hazardous waste storage area; installed secondary containment around diesel tank and oil storage containers; conducted SPCC training, with a task created to maintain the training annually; and implemented recordkeeping practices regarding the draining of secondary containment areas of rainwater and weekly inspections of oil tank piping.

Costs associated with the aforementioned spill prevention findings: \$43,100

*iv. Solid and Hazardous Waste*

The Pacific States Cast Iron Pipe facility: submitted a permit application for an on-site landfill, and later supplemented it; constructed a hazardous waste storage area; submitted EPA Form 8700-12; labeled hazardous waste containers appropriately, including start date of accumulation; revised procedures to label hazardous waste drums, and implemented tracking procedures to ensure timely off-site disposal; posted emergency contact and equipment information; developed written procedures for personnel to have access to communications when handling hazardous waste; contacted local authorities and invited them to visit facility and familiarize themselves with hazardous wastes onsite; implemented procedures to ensure inspection of the hazardous waste container area and adequate recordkeeping, with a task created to maintain the inspections and recordkeeping; implemented a waste minimization plan; implemented a hazardous waste contingency plan; labeled its universal waste lamps, including start date of accumulation; provided training for personnel handling universal waste, with a task to maintain the training annually; placed signage to delineate the landfill boundary; and verified and recorded EPA ID numbers for used oil disposal transporters.

Costs associated with the aforementioned solid and hazardous waste findings: \$160,450

*v. Water*

The Pacific States Cast Iron Pipe facility: implemented procedures and training to ensure water sampling hold times are not exceeded; improved recordkeeping practices regarding temperature and pH calibrations; authorized appropriate personnel to sign DMRs; updated its SWP3; performed an annual site compliance evaluation, and created a task to maintain; performed quarterly visual observations during storm events, and created a task to maintain; and revised its procedures for stormwater sampling.

Costs associated with the aforementioned water findings: \$6,000

**Rice Chapel Mine, Sipsev, Alabama**

*i. Water*

The Rice Chapel Mine facility: submitted a reissuance permit application.

Costs associated with the aforementioned water findings: no reasonably available estimate of associated costs.

**Sipsev Mine, Sipsev, Alabama**

*i. Water*

The Sipsev Mine facility: submitted DMRs and an application to include outfall 011.

Costs associated with the aforementioned water findings: no reasonably available estimate of associated costs.

**Tyler Pipe Company, Marshfield, Missouri**

*i. Air*

The Tyler Pipe facility: implemented recordkeeping requirements for refrigerants added to the cooling system.

Costs associated with the aforementioned air finding: no reasonably available estimate of associated costs.

*ii. PCB*

The Tyler Pipe facility: conducted PCB training for personnel.

Costs associated with the aforementioned PCB finding: no reasonably available estimate of associated costs.

*iii. Spill Prevention*

The Tyler Pipe facility: designed and implemented an SPCC plan.

Costs associated with the aforementioned spill prevention finding: \$2,600

*iv. Solid and Hazardous Waste*

The Tyler Pipe facility: implemented a procedure to control and manage aerosol cans appropriately; and implemented a universal waste management program, and created a task to conduct annual training.

Costs associated with the aforementioned solid and hazardous findings: \$3,300

*v. Water*

The Tyler Pipe facility: reviewed and revised its SWP3, with a task created to update the SWP3 annually.

Costs associated with the aforementioned water findings: no reasonably available estimate of associated costs.

**Tyler Pipe Company, Macungie, Pennsylvania**

*i. Air*

The Tyler Pipe facility: improved recordkeeping practices required by permit; and developed a written procedure for dealing with public complaints. It was in the process of developing a comprehensive emission source inventory for HAPs but this was not completed due to a fire which destroyed most of the foundry operations. Manufacturing operations at the facility have been terminated.

Costs associated with the aforementioned air findings: \$4,000

*ii. Right-to-Know*

The Tyler Pipe facility: completed hazardous substance survey forms and maintained copies in its files.

Costs associated with the aforementioned right-to-know findings: no reasonably available estimate of associated costs.

*iii. Spill Prevention*

The Tyler Pipe facility: developed an SPCC plan and had it certified by a professional engineer; and revised its SPCC plan to include loading/unloading of tanks, spill prevention measures, and substantial harm criteria certification.

Costs associated with the aforementioned spill prevention findings: \$3,000

*iv. Solid and Hazardous Waste*

The Tyler Pipe facility: included accumulation dates on hazardous waste labels; implemented procedures to ensure used oil drums are not left open when not in use; submitted a revised waste notification form; identified, evaluated, and documented all waste streams, and created a task to maintain; updated its hazardous waste contingency plan; implemented procedures to document weekly hazardous waste accumulation area inspections; created procedures for dating universal waste containers; and provided training for universal waste management personnel.

Costs associated with the aforementioned solid and hazardous findings: \$1,500

*v. Water*

The Tyler Pipe facility: submitted a permit renewal application, and created a task for its next renewal application; revised its preparedness, prevention and contingency plan, and created a task to update annually; submitted DMRs; and created a task to ensure semi-annual sampling of stormwater events.

Costs associated with the aforementioned water findings: no reasonably available estimate of associated costs.

**Tyler Pipe Company, Tyler, Texas**

*i. Air*

The Tyler Pipe facility: revised its Title V permit application; implemented procedures to ensure that all required permit limitations are recorded; added side draft hooding to a baghouse to improve emission control; installed a new baghouse to ensure proper operation and pollution removal; replaced three degreaser units; and improved recordkeeping practices to include all required documentation.

Costs associated with the aforementioned air findings: \$604,000

*ii. PCB*

The Tyler Pipe facility: developed procedures whereby any capacitors and lighting ballasts not specifically labeled “non PCB” are assumed to contain PCBs and disposed of accordingly.

Costs associated with the aforementioned PCB findings: no reasonably available estimate of associated costs.

*iii. Spill Prevention*

The Tyler Pipe facility: revised its SPCC plan and maintains a copy in its files.

Costs associated with the aforementioned spill prevention findings: \$24,000

*iv. Solid and Hazardous Waste*

The Tyler Pipe facility: implemented recordkeeping procedures to ensure compliance with SARA 313 (TRI) reportable chemical requirements; developed documents as required by SARA 311 and 312; removed certain items from a landfill and updated its procedures accordingly; developed a universal waste program; created a task to routinely evaluate all waste stream classifications, including aerosol cans, and main supporting documentation; developed procedures for submittal of land disposal restriction notifications; required personnel signing manifest shipments of hazardous materials to have completed the required training; revised its hazardous waste training materials; developed procedures to properly label universal waste containers; identified, labeled and improved management of universal wastes; developed procedures to reconcile year-end inventory; developed procedures regarding recordkeeping practices for medical waste shipments; and developed procedures to properly label used oil containers.

Costs associated with the aforementioned solid and hazardous findings: \$37,200

*v. Water*

The Tyler Pipe facility: revised its SWP3 and maintains a copy in its records file; received a new discharge permit; improved good housekeeping to reduce stormwater contact with contaminants,

including moving the limestone indoors and installing canopies; constructed buffer and vortex basins to address pH, oil and grease exceedences; created a task to ensure that annual comprehensive evaluations and inspections required by its SWP3 are performed; and created a task to ensure coliform monitoring is conducted and the results submitted.

Costs associated with the aforementioned water findings: \$464,300

### **Union Foundry Company, Anniston, Alabama**

#### *i. Air*

The Union Foundry facility: worked with the state to ensure the new permit issued corrected certain items in the application; a new Title V Permit was issued September 2007; developed written plans and procedures to demonstrate permit compliance; collected and recorded total paint and thinner usage on a monthly and 12-month rolling basis, and created a task to continue collecting and recording the same; engaged in discussions with the state to address cupola afterburner permit variances; developed procedures for maintaining afterburner temperature at or above 1300 degrees F, developed an early warning action level at 1350 degrees F, clarified how deviations were determined in compliance of the air permit and have greatly reduced permit deviation events; created a task to submit annual compliance certifications and semi-annual deviation reports, and to maintain appropriate recordkeeping; established records to demonstrate compliance under applicable air regulations; developed standard operating procedures for monitoring, inspections and maintenance; proposed to modify its Title V permit, and conducted PSD evaluation of all installations and modifications; ceased fueling motor vehicles onsite; and began maintaining CFC records in a centralized location.

Costs associated with the aforementioned air findings: \$200,000

#### *ii. PCB*

The Union Foundry facility: implemented a PCB recordkeeping program; and located records of disposal of PCB waste.

Costs associated with the aforementioned PCB findings: \$5,000

#### *iii. Right-to-Know*

The Union Foundry facility: located records to ensure compliance with EPCRA.

Costs associated with the aforementioned right-to-know finding: no reasonably available estimate of associated costs.

#### *iv. Solid and Hazardous Waste*

The Union Foundry facility: rendered tanks incapable of containing stormwater in the North 40 yard; pressure washed equipment; sampled, and disposed of unidentified drums; removed and

disposed of shot blast media appropriately; conducted hazardous waste analysis of waste streams; located hazardous waste manifests; submitted an updated notification of hazardous waste activity; located documents required by solid and hazardous waste recordkeeping requirements; established procedures to supply land disposal restriction notifications to appropriate TSD facilities; developed and implemented a waste minimization program, with a task to maintain the waste minimization program; developed and implemented a hazardous waste management training program, with a task for annual training; updated its hazardous waste contingency plan; developed and implemented procedures to prohibit acceptance of free liquids at its onsite landfill; labeled universal waste battery and lamp containers appropriately; developed and implemented a universal waste management training program; and updated its SPCC plan.

Costs associated with the aforementioned solid and hazardous waste findings: \$8,000

*v. Spill Prevention*

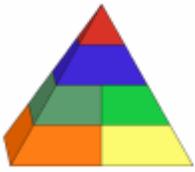
To address spill prevention findings, the Union Foundry facility: excavated an area surrounding the large diameter asphalt dip to remove surface level contamination; excavated an area surrounding the bulk coating and chemical tote storage to remove surface level contamination; installed secondary containment and covered a tote storage area; and updated its SPCC.

Costs associated with the aforementioned spill prevention findings: \$10,720

*vi. Water*

The Union Foundry facility: drained a containment pit, removed solids, and cleaned it; implemented standard operating procedures regarding vehicle cleaning; modified its NPDES permit to reflect stormwater discharges; implemented best management procedures under SWP3; implemented procedures to maintain recordkeeping required by its NPDES permit; installed structural controls around a retention dike to prevent breakout; implemented procedures to conduct weekly inspections under its NPDES permit; redirected the discharge of non-contact cooling water from the POTW to a storm outfall; installed storm filters and catch basins; revised best management procedures to minimize stormwater contamination; demonstrated its best management practices plan compliance schedule was being met; and ceased using well water for drinking water.

Costs associated with the aforementioned water findings: \$600,000



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## 1.0 Purpose/Scope

This procedure addresses the requirements for Storm Water Pollution Prevention Plan (SWPPP) and Best Management Practices (BMPs) applicable to facilities included in the industry sectors per U.S. Environmental Protection Agency's Multi-Sector General Permit for Industrial Activities 2008.

## 2.0 Activities Affected

All areas and departments that affect or have the potential to affect storm water quality

## 3.0 Forms Used

[EP-006-01 SWPPP Team Roster](#)  
[EP-006-02 Routine Facility Inspection](#)  
[EP-006-03 Quarterly Visual Assessment](#)  
[EP-006-04 Comprehensive Site Evaluation](#)  
[EP-006-05 Non-Storm Water Discharge Evaluation](#)  
[EP-006-06 Potential Spills and Leaks](#)  
[EP-006-07 Significant Spills and Leaks](#)  
[EP-006-08 Materials and Activities Inventory](#)

## 4.0 Related Procedures/Topics

U.S. Environmental Protection Agency (EPA) Industrial SWPPP Template  
U.S. Environmental Protection Agency (EPA) NPDES Multi-Sector General Permits for Stormwater Discharges associated with Industrial Activity 9/29/2008

## 5.0 Definitions

5.1 **Significant Materials** – Include, but are not limited to: raw materials; fuels; materials such as solvents, paints and caustics; recyclable materials such as metallic chips and shavings; finished materials such as metallic products; raw materials used in the production of castings and steel tanks; hazardous substances designated under section 101 (14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); any chemical the facility is required to report pursuant to section 313 of Title III of the Superfund Amendments and Reauthorization Act (SARA); fertilizers; pesticides; and waste products such as ashes, sands, slag, and sludge that have a potential to be released with storm water discharges [122.26(b)(12)].

5.2 **Significant Spills** – Includes, but is not limited to: releases of oil or hazardous substances in excess of reportable quantities under Section 311 of the CWA (see 40 CFR 110.10 and CFR 117.21) or Section 102 of CERCLA (see 40 CFR 302.4).

## 6.0 Exclusions

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This procedure will be excluded from the requirements of section 7.3.6 of [EP-115 Document Control](#) to give the facility time to implement the requirements of this procedure in to the facility's Storm Water Pollution Prevention Plans. The facility will have 1 year from the date of issue to amend their plan. Upon completion of the 1 year period this exclusion will be removed.

## 7.0 Procedure

The facility Stormwater Pollution Prevention Plan (SWPPP) or Best Management Practice Plan will meet the regulatory requirements of local, state and federal regulations and permits. This procedure in no way precludes the facility from meeting the regulations specific to the facility.

The Environmental manager is responsible for developing, maintaining, revising and implementing the plan at the facility.

### 7.1 Facility Description and Contact Information

7.1.1 The plan will include a summary of Facility Information which will contain the following information;

7.1.1.1 Name of Facility

7.1.1.2 Physical Address (Street, City, State, ZIP Code, and County)

7.1.1.3 Permit Tracking Number or NPDES Permit Number

7.1.1.4 Initial Date of Operation

7.1.1.5 Standard Industrial Classification (SIC) Code(s)

7.1.1.6 Latitude and Longitude and the method used for determining the coordinates.

7.1.1.7 Estimated area of industrial activity exposed to stormwater in acres.

7.1.1.8 Indicate if the facility discharges to a municipal separate stormwater sewer system (MS4).

7.1.1.9 Name the receiving streams of the stormwater discharges and identify if any of these streams are impaired and what pollutants that cause the stream to be impaired.

7.1.2 The plan will include the following information for the Facility Operator, Facility Owner and SWPPP Contact;

7.1.2.1 Name

7.1.2.2 Physical Address (Street, City, State, ZIP Code, and County)

7.1.2.3 Telephone and Fax Numbers

7.1.2.4 Email Address

7.1.3 Storm Water Pollution Prevention Team is responsible for;

7.1.3.1 Designating and identifying a Team Coordinator and summarizing the responsibilities of the coordinator as well as the working relationship with other team members.



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- 7.1.3.2 Being familiar with operations and maintenance of the facility.
- 7.1.3.3 Being responsible for site assessment, identifying pollutant sources and risks; selecting and implementing appropriate Best Management Practices (BMP's) and informing the Environmental Manager of changes within the facility that would require changes to the plan.

7.1.4 The Stormwater Pollution Prevention Team will;

- 7.1.4.1 Be identified in the [SWPPP Team roster \(EP-006-01\)](#) which will include the following information for each team member; name, title and responsibilities for maintaining, implementing and revising the plan. The roster will be maintained in the plan.
- 7.1.4.2 Consist of representatives from plant management, production, maintenance, engineering and environmental personnel as selected by the Environmental Manager. If additional members are needed they will be added at the discretion of the Environmental Manager.

7.1.5 The plan will include a general description of the industrial activities that take place at the facility.

7.1.6 The plan will include a general location map such as a U.S. Geological Survey quadrangle map (USGS Quad Map). The map will have enough detail to identify the location of the facility and all receiving waters for the stormwater discharges from the facility.

7.1.7 The plan will include a site map or maps\* that will illustrate the following information where applicable:

- the size of the property in acres;
- the location and extent of significant structures and impervious surfaces;
- directions of stormwater flow (use arrows);
- locations of all existing structural control measures;
- locations of all receiving waters in the immediate vicinity of the facility, indicating if any of the waters are impaired and the reason for the impairment, including the pollutant if known;
- locations of all stormwater conveyances including ditches, pipes, and swales;
- locations of potential pollutant sources;
- locations where significant spills or leaks have occurred;
- locations of all stormwater monitoring points;
- locations of stormwater inlets and outfalls, with a unique identification code for each outfall (e.g., Outfall No. 1, No. 2, etc), indicate representative outfalls and the approximate outline of the areas draining to each outfall; include a narrative description of the outfall drainage area (e.g. Outfall 002 – drains the area north of the garage on the west side of the facility);
- municipal separate storm sewer systems locations where the stormwater discharges to them;
- locations and descriptions of all non-stormwater discharges (See 7.3.9.1);



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- locations of the following activities where such activities are exposed to precipitation:
  - fueling stations;
  - vehicle and equipment maintenance and/or cleaning areas;
  - loading/unloading areas;
  - locations used for the treatment, storage, or disposal of wastes;
  - liquid storage tanks;
  - processing and storage areas;
  - immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility;
  - transfer areas for substances in bulk; and
  - machinery located near egress points that could potentially impact stormwater quality;
  - bone yards / surplus equipment storage; and
- locations and sources of run-on to the site from adjacent property that contains significant quantities of pollutants.
- locations where any of the following activities may be exposed to precipitation or surface runoff: storage or disposal of wastes such as spent solvents and baths, chips, cuttings, sand, slag and dross; scrap processing/snipping areas; liquid storage tanks and drums; processing areas including pollution control equipment (e.g., baghouses); and storage areas of raw material such as coal, coke, scrap, sand, fluxes, refractories, or metal in any form. In addition, indicate where an accumulation of significant amounts of particulate matter could occur from such sources as furnace or oven emissions, losses from coal and coke handling operations, etc., and could result in a discharge of pollutants to waters of the United States.

\* Note: If it takes more than one Site Map to convey the information listed above, multiple maps can be used.

7.2 Potential Pollutant Sources –the plan will describe areas at the facility where industrial materials or activities are exposed to stormwater or from which allowable non-stormwater discharges are released.

7.2.1 Industrial Materials and Activities and their Associated Pollutants

7.2.1.1 Include a list of materials and industrial activities exposed to stormwater (e.g., raw material and product storage; equipment/vehicle fueling, maintenance; loading/unloading operations, outdoor processes, and on-site disposal) and the pollutants or pollutant constituents (e.g., motor oil, fuel, battery acid and cleaning solvents) associated with these activities. Make sure to include in this inventory areas where deposition of particulate matter from process air emissions or losses during material-handling activities are possible. The [Materials and Activities Inventory form EP-006-08](#) will be used to develop the list.



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7.2.1.2 In the list of pollutants associated with the industrial activities, include all significant materials that have been handled, treated, stored, or disposed, and that have been exposed to stormwater in the 3 years prior to the date the SWPPP was prepared.

7.2.1.3 For each activity and material exposed include the Best Management Practices (BMPs) that are used to control and minimize the exposure.

#### 7.2.2 Spills and Leaks

7.2.2.1 Potential spills and leaks: Include a description of where potential spills and leaks could occur at the site that could contribute pollutants to the stormwater discharge, and specify which outfall(s) are likely to be affected by such spills and leaks. The [Potential Spills and Leaks form EP-006-06](#) will be used to identify these locations.

7.2.2.2 Past spills and leaks: Include a description of significant spills and leaks in the past 3 years of oil or toxic or hazardous pollutants that actually occurred at exposed areas, or that drained to a stormwater conveyance. The [Significant Spills and Leaks form EP-006-07](#) will be used to identify these events.

Note: Significant spills and leaks include, but are not limited to, releases of oil or hazardous substances in excess of quantities that are reportable under CWA Section 311 (see 40 CFR 110.6 and 40 CFR 117.21) or Section 102 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 USC §9602. Also included are spills, leaks and slug discharges that have been discharged to the sewer system and are defined by local municipality's sewer use ordinance.

7.2.3 The plan will include an evaluation for the presence of non-stormwater discharges and that all unauthorized discharges have been eliminated. The evaluation will be conducted within one year of the issuance date of this procedure; subsequent evaluations will be conducted at least annually and with each renewal of the permit or when a change occurs that would require a new evaluation. Documentation of the evaluation will include:

7.2.3.1 The date of any evaluation;

7.2.3.2 A description of the evaluation criteria used;

7.2.3.3 A list of the outfalls or onsite drainage points that were directly observed during the evaluation;

7.2.3.4 The different types of non-stormwater discharge(s) and source locations; and

7.2.3.5 The action(s) taken, such as a list of control measures used to eliminate unauthorized discharge(s), if any were identified. For example, a floor drain was sealed, a sink drain was re-routed to sanitary, or an NPDES permit application was submitted for an unauthorized cooling water discharge.

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7.2.3.6 The facility will review each non-stormwater discharge evaluation and make any changes necessary to the SWPPP within 90 days of the evaluation.

The [Non-Storm Water Discharge Evaluation form EP-006-05](#) will be used to document the evaluation.

7.2.4 If applicable, the plan will document the location of any storage piles containing salt used for deicing or other commercial or industrial purposes.

7.2.5 The plan will summarize all stormwater discharge sampling data collected at the facility during the previous permit term or include copies of the discharge monitoring reports and analyticals or identify the location of these records for the same term.

### 7.3 Stormwater Control Measures

7.3.1 Minimize Exposure - Describe any structural controls or practices used to minimize the exposure of industrial activities to rain, snow, snowmelt, and runoff. Describe where the controls or practices are being implemented at the site.

7.3.2 Good Housekeeping - As part of the facility's good housekeeping program, include a cleaning and maintenance program for all impervious areas of the facility where particulate matter, dust, or debris may accumulate, especially areas where material loading and unloading, storage, handling, and processing occur. For unstabilized areas where sweeping is not practicable, consider using stormwater management devices such as sediment traps, vegetative buffer strips, filter fabric fence, sediment filtering boom, gravel outlet protection, or other equivalent measures that effectively trap or remove sediment. Describe any additional practices the facility is implementing to keep exposed areas of the site clean. Describe where each practice is being implemented at the site. Include here the schedule for routine inspections for leaks and of the condition of drums, tanks, and containers.

7.3.3 Maintenance – Describe practices to avoid spills/leaks related to maintaining industrial equipment such as mobile equipment, hydraulic systems and others which may affect storm water quality.

7.3.4 Spill Prevention and Response - Describe any structural controls or practices used to minimize the potential for leaks, spills and other releases. The site will implement the following at a minimum:

7.3.4.1 Work instructions for plainly labeling containers (e.g., "Used Oil," "Spent Solvents," etc.) that could be susceptible to spillage or leakage, to



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encourage proper handling and facilitate rapid response if spills or leaks occur;

7.3.4.2 Preventative measures and good practices for material storage and handling;

7.3.4.3 Work instructions for expeditiously stopping, containing, and cleaning up leaks, spills, and other releases; and

7.3.4.4 Work instructions for notification of appropriate facility personnel, emergency response agencies, and regulatory agencies.

Describe where each control is to be located or where applicable work instructions will be implemented.

Note: Some facilities may be required to develop a Spill Prevention Control and Countermeasure (SPCC) plans under a separate regulatory program (40 CFR 112). If the site is required to develop an SPCC plan, or the site already has one, the SWPPP should include references to the relevant requirements from the SPCC plan.

- 7.3.5 Erosion and Sediment Control - Describe structural or non-structural controls used at the site to stabilize exposed areas and contain runoff to minimize onsite erosion and potential offsite discharges of sediment. Describe the location at the site where each control will be implemented.
- 7.3.6 Management Runoff - Describe controls used at the site to divert, infiltrate, reuse, contain, or otherwise reduce stormwater runoff. Describe the location at the site where each control will be implemented.
- 7.3.7 Salt Storage Piles or Piles containing Salt – If applicable, describe structures at the site that either cover or enclose salt storage piles or piles containing salt, or that prevent the discharge of stormwater from such piles. Also, describe any controls or work instructions used to minimize exposure resulting from adding to or removing materials from the pile. Describe the location at the site where each control and/or work instruction will be implemented.
- 7.3.8 Employee Training – Describe the plan for training the employees who work in areas where industrial materials or activities are exposed to stormwater, or who are responsible for implementing activities necessary to meet the conditions of the facility's permit, including all members of the Pollution Prevention Team. Included in the description will be the frequency of training and the schedule the site will follow (including initial/new and annual training).
- 7.3.9 Non-Storm Water Discharges – Describe how the site eliminated any unauthorized non-stormwater discharges. The unauthorized non-stormwater discharges include any non-stormwater discharges that are not specifically identified as authorized non-stormwater discharges.



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7.3.9.1 Authorized non-stormwater discharges are;

- Discharges from fire-fighting activities;
- Fire hydrant flushings;
- Potable water, including water line flushings;
- Uncontaminated condensate from air conditioners, coolers, and other compressors and from the outside storage of refrigerated gases or liquids;
- Irrigation drainage;
- Landscape watering provided all pesticides, herbicides, and fertilizer have been applied in accordance with the approved labeling;
- Pavement wash waters where no detergents are used and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed);
- Routine external building washdown that does not use detergents;
- Uncontaminated ground water or spring water;
- Any other non-stormwater discharge authorized by the facility's stormwater permit;

Note: If any of the listed authorized non-stormwater discharges is not considered to be an authorized non-stormwater discharge by regulations or permit regulating the facility then that discharge is not authorized at the facility or under the SWPPP plan.

7.3.10 Garbage, Trash and Floatable Debris – Describe controls and practices that will be used at the site to minimize discharges of garbage, trash and floatable debris from trash receptacles such as cans, dumpsters and roll offs particularly uncovered or open top receptacles. Describe the location at the site where each control and/or practice will be implemented.

7.3.11 Dust Generation and Vehicle Tracking of Industrial Materials – Describe controls and practices that will be used at the site to minimize the generation of dust and off-site tracking of raw, final, or waste materials. Describe the location at the site where each control and/or practice will be implemented.

#### 7.4 Benchmark Monitoring

7.4.1 The facility will monitor benchmark monitoring parameters specified in the facility's stormwater permit. In addition the facility will monitor benchmark parameters for the industrial sector(s), both primary industrial activity and any co-located industrial activities, applicable to the discharge from the facility. The industry-specific benchmark concentrations are listed in Part 8 of the US EPAs Multi-Sector General Permit for Industrial Activities 2008 (MSGP2008).

7.4.2 Benchmark monitoring will be conducted quarterly, for the first 4 full quarters from the issuance date of this procedure and upon renewal of the permit. If the



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facility is located in an area where limited rainfall occurs during parts of the year (e.g., arid or semi-arid climates) or in areas where freezing conditions exist that prevent runoff from occurring for extended periods, required monitoring events may be distributed during seasons when precipitation occurs, or when snowmelt results in a measurable discharge from the site. The facility will document their plan to collect the required number of samples in their facility specific work instruction.

7.4.3 Data not exceeding benchmarks: After collection of 4 quarterly samples, if the average of the 4 monitoring values for any parameter does not exceed the benchmark, the facility has fulfilled the monitoring requirements for that parameter for the quarterly sampling term. For averaging purposes, use a value of zero for any individual sample parameter which is determined to be less than the method detection limit. For sample values that fall between the method detection level and the quantitation limit (i.e., a confirmed detection but below the level that can be reliably quantified), use a value halfway between zero and the quantitation limit.

7.4.4 Data exceeding benchmarks: After collection of 4 quarterly samples, if the average of the 4 monitoring values for any parameter exceeds the benchmark, the facility will review the selection, design, installation, and implementation of the control measures to determine if modifications are necessary to meet the benchmark levels, and either:

7.4.4.1 Make the necessary corrective actions/modifications and continue quarterly monitoring until the facility has completed 4 additional quarters of monitoring for which the average does not exceed the benchmark; or

7.4.4.2 Make a determination that no further pollutant reductions are technologically available and economically practicable and achievable in light of best industry practice, in which case the facility will continue monitoring once per year. The facility will also document the rationale for concluding that no further pollutant reductions are achievable, and retain all records related to this documentation with the SWPPP.

If after modifying the facility's control measures and conducting 4 additional quarters of monitoring, the average still exceeds the benchmark (or if an exceedance of the benchmark by the 4 quarter average is mathematically certain prior to conducting the full 4 additional quarters of monitoring), the facility will again review the control measures, make any necessary corrective actions and take one of the two actions above.

7.4.5 Natural background pollutant levels: Following the first 4 quarters of benchmark monitoring (or sooner if the exceedance is triggered by less than 4 quarters of data, see above), if the average concentration of a pollutant exceeds a benchmark value, and the facility determines that exceedance of the benchmark is attributable solely to the presence of that pollutant in the natural background,



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the facility is not required to perform corrective action or additional benchmark monitoring provided that:

- 7.4.5.1 The average concentration of the benchmark monitoring results is less than or equal to the concentration of that pollutant in the natural background;
- 7.4.5.2 The facility documents and maintains with the SWPPP, the supporting rationale for concluding that benchmark exceedances are in fact attributable solely to natural background pollutant levels. The facility will include in their supporting rationale any data previously collected by the facility or others (including literature studies) that describe the levels of natural background pollutants in the facilities stormwater discharge.
- 7.4.5.3 Natural background pollutants include those substances that are naturally occurring in soils or groundwater. Natural background pollutants do not include legacy pollutants from earlier activity on your site, or pollutants in run-on from neighboring sources which are not naturally occurring.
- 7.4.6 Sampling requirements for the determination of benchmark levels and for benchmark concentrations that are hardness-dependent.
  - 7.4.6.1 Samples will be analyzed consistent with 40 CFR Part 136 analytical methods and using test procedures with quantitation limits at or below benchmark values for all benchmark parameters for which the facility is required to sample.
  - 7.4.6.2 If the facility is in one of the industrial sectors subject to benchmark concentrations that are hardness-dependent, the facility is required to sample the receiving stream for hardness in addition to the sector specific requirements. The sample to determine the hardness value for the facility's receiving stream will be taken from the closest intermittent or perennial stream downstream of the facilities point of discharge.
  - 7.4.6.3 Once the hardness level is determined then the facility will compare the sample results to the hardness-dependent concentrations.
- 7.4.7 For each type of permit required monitoring, the SWPPP will document:
  - 7.4.7.1 Locations where samples are collected, including any determination that two or more outfalls are substantially identical/representative;
  - 7.4.7.2 Parameters for sampling and the frequency of sampling for each parameter;
  - 7.4.7.3 Schedules for monitoring at the facility, including schedule for alternate monitoring periods for climates with irregular stormwater runoff;
  - 7.4.7.4 Any numeric control values (benchmarks, effluent limitations guidelines, or other requirements) applicable to discharges from each outfall; and
  - 7.4.7.5 Each monitoring event will include a narrative description of the duration of the event and the time and volume of the discharge.



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7.4.8 The plan will document the following if the site intends to use the substantially identical/representative outfall exception for the sites quarterly visual assessment requirements or benchmark monitoring requirements:

- 7.4.8.1 Location of each of the substantially identical/representative outfalls;
- 7.4.8.2 Description of the general industrial activities conducted in the drainage area of each outfall;
- 7.4.8.3 Description of the control measures implemented in the drainage area of each outfall;
- 7.4.8.4 Description of the exposed materials located in the drainage area of each outfall that are likely to be significant contributors of pollutants to stormwater discharges;
- 7.4.8.5 An estimate of the runoff coefficient of the drainage areas (low = under 40%; medium = 40 to 65%; high = above 65%); and
- 7.4.8.6 Why the outfalls are expected to discharge substantially identical effluents.

7.5 Inspections

7.5.1 The plan will reference the work instructions for performing, as appropriate, the three types of inspections specified by this procedure, including:

- Routine facility inspections;
- Quarterly visual assessment of stormwater discharges; and
- Comprehensive site inspections.

7.5.2 Routine Facility Inspection – The facility will conduct a routine facility inspection of all areas of the facility where industrial materials or activities are exposed to stormwater, and of all stormwater control measures used to comply with the effluent limits contained in the facility’s permit. The plan will specify schedule for conducting the inspections.

7.5.2.1 The routine facility inspection will be conducted at least quarterly on equipment, processes, and control measures or areas of the facility with significant activities and materials exposed to stormwater. The inspection will address potential sources of pollutants, including (if applicable) air pollution control equipment (e.g., baghouses, scrubbers, and cyclones), for any signs of degradation (e.g., leaks, corrosion, or improper operation) that could limit their efficiency and lead to excessive emissions. Also inspect all process and material handling equipment (e.g., conveyors, cranes, and vehicles) for leaks, drips, or the potential loss of material; and material storage areas (e.g., piles, bins, or hoppers for storing coke, coal, scrap, or slag, as well as chemicals stored in tanks and drums) for signs of material losses due to wind or stormwater runoff.



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7.5.2.2 The routine inspections will be performed by an individual from the stormwater pollution prevention team during periods when the facility is in operation.

7.5.2.3 At least once each calendar year, the routine facility inspection will be conducted during a period when a stormwater discharge is occurring.

7.5.2.4 Routine Facility Inspections will document the following information using the [Routine Facility Inspection form EP-006-02](#);

- The inspection date and time;
- The name(s) and signature(s) of the inspector(s);
- Weather information and a description of any discharges occurring at the time of the inspection;
- Any previously unidentified discharges of pollutants from the site;
- Any control measures needing maintenance or repairs;
- Any failed control measures that need replacement;
- Any incidents of noncompliance observed; and
- Any additional control measures needed to comply with the permit requirements.

7.5.3 Quarterly Visual Assessment – Once each quarter, the facility will collect a stormwater sample from each outfall and conduct a visual assessment of each of these samples. These samples are not required to be collected consistent with 40 CFR Part 136 procedures but will be collected in such a manner that the samples are representative of the stormwater discharge.

7.5.3.1 The visual assessment will be made:

- Of a sample in a clean, clear glass, or plastic container, and examined in a well-lit area;
- On samples collected within the first 30 minutes of an actual discharge from a storm event. If it is not possible to collect the sample within the first 30 minutes of discharge, the sample will be collected in accordance with the facility's permit and the reason(s) why it was not possible documented. In the case of snowmelt, samples will be taken during a period with a measurable discharge from the site; and
- For storm events, on discharges that occur at least 72 hours (3 days) from the previous storm event / discharge. The 72-hour (3-day) storm interval does not apply if the facility documents that less than a 72-hour (3-day) interval is representative for local storm events during the sampling period.

7.5.3.2 The facility will visually inspect the sample for the following water quality characteristics:

- Color;

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- Odor;
- Clarity;
- Floating solids;
- Settled solids;
- Suspended solids;
- Foam;
- Oil sheen; and
- Other obvious indicators of stormwater pollution.

7.5.3.3 The facility will document the results of the visual assessments using [EP-006-03 Quarterly Visual Assessment form](#) and maintain this documentation onsite. At a minimum, the documentation of the visual assessment will include:

- Sample location(s);
- Sample collection date and time, and visual assessment date and time for each sample;
- Personnel collecting the sample and performing visual assessment, and their signatures;
- Nature of the discharge (i.e., runoff or snowmelt);
- Results of observations of the stormwater discharge;
- Probable sources of any observed stormwater contamination,
- If applicable, why it was not possible to take samples within the first 30 minutes.

7.5.4 Comprehensive Site Inspection – The facility will conduct an annual comprehensive site inspection that will cover all areas of the facility affected by the requirements in this procedure, including the areas identified in the SWPPP as potential pollutant sources where industrial materials or activities are exposed to stormwater, any areas where control measures are used to comply with the effluent limits, and areas where spills and leaks have occurred in the past 3 years.

7.5.4.1 The Comprehensive Site Inspections will be conducted by at least two members of the stormwater pollution prevention team. The inspections will also include a review of monitoring data collected and consider the results of the past year's visual and analytical monitoring when planning and conducting inspections. Inspectors will examine the following:

- Industrial materials, residue, or trash that may have or could come into contact with stormwater;
- Leaks or spills from industrial equipment, drums, tanks, and other containers;
- Offsite tracking of industrial or waste materials, or sediment where vehicles enter or exit the site;



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- Tracking or blowing of raw, final, or waste materials from areas of no exposure to exposed areas; and
- Control measures needing replacement, maintenance, or repair.

7.5.4.2 The Comprehensive Site Inspection may also be used as one of the routine inspections, as long as all components of both types of inspections are included.

7.5.4.3 The plan will document the findings of each [Comprehensive Site Inspection on EP-006-04](#) and at a minimum, the documentation of the comprehensive site inspection will include:

- The date of the inspection;
- The name(s) and title(s) of the personnel making the inspection;
- Findings from the examination of areas of the facility;
- All observations relating to the implementation of the stormwater control measures including:
  - previously unidentified discharges from the site,
  - previously unidentified pollutants in existing discharges,
  - evidence of, or the potential for, pollutants entering the drainage system;
  - evidence of pollutants discharging to receiving waters at all facility outfall(s), and the condition of and around the outfall, including flow dissipation measures to prevent scouring, and
  - additional control measures needed to address any conditions requiring corrective action identified during the inspection.
- Any required revisions to the SWPPP resulting from the inspection; any revisions identified through the inspection will be implemented within 90 days of the finding.
- Any incidents of noncompliance observed or a certification stating the facility is in compliance with the facility's permit (if there is no noncompliance); and
- A statement signed and certified in accordance with section 7.8 of this procedure.

7.5.5 Any corrective action required as a result of the routine inspection, visual assessment or comprehensive site inspection will be managed according to [EP-111 Corrective and Preventive Actions](#).

## 7.6 Annual Review

7.6.1 The facility will conduct an Annual SWPPP Review with the SWPPP team members. The annual SWPPP review can be performed in conjunction with the Comprehensive Site Inspection.



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7.6.2 The review will cover the results of the Comprehensive Site Inspection, the performance of storm water control measures, monitoring and inspection results over the previous year.

7.6.3 The objectives of the Annual SWPPP review include the following:

7.6.3.1 To determine if the contact, facility or SWPPP Team information is correct and current;

7.6.3.2 To determine if the site maps are representative of current conditions.

7.6.3.3 To determine if the Materials and Activities and the Spills and Leaks lists are accurate.

7.6.3.4 To evaluate the effectiveness of the structural and non-structural BMPs implemented at the facility based on monitoring and inspection results and to improve the BMPs where necessary;

7.6.3.5 To review the SWPPP training program to determine if the proper employees are being trained and if improvements should be made to improve training material and retention.

7.6.4 The facility will document the findings and results of the Annual SWPPP Review to serve as evidence of the review, the documentation of the Annual SWPPP Review will include:

- The date of the review;
- The name(s) and title(s) of the personnel taking part in the review;
- Meeting minutes and notes

7.7 Documentation of Permit Eligibility Related to Endangered Species – For new facilities and facilities expanding the perimeter of operations (onto adjoining or additional parcels that will result in a 1 acre or greater ground disturbance), the SWPPP will include documentation supporting the determination of permit eligibility with regard to Endangered Species, including:

7.7.1 Information on whether listed endangered or threatened species, or critical habitat, are found in proximity to the facility;

7.7.2 Whether such species may be affected by the facility's stormwater discharges or stormwater discharge-related activities;

7.7.3 Results of endangered species screening determinations; and

7.7.4 A description of measures necessary to protect listed endangered or threatened species, or critical habitat.

7.7.5 Information regarding the presence of rare, threatened and endangered species may be obtained from the appropriate state fish and wildlife agency or state Natural Heritage Program.



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- 7.8 Documentation of Permit Eligibility Related to Historic Places – For new facilities and facilities expanding the perimeter of operations (onto adjoining or additional parcels that will result in a 1 acre or greater ground disturbance), the SWPPP will include documentation supporting the determination of permit eligibility with regard to Historic Places including:
- 7.8.1 Information on whether the stormwater discharges or stormwater discharge related activities would have an effect on a property that is listed or eligible for listing on the National Register of Historic Places;
  - 7.8.2 Where effects may occur, any written agreements that the permittee has made with the State Historic Preservation Office to mitigate those effects;
  - 7.8.3 Results of historic places screening determinations;
  - 7.8.4 A description of measures necessary to avoid or minimize adverse impacts on places listed, or eligible for listing, on the National Register of Historic Places; and
  - 7.8.5 As a minimum, information regarding the location of places listed or eligible for listing, on the National Register of Historic Places should be obtained by consulting with the appropriate State Historic Preservation Office.
- 7.9 SWPPP Certification – The plan will be signed and dated by the GM/AGM and preceded with the following certification language or appropriate certification language specified by the facility's permit or state agency.
- “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 gathered and evaluated 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 am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”
- 7.10 SWPPP Modifications – The facility will modify the plan whenever necessary to address corrective actions and to ensure that they do not reoccur, or to reflect changes implemented at the facility. Changes to the SWPPP document will be made in accordance with the corrective action deadlines and managed per [EP-111 Corrective and Preventive Actions](#).
- 7.11 SWPPP Availability – The facility will retain a copy of the current SWPPP required by this procedure at the facility, and it will be immediately available to EPA; a State, Tribal, or local agency approving stormwater management plans; the operator of an MS4



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receiving discharges from the site; and representatives of the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) at the time of an onsite inspection or upon request.

## 8.0 Frequency

- 8.1 Routine Inspections – Quarterly
- 8.2 Quarterly Visual Assessment – Quarterly
- 8.3 Comprehensive Site Evaluation – Annually
- 8.4 Annual SWPPP Review – Annually

## 9.0 Records

- 9.1 Records will be maintained according to [Records Retention \(EP-114\)](#).
- 9.2 Records Requirements – The facility is required to keep the following inspection, monitoring, and certification records up-to-date and filed together to demonstrate full compliance with the conditions of this procedure:
  - 9.2.1 A copy of the Notice Of Intent (NOI) or permit application submitted to appropriate regulatory agency along with any correspondence exchanged between the facility and the regulatory agency specific to coverage under the facility's permit;
  - 9.2.2 A copy of the facility's permit;
  - 9.2.3 Descriptions and dates of any incidences of significant spills, leaks, or other releases that resulted in discharges of pollutants to waters of the U.S., through stormwater or otherwise; the circumstances leading to the release and actions taken in response to the release; and measures taken to prevent the recurrence of such releases;
  - 9.2.4 Records of employee training, including date training received;
  - 9.2.5 Documentation of maintenance and repairs of control measures, including the date(s) of regular maintenance, date(s) of discovery of areas in need of repair/replacement, and for repairs, date(s) that the control measure(s) returned to full function, and the justification for any extended maintenance/repair schedules;
  - 9.2.6 All inspection reports, including the Routine Facility Inspection Reports, the Quarterly Visual Assessment Reports, and the Comprehensive Site Inspection Reports;
  - 9.2.7 Description of any deviations from the schedule for visual assessments and/or monitoring, and the reason for the deviations (e.g., adverse weather or it was impracticable to collect samples within the first 30 minutes of a measurable storm event);
  - 9.2.8 Description of any corrective action taken at the site, including triggering event and dates when problems were discovered and modifications occurred;
  - 9.2.9 Documentation of any benchmark or permit limit exceedances and how they were responded to, including either (1) corrective action taken, (2) a finding that



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the exceedance was due to natural background pollutant levels, or (3) a finding that no further pollutant reductions were technologically available and economically practicable and achievable in light of best industry practice;

- 9.2.10 Documentation to support any determination that pollutants of concern are not expected to be present above natural background levels if the facility discharges directly to impaired waters, and that such pollutants were not detected in the discharge or were solely attributable to natural background sources; and
- 9.2.11 Documentation to support the claim that the facility has changed its status from active to inactive and unstaffed with respect to the requirements to conduct routine facility inspections, quarterly visual assessments, and/or required monitoring.

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### Appendix 3: CAA Compliance Measures at Clow Water Systems, Coshocton, Ohio

#### I. Definitions

- “Clow Facility” shall mean the iron foundry that is owned and operated by McWane and is located at 2266 South Sixth Street in Coshocton, Ohio.
- “CPMS” shall mean continuous parameter monitoring system.
- “Cupola Scrubber System” shall mean the air pollution control equipment consisting of at least the venturi scrubber, ring jet scrubber, packed bed and demister.
- “Off blast” shall mean those periods of cupola operation when the cupola is not actively being used to produce molten metal. Off blast conditions include cupola startup when air is introduced to the cupola to preheat the sand bed and other cupola startup procedures as defined in the startup, shutdown, and malfunction plan. Off blast conditions also include idling conditions when the blast air is turned off or down to the point that the cupola does not produce additional molten metal.
- “On Blast” shall mean those periods of cupola operation when combustion (blast) air is introduced to the cupola furnace and the furnace is capable of producing molten metal. On Blast conditions are characterized by both blast air introduction and molten metal production.
- “Malfunction” shall mean any sudden, infrequent failure of air pollution control and monitoring equipment, process equipment, or a process to operate in a normal or usual manner which causes, or has the potential to cause, the emission limitations in an applicable standard to be exceeded. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.
- “Startup” shall mean the setting in operation of the cupola for any purpose.

- “Shutdown” shall mean the cessation of operation of the cupola for any purpose.
- “Stack Test” shall mean an emissions test of the Cupola Scrubber System performed in accordance with 40 C.F.R. Part 60, Appendix A, Method 5, under normal process operating conditions producing the highest particulate matter emissions to the Cupola Scrubber System.

## II. Cupola Scrubber System and Emission Limit

1. Clow shall capture all particulate emissions from the cupola and duct such emissions to the Cupola Scrubber System, which must be designed to meet accepted engineering standards, (such as those published by the American Conference of Governmental Industrial Hygienists), and to ensure that emissions from the cupola are conveyed under negative pressure through the two wet scrubbers. Any leaks in the system shall be directed inwards and exhausted through the emission control system. Particulate emissions, as measured at the outlet from the Cupola Scrubber System, shall not exceed 0.078 pounds of particulate matter per ton of molten metal produced (“Emission Limit”).

## III. Initial Stack Test at Cupola Scrubber System

2. Within sixty (60) days of the Effective Date of this Consent Decree, Clow shall conduct a stack test (“Stack Test” or “Test”) of the Cupola Scrubber System to demonstrate compliance with the Emission Limit.

3. At least thirty (30) days prior to the proposed Stack Test date, Clow shall submit for approval to EPA Region 5 an “Intent to Test” notice (“Notice”), pursuant to Section XIV (Notices) of the Consent Decree, and shall also provide simultaneous notice to Kimbra Reinbold, Division of Air Pollution Control, Southeast District Office, Ohio Environmental Protection Agency, 2195 Front Street, Logan, Ohio 43138. The Notice shall describe in detail the proposed

test methods and procedures, the source operating parameters, the time and date of the Test, and include the name and qualifications of the person conducting the Stack Test. If EPA within thirty (30) days of the submission of the Notice does not respond to the Notice in writing pursuant to Paragraphs 15 to 19 of the Consent Decree, then the proposed Stack Test shall be deemed approved. Clow shall provide EPA and Ohio EPA with an opportunity to observe the Stack Test pursuant to Section XI (Access and Information Retention) of the Consent Decree.

4. Within thirty (30) days after the completion of the Stack Test, Clow shall submit a complete report of the Stack Test to EPA, Region 5, and to the Ohio EPA official identified above. The report shall describe all steps taken to comply with the Notice, the conditions under which the Stack Test was carried out, and all results of performance testing. In the report, Clow shall include the water flow rates and water pump pressures at which it operated the Cupola Scrubber System during the Test.

5. If the Stack Test demonstrates Clow's compliance with the Emission Limit set forth in Appendix 3 Section II(1), above, then the operating parameters governing pressure drop and water flow rates that were used during the Stack Test shall become operating requirements for Clow until the following Stack Test. If the Stack Test fails to demonstrate compliance with the Emission Limit set forth in Section II(1), above, Clow shall determine and correct the cause of the failure and re-test in accordance with the procedures and requirements set forth in Sections II(2) through (4), above. Stipulated penalties shall accrue as provided in Section VIII of the Consent Decree (Stipulated Penalties) for any failed stack test.

#### IV. Subsequent Stack Tests at Cupola Scrubber System

6. Clow shall conduct a second Stack Test in accordance with the procedures and requirements set forth in Section II, above, no later than 182 days and no earlier than 120 days

following completion of the initial Stack Test, pursuant to Section II, above.

7. For the following four (4) years after the second stack test, Clow shall conduct annual Stack Tests in accordance with the procedures and requirements set forth in Section II, above. Clow shall perform each annual Stack Test between 270 and 365 days following the prior Test.

#### V. Monitoring Requirements

8. Clow shall monitor the combined 3-hour average total Pressure Drop across the Cupola Scrubber System and the scrubber water flow rate using continuous parameter monitoring systems (CPMS) according to the requirements below.

a. Pressure Drop. Clow shall install and maintain CPMS to continuously measure and record the Pressure Drop, as follows: For each CPMS, Clow shall: (i) locate the pressure sensor in or as close as possible to a position that provides a representative measurement of the pressure drop and that minimizes or eliminates pulsating pressure, vibration, and internal and external corrosion; (ii) use a gauge with a minimum measurement sensitivity of 0.5 inch of water or a transducer with a minimum measurement sensitivity of 1 percent of the pressure range; (iii) check the pressure tap for pluggage daily; (iv) using a manometer, check gauge calibration quarterly and transducer calibration monthly; (v) conduct calibration checks any time the sensor exceeds the manufacturer's specified maximum operating pressure range, or install a new pressure sensor; and (vi) at least monthly, inspect all components for integrity, all electrical connections for continuity, and all mechanical connections for leakage.

b. Water Flow Meter. Clow shall install two (2) water flow meters to measure 1) the water flow rate to the venturi scrubber and 2) the water flow rate to the ring jet scrubber. For each water flow meter, Clow shall: (i) locate the flow sensor and other necessary equipment in a position that provides a representative flow and that reduces swirling flow or abnormal velocity

distributions due to upstream and downstream disturbances; (ii) use a flow sensor with a minimum measurement sensitivity of 2 percent of the flow rate; (iii) conduct a flow sensor calibration check at least semiannually according to the manufacturer's instructions; and (iv) at least monthly, inspect all components for integrity, all electrical connections for continuity, and all mechanical connections for leakage. Clow shall continuously monitor and document water flow rates to the scrubbers, including during the Initial and subsequent Stack Tests. Clow also shall install pressure gauges on the two pumps supplying water to the two wet scrubbers, and shall monitor the pump pressures on the two pumps serving the two scrubbers during the initial and subsequent Stack Tests. In the event that any of the water flow meters installed on the two wet scrubbers fails, Clow shall monitor water pressure on the pump that is supplying water to that wet scrubber using EPA-approved procedures for calibrating water pressure monitors, for a period not to exceed thirty (30) days while the water flow meter is repaired or replaced. During this period, Clow shall operate the scrubber such that the three-hour average pump pressure does not fall outside of the levels established during the initial or subsequent successful stack tests. Pump pressure during (1) the first 15 minutes of start up at the beginning of the operating day, (2) the last 30 minutes during cupola "melt out" at the end of the operating day, and (3) periods when the cupola is off blast and for 15 minutes after going on blast from an off blast condition, will not be included in the three-hour average.

c. PMMAP. Clow shall perform (1) qualitative checks for fugitive emissions from the cupola and associated Cupola Scrubber System and (2) system maintenance per Work Instructions and procedures described in facility's Preventive Maintenance, Malfunction and Abatement Plan.

## VI. Operating Parameters

9. Pressure Drop. Clow shall operate the Cupola Scrubber System in a manner to insure that the 3-hour average total pressure drop across the entire System does not fall below the minimum levels established during the initial or subsequent successful Stack Tests, with a combined bottom limit for the control system of 48 inches of water column. Pressure drop during (1) the first 15 minutes of start up at the beginning of the operating day, (2) the last 30 minutes during cupola melt out at the end of the operating day, and (3) periods when the cupola is Off Blast and for 15 minutes after going On Blast from an Off Blast condition, will not be included in the three-hour average. During periods of startup, shutdown and malfunction of the cupola, Clow shall operate the wet scrubbers off the cupola so that the average total pressure drop across the Cupola Scrubber System does not fall below a combined bottom limit for the control system of 48 inches of water column.

10. Water Flow. Clow shall maintain average water flow to the venturi and ring jet scrubbers over a three hour period at the level established during the initial or subsequent Stack Tests demonstrating compliance with the Emission Limit specified in Section II(1). In the event that any of the water flow meters installed on the two wet scrubbers fail, Clow shall operate that scrubber such that the three-hour average pump pressure does not fall outside the levels established during the initial or subsequent successful Stack Test. Pump pressure during (1) the first 15 minutes of start up at the beginning of the operating day, (2) the last 30 minutes during cupola "melt out" at the end of the operating day, and (3) periods when the cupola is off blast and for 15 minutes after going on blast from an off blast condition, will not be included in the three-hour average.

11. At all times, including periods of startup, shutdown, and malfunction, Clow shall

operate and maintain the cupola, including the associated Cupola Scrubber System and all associated monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions.

VII. Permit Requirements for Clow Water Systems, Coshocton, Ohio

12. Within 120 Days of the Effective Date of the Consent Decree, Clow shall submit administratively complete applications to the applicable federal, state, or local agency to incorporate the emission limits, testing requirements, monitoring requirements, and operating standards required by this Consent Decree into federally-enforceable minor or major new source review permits or other permits that will ensure that the underlying emission limits and standards survive the termination of this Consent Decree under Section XVIII. Following submission of the complete permit applications, Clow shall cooperate with the applicable federal, state, or local agency by promptly submitting to the applicable agency all available information that the applicable agency seeks following its receipt of the permit materials. Promptly upon issuance of such permits or in conjunction with such permitting, Clow shall file any applications necessary to incorporate the requirements of those permits into any Title V Permit that may be required to operate the Clow Facility.

13. Clow shall submit a copy of any application for any air permit or air permit amendment required by this Consent Decree (or any related correspondence) to EPA, Region 5, (to the addresses provided in Section XIV (Notices)) at the same time that the application or correspondence is submitted to Ohio EPA. Within 15 Days of receipt of any draft or final air permit, Clow shall provide a copy of the same to EPA, Region 5 (to the addresses provided in Section XIV (Notices)).

14. Clow shall submit a copy of this Consent Decree to Ohio EPA with any applications

for permits or permit amendments.



McWane, Inc.  
Environmental Procedure  
NOTIFICATION OF SIGNIFICANT  
MATTERS

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## 1.0 Purpose/Scope

This procedure defines the responsibilities and process for internal reporting of significant matters arising from incidents at the facility. External reporting to governmental or emergency response agencies that may be required in certain instances is addressed elsewhere (see [EP-001 Incident Response and Reporting](#)) and is not covered by this procedure.

## 2.0 Activities Affected

All areas and departments.

## 3.0 Forms Used

[EP-105-01 Significant Matters Immediate Reporting Form](#)

[EP-111-01 Corrective and Preventive Action Request \(CAR\)](#)

## 4.0 Related Procedures/Topics

[EP-001 Incident Response and Reporting](#)

[EP-101 General Implementation Guidelines](#)

[EP-106 Communication](#)

[EP-113 Emergency Preparedness and Response](#)

## 5.0 Definitions

**5.1 Significant Matter** – An incident resulting in serious injury to employee(s), contractor(s), or visitor(s), serious damage to the environment, equipment or facilities, or severe economic damage or potential penalty. See the attached Significant Matters Reporting Matrix for the types of incidents that are considered to be significant matters.

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**5.2 Reportable Quantity (RQ)** – A threshold quantity of release of a hazardous substance defined by regulations which, if exceeded in a release, must be reported to certain governmental agencies.

**6.0 Exclusions**

None

**7.0 Procedure**

**7.1** This procedure addresses internal reporting of significant matters and does not cover external reporting to governmental agencies, or incident response. For procedures on responding, reporting, and investigating incidents see the Facility's Environmental Response Plans (e.g., spill prevention, control, and countermeasure [SPCC], storm water pollution prevention plan [SWPPP]), [Incident Response and Reporting \(EP-001\)](#) and [Incident Investigation and Analysis \(EP-002\)](#).

**7.2** Any employee(s) who becomes aware of any significant matter at the facility will notify his/her immediate supervisor of the circumstances. The supervisor will notify the senior-most person present at the facility at that time who will be responsible for notifying the individuals identified in the attached Significant Matters Reporting Matrix within the specified timeframe.

**7.3** The person making the notification will be responsible for using the appropriate methods of notification (e.g. face-to-face, telephone, e-mail and/or opsEnvironmental Incident Module) depending on the nature and seriousness of the significant matter. Regardless of the method of communication, the person making the notification will ensure that the persons being notified have received the notification.

**7.4** The following information will be reported in the initial notification:

- Time and specific location of incident (required)
- Names of all involved parties (including witnesses) and their association with the plant (employee, visitor, contractor, etc.) (required)

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- Incident description including extent of injury and/or property damage (required)
- Immediate corrective actions (if applicable)
- Proposed follow-up activities (if applicable)

#### 8.0 Frequency

See Significant Matters Reporting Matrix for specified timeframes for reporting.

#### 9.0 Records

Records shall be retained consistent with [Records Retention \(EP-114\)](#).

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**SIGNIFICANT MATTERS REPORTING MATRIX – ENVIRONMENTAL**

<b>Significant Matter</b>	<b>Emergency Response Line Activation</b>	<b>Division EVP</b>	<b>Group Environmental Compliance Director</b>	<b>VP EHS</b>	<b>Corporate Environmental Manager</b>	<b>Corporate PR</b>	<b>Corporate Counsel</b>	<b>McWane President</b>
Any catastrophic release of a hazardous material from the facility		Immediate	Immediate	Immediate	Immediate	Immediate	Immediate	Immediate
Any environmental accident or incident (spill, fire, release, etc.) that does or could result in emergency evacuation of employees or surrounding neighborhood.		Immediate	Immediate	Immediate	Immediate	Immediate	Immediate	Immediate
Any environmental accident or incident (spill, fire, release, etc.) that involve the use of emergency services (police, fire, ambulance) and/or is likely to attract media attention.		Immediate	Immediate	Immediate	Immediate	Immediate	Immediate	
Releases of a reportable quantity of any chemical.		√	√	√	√	√		
Any Federal or State EPA inspection		√	√	√	√			
Receipt of any Federal or State EPA Notice of Violation or complaint.		√	√	√	√		√	
On-going deviation from any environmental permit condition and/or regulatory requirement.		√	√	√	√			
Any non routine request for information from Federal or State EPA.		√	√	√	√		√	

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**SIGNIFICANT MATTERS REPORTING MATRIX – ENVIRONMENTAL cont'd**

Receipt of any subpoena or notice of legal action against the facility or company regarding EHS.		24 hours	Immediate	24 hours				
Any legal settlement, consent order, administrative order related to EHS.		√	√	√	√	√	√	
Major property damage or loss greater than \$50,000*			√	√	√	√		
Any condition that interferes with normal operation due to EHS considerations.		√	√	√	√	√		

Unless specified, reporting for items marked with "√" should be done as soon as reasonably possible without disrupting any ongoing investigations, corrective actions, etc.

\*Any property damage or loss greater than \$50,000 must also be reported to the McWane Vice President-Treasurer (Glenda Burson) within 24 hours.

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## APPENDIX 5

### SUPPLEMENTAL ENVIRONMENTAL PROJECTS

#### **I. General Requirements**

1. McWane shall implement Supplemental Environmental Projects (“SEPs”) at its various Facilities as required by Section VI of the Consent Decree and as described in Section II, infra.
2. Each SEP described in Section II, infra, includes a schedule for development and implementation. Each SEP shall proceed independently, according to the planned schedule.
  - a. For performance measures or schedule milestones that require a project design as demonstration of performance, McWane shall provide EPA by the due date a summary of each design.
  - b. For performance measures that require a source test of equipment or control technology, McWane shall perform such performance measures in accordance with the requirements of 40 C.F.R. §§ 60.8. McWane shall submit to EPA, within 90 days of completion of each test, the results of such tests.
3. McWane shall submit to EPA for approval any changes that McWane may wish to make to an approved SEP in light of information obtained during the development or implementation of a SEP.
4. Failure to meet any final deadline for implementation or construction of a SEP, or to submit the Final SEP Report or any quarterly report required by Sections VI and VII of the Consent Decree shall be deemed a violation of this Consent Decree, and McWane shall become liable for stipulated penalties pursuant to Section VIII of the Consent Decree. Failure to meet an interim milestone in SEP implementation shall not be subject to stipulated penalties provided that McWane meets the final SEP implementation deadline, but any failure to meet interim milestones shall be explained thoroughly in McWane’s quarterly reports as required by Section VII of the Consent Decree.
5. Except as set forth in this Paragraph, McWane shall continuously use or operate the systems installed as SEPs for not less than five (5) year(s) subsequent to installation. With respect to SEPs installed at McWane Facilities, nothing in this Consent Decree shall prevent McWane from closing a Facility at which a SEP has been installed if market conditions require the cessation of production at that Facility, provided that:
  - a. If production at the Facility is not resumed within one (1) year of the Facility's closure, EPA reserves the right to determine that the SEP has been abandoned.
  - b. If production at the Facility is resumed, then operation of the SEP at such Facility shall also resume for so long as is necessary to bring the total time of operation to a minimum of five (5) years; and

- c. If McWane subsequently closes the Facility again within the five (5) year SEP operation period, the SEP shall be deemed abandoned.
6. The requirements of this Attachment are not subject to the dispute resolution procedures set forth in Section XVI (Dispute Resolution) of the Consent Decree, except for any determination by EPA pursuant to Paragraph 27 of the Consent Decree that McWane has failed to satisfactorily complete a SEP.
7. EPA acceptance of the SEPs specified in this Section shall not be construed to constitute EPA approval of the equipment or technology instituted by McWane in implementing the SEPs unless that equipment is specifically described in the SEP description.
8. Each SEP must be implemented in conformance with all applicable federal, state, and local laws.

## **II. Description of Supplemental Environmental Projects**

McWane shall undertake the following Supplemental Environmental Projects, which the Parties agree are intended to secure significant environmental or public health protection and improvements.

### **A. Greenwood Storm Water Management Area:**

#### **1. Project Summary**

McWane will rehabilitate approximately 34 acres of previously residential land, located in the flood zone in North Birmingham, Alabama. The current state of the property includes paved and unpaved roads and some areas of hard pan that are subject to storm water "sheeting" and run-off. In addition, the site conveys storm water from an approximately 135-acre watershed north of the site in a largely industrial area of North Birmingham. The storm water currently flows directly from this watershed to Village Creek and as there are few existing storm water controls, the storm water contains sediment and other pollutants that are discharged directly to the creek.

#### **2. Project Detail**

McWane shall rehabilitate and restore the area to a beneficial and expansive green space that shall include a storm water treatment system that has been designed to collect storm water during normal rainfall events as it drains across the site into two bio-retention cells located on the northeastern corner of the property. Storm water collected in these bio-retention cells will filter through a designed mixture of sand, grass, and soil into a series of perforated underground pipes that will route the filtered water to two wet wells. The storm water will then be pumped into one of two approximately 20-foot wide bio-swales lined with native shrubs and grasses through which the water will be allowed to trickle on its way to Village Creek. Together, the bio-retention cells and bio-swales will reduce contamination of Village Creek. McWane shall install educational message boards that will provide residents with information concerning the

benefits of storm water control and conservation of green space in urban areas.

McWane shall also provide fields for active recreation such as soccer and basketball. The area proposed for the athletic fields is currently in relatively the same condition as the rest of the site, with paved roads and some areas of hard pan. McWane shall carefully locate recreational fields within the park such that they help shape the flow of storm water run-off to the bio-retention cells and bio-swales. McWane shall regrade and revegetate this area so that it does not impair the environmentally beneficial purposes of the project.

McWane intends to independently provide amenities such as playground equipment, a basketball court, and soccer goals and other equipment related to the mixed use recreational field. While the costs associated with these recreational amenities (other than the field itself) are not included in the SEP, McWane shall carefully locate the playground and the basketball courts within the park such to ensure that they do not impair the environmentally beneficial purposes of the project. Likewise, if McWane regrades or revegetates this area, it will do so in a way that does not impair the environmentally beneficial purposes of the project.

McWane shall, wherever feasible, utilize Best Management Practices (BMP) and recommended sustainable development practices in rehabilitating this site.

The conceptual design for this project was described in design materials provided to EPA on September 24, 2009. No later than 30 days after entry of the Consent Decree, McWane will submit to EPA for its approval a design consistent with the above criteria and the conceptual design.

### 3. Project Timeline

McWane shall complete the Greenwood Storm Water Management Area SEP no later than August 30, 2012, according to the following schedule:

Activity Description	Completion Date
Final Plat/Rights-of-Way Vacation Process	1/15/10
Obtain NPDES Construction Stormwater, Soil Erosion and Sediment Control, Civil Construction, and Flood Hazard Area Development Permits	1/15/10
Final Property Acquisition by the City	6/30/10
Final Permitting by the City and Start of Construction	10/30/10
Contractor Mobilization, Site Clearing, Installation of Temporary Erosion Control and Tree Save Provisions	12/30/10
Dry Retention Cells, Bioswales, Flood Control Gates	4/30/11

Multi-Purpose Athletic Field	4/30/11
Relocation of 16 <sup>th</sup> Avenue	7/30/11
Playground and Basketball Courts	10/30/11
Parking Lot and Pedestrian Walking Trail Including Steel Bridge Over Bioswale	1/30/12
Picnic Pavilion, Restrooms, and Substantial Completion	4/30/12
Punch List Items, Correction of Deficiencies, and Final Completion	8/30/12

The parties acknowledge that McWane has no control over the speed with which the City of Birmingham is able to acquire the final piece of property at the site. Should that event occur later than the estimated date of June 30, 2010, by July 10, 2010, McWane shall notify the United States of that fact in accordance with the Notices Section of the CD (Section XIV) and each additional day of delay in the achievement of this interim milestone shall add a day to the final completion deadline. If the City is unable to acquire the final piece of property by June 30, 2011, McWane by September 30, 2011 shall submit to EPA for approval a revised design for the project that does not include that piece of property. If the estimated cost of any revised design is less than the project cost set forth in Paragraph 4, below, then the difference between the original design cost and the revised design cost shall be allocated to an alternate SEP pursuant to Paragraph 23 of the Consent Decree.

#### 4. Project Costs

McWane shall spend \$3,353,800 for the non-recreational costs of this project which constitute the project's SEP costs.

#### 5. Project Completion Criteria

This project will be deemed to be complete for the purposes of Paragraph 24 of the Consent Decree if McWane constructs a project consistent with the design approved by EPA as described in Section 2.

### **B. Mercury Emissions Reduction Projects:**

McWane shall implement and test mercury emissions reduction projects at its Pacific States Cast Iron Pipe facility in Provo, Utah (Pacific States) and the North Plant of the Tyler Pipe Company facility in Tyler, Texas (Tyler Pipe). The mercury control systems to be installed on the cupola furnaces at these facilities will be modeled on the components of the system McWane has previously installed at its Atlantic States Cast Iron Pipe Facility in Phillipsburg, New Jersey.

That system includes two major components: (1) an Activated Carbon Injection (ACI) system and (2) a Reaction Chamber prior to the entrance to the baghouse.

#### 1. Pacific States

McWane will initially design and order a full scale ACI system to be installed in the ductwork leading up to the preexisting Pacific States cupola baghouse. After design, McWane will select a vendor for the ACI based on quotes received from reputable vendors. The ACI will be ordered from the selected vendor, which will specially manufacture for, and deliver to, McWane the ACI. McWane will then install the ACI and a Ducon Mercury Stack Monitor SM-3 or equivalent direct reading mercury monitor.

Following installation of the ACI system, McWane will begin a series of tests to determine the optimal operating parameters which maximize mercury reduction. The parameters which may be adjusted during this initial testing phase include the activated carbon injection rate and the temperature of the cupola exhaust gas. Following completion of this “parameter testing,” McWane will conduct stack tests to evaluate the effectiveness of mercury reduction.

These stack tests will be performed using EPA Reference Method 29. The first stack test will be conducted with the ACI system not operating, in order to identify a baseline for mercury emissions without the ACI. Next, McWane will perform a stack test with the ACI operating. The test will be deemed successful if the mercury reductions meet the current New Jersey mercury standards for iron and steel foundries (found at New Jersey Regulations 7:27-27.6(a) (September 5, 2006) and attached hereto). If necessary, McWane will perform up to two subsequent stack tests under different operating conditions (i.e. carbon injection rate and exhaust gas temperature), as described above.

If the stack test is successful, then the Reaction Chamber will not be installed and the Tyler Pipe portion of the SEP will commence. If none of these stack tests are successful, McWane will order a full scale Reaction Chamber to be installed in conjunction with the ACI. McWane intends to order the Reaction Chamber from Kuttner LLC, which will design, manufacture, deliver, and install the Reaction Chamber in conjunction with the ACI (referred to together as the “Full Mercury Reduction System”).

Following installation of the Reaction Chamber system, McWane will again run a series of tests using the direct reading mercury monitor to determine the optimal operating parameters which maximize mercury reduction. The parameters which may be adjusted during this testing phase are the same as described above regarding the ACI plus additional variables associated with the Reaction Chamber such as the dust recycle rate. Following completion of this “parameter testing,” McWane will conduct a stack test to measure the mercury emissions using EPA Reference Method 29 with the Full Mercury Reduction System activated. The test will be deemed successful if the mercury reductions meet the current New Jersey mercury standards for iron and steel foundries (found at New Jersey Regulations 7:27-27.6(a) (September 5, 2006) and attached hereto). If necessary, McWane will perform up to two subsequent tests under different

operating conditions (including carbon injection rate, exhaust gas temperature, dust recycle rate to the reaction chamber).

## 2. Tyler Pipe

If the ACI alone was unsuccessful at Pacific States, McWane shall provide EPA with stack test data and any other information necessary for EPA to determine whether an ACI alone should be installed at Tyler Pipe, as a reaction chamber is not technically feasible at this Facility. If EPA decides that an ACI should not be installed at Tyler Pipe, then no equipment will be installed at Tyler Pipe, the SEP will be deemed concluded, and the remaining funds estimated for this SEP (in Paragraph 22(a) of the Consent Decree) shall be applied in accordance with Paragraph 23 of the Consent Decree. If the ACI alone is successful at Pacific States, or if EPA determines that the ACI should nonetheless proceed, mercury control and testing will be undertaken at Tyler Pipe. The mercury control SEP procedures and testing at Tyler Pipe will follow those of the ACI system phase of the project at Pacific States.

McWane will initially design and order a full scale ACI system to be installed in the ductwork leading up to the preexisting Tyler Pipe cupola baghouse. After design, McWane will select a vendor for the ACI based on quotes received from reputable vendors. The ACI will be ordered from the selected vendor, which will specially manufacture for, and deliver to, McWane the ACI. McWane will then install the ACI and a Ducon Mercury Stack Monitor SM-3 or equivalent direct reading mercury monitor.

Following installation of the ACI system, McWane will begin a series of tests to determine the optimal operating parameters which maximize mercury reduction. The parameters which may be adjusted during this initial testing phase include the activated carbon injection rate and the temperature of the cupola exhaust gas. Following completion of this "parameter testing," McWane will conduct stack tests to evaluate the effectiveness of mercury reduction.

These stack tests will be performed using EPA Reference Method 29. The first stack test will be conducted with the ACI system not operating, in order to identify a baseline for mercury emissions without the ACI. Next, McWane will perform a stack test with the ACI operating. The test will be deemed successful if the mercury reductions meet the current New Jersey mercury standards for iron and steel foundries (found at New Jersey Regulations 7:27-27.6(a) (September 5, 2006) and attached hereto). If necessary, McWane will perform up to two subsequent stack tests under different operating conditions (i.e. carbon injection rate and exhaust gas temperature), as described above.

If none of these stack tests are successful, the SEP will be deemed concluded and any remaining monies to be expended pursuant to Paragraph 22(a) of the Consent Decree will be reallocated pursuant to Paragraph 23 of the Consent Decree.

### 3. Completion Criteria

This SEP will be determined to be complete for the purposes of Paragraph 24 if McWane undertakes the testing and installation protocols described in Sections 1 and 2 above.

### 4. Timeline

McWane shall complete installation of the mercury control equipment no later than 110 weeks after entry of the Consent Decree, in accordance with the following timetable:

<b>Activity</b>	<b>Duration (Weeks)</b>	<b>Activity</b>	<b>Duration (Weeks)</b>
<b><i>Pacific States - ACI</i></b>		<b><i>Tyler Pipe - ACI</i></b>	
Planning/Preparation	4	Planning/Preparation	12
Design/Specs	8	Design/Specs	2
Bidding	4	Bidding	2
Order	4	Order	2
Procurement	12	Procurement	12
Construction	4	Construction	4
<i>ACI Install Subtotal</i>	36	<i>ACI Install Subtotal</i>	34
Testing		Testing	
Mercury Monitor Tests	4	Mercury Monitor Tests	4
Method 29 Stack Test #1	8	Method 29 Stack Test #1	8
Method 20 Stack Tests #2 and #3	10	Method 20 Stack Tests #2 and #3	6
<i>ACI Testing Subtotal</i>	22	<i>ACI Testing Subtotal</i>	18
<b><i>Total ACI</i></b>	<b>58</b>	<b><i>Total ACI</i></b>	<b>52</b>
<b><i>Pacific States - Reaction Chamber</i></b>			
Design/Specs	8		
Procurement	12		
Construction	4		
Debugging	4		
<i>Reaction Chamber Install Subtotal</i>	28		
Testing			
Mercury Monitor Tests	2		
Method 29 Stack Test #1	8		

<i>Reaction Chamber Testing Subtotal</i>	10		
<b>Total Reaction Chamber</b>	<b>38</b>		
<b>Total Pacific States</b>	<b>96</b>	<b>Total Tyler Pipe</b>	<b>52</b>

Thus, the fastest and slowest possible completion of this SEP is as follows:

	<b>Weeks</b>	<b>Years</b>
Fastest – Full system at Pacific States	96	1.8
Slowest - ACI at MCIP and ACI at PSCIP	110	2.1

#### 5. Additional SEP Elements

McWane will operate any successfully installed technology for 5 years following installation, so long as the facility remains in operation. During that time, no testing of the operation will be necessary unless otherwise required by state or Federal law.

#### 6. SEP Costs

Installation of the ACI at Pacific States will cost an estimated \$450,000; the Reaction Chamber will cost an additional \$450,000. At Tyler Pipe, the ACI will cost an estimated \$400,000. Operation and maintenance costs for the equipment will depend heavily on the amount of activated carbon needed, the quantity of which will only become evident following the completion of the tests described in Sections 1 and 2 above. However, based on experience with a similar system at McWane’s Atlantic States Cast Iron Pipe facility, it is estimated that approximately 12 to 18 pounds per hour of activated carbon will be needed to operate the Pacific States and Tyler Pipe mercury reduction equipment. At current rates of 85 cents per pound delivered, each unit will cost approximately \$10.50/hour to \$15.75/hour to operate, plus the electricity costs for the ACI blower, which are estimated at \$0.50 per hour. At one shift operation (2080 hours), these operation and maintenance (O&M) costs translate to \$22,880 to \$33,800 per year. Testing costs will vary according to the extent of testing required as described in Sections 1 and 2 above. McWane shall expend no less than \$600,000 and not more than \$1,500,000 to install, test and operate the mercury reduction equipment. For purposes of Paragraph 23 of the Consent Decree, which provides that unspent SEP costs be rolled over first to other Paragraph 21 SEP projects with costs in excess of their Paragraph 22 cost estimate and second to the Paragraph 23 SEPs, McWane shall roll over only the capital costs of the mercury projects, reserving the estimated O&M costs for expenditure during the O&M period.

## C. Water Quality and Habitat Improvement in the Chemung SubBasin

### 1. Project Summary

McWane will implement several stream rehabilitation projects near the headwaters of tributaries to the Chemung River. The Chemung SubBasin is the headwaters for the Chesapeake Bay.

### 2. Project Detail

McWane will implement \$90,250 worth of stream rehabilitation projects in the Chemung SubBasin near the headwaters of tributaries to the Chemung River. Working with the Upper Susquehanna River Coalition (USC), McWane has identified five projects fencing off certain riparian areas to eliminate biological loading along the streambank and to prevent those streams from being accessed by cows and other grazing animals. The projects would involve providing fencing on four sides to ensure that the cows are not able to access the streams at issue and providing the cows a substitute water source to replace the streams they are currently using. Preventing the cows from getting in and near the streams will significantly reduce the biological oxygen demand which is currently causing a reduction in habitat values in these streams. The selected projects are

- b. *Meads Creek / Schuyler County / Lewis Harrison Farm.* This project entails installing 7,500 linear feet of fencing, one groundwater well, 2,000 feet of pipeline, 4 frost-free waterers, and constructing a grade-level stream crossing.
- c. *Mud Creek / Steuben County / Ed Machuga Farm.* This project entails installing 14,500 feet of linear fencing and an additional 500 feet of pipeline from an existing groundwater well.
- d. *Lower Cohocton / Steuben County / Mollie Billings Farm.* This project entails installing 2,200 feet of linear fencing, a groundwater well, and 400 feet of pipeline.
- e. *Lower Cohocton / Steuben County / Dave Riley Farm.* This project entails installing 12,000 feet of linear fencing.

### 3. Project Timeline

Provided that an alternative source of watering livestock is reasonably available at each of the sites listed above, completion of each project will occur before the end of 2011. If an alternative water sources is not reasonably available, McWane will work with the Upper Susquehanna Coalition to identify a similar substitute project (or projects) at a different location in the Chemung Sub-Basin

### 4. Project Costs

McWane will spend \$90,250 for these projects, which includes materials, labor and project oversight costs.

a. *Meads Creek / Schuyler County / Lewis Harrison Farm:*

Fence	\$11,250
Well	\$ 4,000
Pipeline	\$ 8,000
Frost-Free Waterers	\$ 8,000
<u>Stream Crossing</u>	<u>\$ 4,000</u>
<u>TOTAL:</u>	<u>\$35,250</u>

b. *Mud Creek / Steuben County / Ed Machuga Farm:*

Fence	\$14,000
Pipeline	\$ 1,000
<u>TOTAL:</u>	<u>\$15,000</u>

c. *Lower Cohocton / Steuben County / Mollie Billings Farm:*

Fence	\$10,800
Well	\$ 3,500
Pipeline	\$ 700
<u>TOTAL:</u>	<u>\$15,000</u>

e. *Lower Cohocton / Steuben County / Dave Riley Farm:*

Fence/TOTAL	<b>\$25,000</b>
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5. Project Completion Criteria

This project will be deemed to be complete for the purposes of Paragraph 25 when the fencing, stream crossings, pipeline, and alternative water supplies described in Section 2 have been installed.

**D. Volatile Organic Compound Elimination – Replacement of Wet Paint Booth with Powder Coating Process at Manchester Tank & Equipment, Bedford, Indiana**

1. Project Summary

McWane will replace the existing wet spray coating system on the Bedford, Indiana, Manchester Tank & Equipment (MTE) plant main line with a powder coating system.

## 2. Project Detail

The MTE plant produces tanks of various sizes, most of which are painted prior to sale. The plant's main line currently uses a wet spray coating and the plant has a permit allowing it to emit VOC emissions of 3.5 pounds per gallon of paint used. This means that the facility has a potential to emit 50 tons per year based on 2008 usage figures (52 tons per year based on 2007 figures). The facility is currently using a low-VOC paint, so it is not emitting up to this maximum (it emitted approximately 8.75 tons in 2008 and 8 tons in 2007), but it has the potential to revert to higher-emitting paint as customer demands change.

The Mainline Paint Booth SEP will involve the removal of the current wet painting operation on the facility's main line and the substitution of a powder coating operation. The powder coating operation will emit negligible amounts of VOCs and, after substitution of the painting equipment, McWane will not have the ability to use wet paint on the powder coating line. As a result, VOC emissions associated with this line will be eliminated. Additionally, Powder can be reclaimed/recycled, thereby reducing waste disposal. It has a higher transfer efficiency, reducing material use and waste disposal. It has a higher corrosion resistance, improving water quality.

The Bedford facility discharges its wastewater from the current wet paint operation to the local publicly-owned treatment works (POTW). The facility will continue to so discharge after installation of the powder coating process. McWane will assure, through implementation of an appropriate control method for controlling the level of phosphorus, that after the completion of the installation of the powder coating process, the phosphorus concentration measured at the City Sewer Discharge Point in the manhole located on the northeast side of the building (i.e. measured at the current sampling point used by the POTW) is less than or equal to 50 milligrams of phosphorus per liter of water

## 3. Project Timeline

McWane shall complete the project no later than 30 months following entry of the CD, according to the following schedule:

- 2 months following entry - Select vendor
- 5 months following entry - Equipment engineering, design and approval
- 7 months following entry - Submittal of Title V application and engineering/design building approval
- 8 months following entry - Order building
- 10 months following entry - Begin construction on building
- 14 months following entry - Complete building construction
- 16 months following entry - Obtain Title V approval and place order for equipment
- 19 months following entry - Equipment delivered
- 25 months following entry - Equipment installed
- 28 months following entry - Start Up

30 months following entry – Operation at 100% capacity

4. Project Costs

McWane estimates the project costs to be as follows

Equipment/Structure	Cost
Building 95' X 130'= 12,350 sq. ft..	\$ 700,000.00
Washer	\$ 650,000.00
Blow-Off System	\$ 140,625.00
Dry-Off Oven	\$ 140,000.00
Powder Environmental Room	\$ 90,000.00
IR Gel Oven/Convection Oven OR IR Cure Oven	\$ 673,750.00
Cool Down Tunnel	\$ 101,250.00
Conveyor and Structural Steel	\$ 509,375.00
Powder Booth with guns and movers	\$ 395,000.00
Phosphorus reduction system	\$ 100,000.00
<b>Total Cost</b>	<b>\$ 3,500,000.00</b>

5. Project Completion Criteria

This project will be deemed to be complete for the purposes of Paragraph 24 of the Consent Decree if McWane replaces the existing wet spray coating system at the Bedford, Indiana Manchester Tank & Equipment (MTE) plant's main line with a powder coating system, and operates it as described in Section I.5, above.

**E. Volatile Organic Compound Elimination – Installation of Large Valve Powder Coating System at M&H Valve, Anniston, Alabama**

1. Project Summary

McWane will add a powder coating system to eliminate 90% of the usage of its existing wet spray batch system for its large valve production at the M&H Valve plant in Anniston, Alabama.

2. Project Detail

The M&H Valve facility produces a variety of foundry products, many of which are painted prior to sale. The plant's large valve production area currently uses a wet spray batch coating system and the plant has a potential to emit 11.6 tons/year of VOC based on 5400 annual hours of operation. The facility has historically emitted approximately 5.1 tons per year of VOCs; recent production levels resulting from significant decreases in demand has reduced that

quantity to an estimated 2.1 tons for 2009, but the plant has the potential for much higher emissions from paint as customer demands increase.

The Large Valve SEP will involve the addition of a powder coating operation which will eliminate the need for over 90% of the current wet painting operation. The only wet painting that will be done after this system is installed will be special order colors from the customers and touch up coating. The new powder coating operation will emit negligible amounts of VOCs. Additionally, powder can be recycled within the system until used, thereby eliminating waste disposal. It has higher transfer efficiency, reducing material use and waste disposal. It has a higher corrosion resistance, improving water quality.

### 3. Project Timeline

McWane shall complete the project no later than 14 months following entry of the CD, according to the following schedule:

- 2 months following entry – Engineering, Design and Approval
- 6 months following entry - Order equipment
- 12 months following entry - Begin installation of system
- 13 months following entry - Complete installation
- 14 months following entry - Start Up/ debugging

### 4. Project Costs

McWane estimates the project costs to be as follows

Equipment/Structure	Cost
Spray Wash Booth	\$55,000
Batch Oven:	\$170,000
Conveyor System	\$55,000
Environmental Room	\$140,000
Powder Coat Spray Booth	\$150,000
Utilities	\$35,000
Hoist System	\$35,000
<b>Total</b>	<b>\$640,000</b>

For Purposes of Paragraph 22.a. of the Consent Decree, Mcwane shall expend \$620,000 on this project.

### 5. Project Completion Criteria

This project will be deemed to be complete for the purposes of Paragraph 24 of the Consent Decree if McWane replaces the wet spray batch system for its large valve production at the M&H Valve plant in Anniston, Alabama with a powder coating system and operates it as described in Section I.5, above.

## **F. Diesel Emissions Reduction Projects**

### **1. Project Summary**

McWane will retrofit a fleet, fleets, or portion thereof, of diesel buses, either school, intra-city, or inter-city buses in Ohio.

### **2. Project Detail**

McWane will spend a minimum of \$90,000 to retrofit a fleet, fleets, or portion thereof of diesel buses, either school, intra-city, or inter-city buses. McWane may utilize a third party to assist in the implementation of the SEP. The projects will occur in Ohio and will be suggested by McWane based on project applications previously submitted to EPA pursuant to one of several grant or funding programs under which interested parties can seek assistance in performing diesel bus retrofits. Historically, Region V has received deserving applications for a greater amount of funds than it is able to disburse. As a result, Region V regularly has information about one or more deserving projects that do not receive funding. The retrofit projects identified by McWane may come from applications such as these, or from other sources.

The project costs will be calculated using a methodology similar to that used by EPA in calculating the cost of other diesel retrofit applications and will include McWane's oversight costs. Following identification and cost estimation, McWane will submit to EPA a list of projects, for EPA approval.

Any projects approved by EPA pursuant to this SEP will

- a. be geographically located within Ohio
- b. utilize one of the technologies previously verified by EPA for diesel retrofits, as shown at <http://www.epa.gov/oms/retrofit/verified.html> (last visited September 19, 2009)
- c. result in the reduction of diesel particulate emissions

Once approved, McWane will ensure completion of the retrofits. Confirmation will be obtained from the fund recipients or the entities undertaking the retrofits, confirming that one or more of the verified technologies was installed on the selected fleet or fleets or portions thereof.

Should additional funds be provided for diesel emissions reductions projects as outlined in Paragraphs 23 of the Consent Decree, the process and criteria for selection of those projects will be repeated as outlined immediately above.

### **3. Project Timeline**

McWane will endeavor to identify the selected projects within 120 days of entry of the decree and will attempt to secure the completion of the projects within 365 days thereafter.

Thus, the “first” round of projects, totaling \$90,000, will be completed within 485 days of entry of the Consent Decree.

Should additional funds be provided for diesel emissions reductions projects as outlined in Paragraph 23 of the Consent Decree, the additional projects will proceed on the same timeline, but in relation to the selection of this project under those provisions. Thus, McWane shall complete any additional projects selected pursuant to Paragraphs 23 of the Consent Decree no later than 485 days following their selection.

At the time it certifies completion of the “first” round of projects under this SEP, McWane will also provide the following certification:

Defendant/Respondent certifies under penalty of law that it will have agreed to perform a comparably valued, alternative project other than a diesel emissions reduction Supplemental Environmental Project, if the Agency were precluded by law from accepting a diesel emissions reduction Supplemental Environmental Project.

Should a second round of diesel SEPs be performed pursuant to Paragraph 23, McWane will provide the same certification to EPA at that time.

4. Project Costs

McWane will spend \$90,000 for this project. If additional funds are appropriated to this project pursuant to Paragraph 23 of the Consent Decree, those funds will also be expended.

5. Project Completion Criteria

This project will be deemed to be complete for the purposes of Paragraph 25 if EPA-verified diesel reduction equipment is installed on the buses in the projects selected pursuant to Paragraph 2 above.

**G. Solid Waste Bunker Enclosure Project – Clow Water**

1. Project Summary

If this project is adopted, McWane will enclose its Solid Waste bunker at its Clow Water Systems Company plant (Clow Water)

2. Project Detail

The Clow Water facility maintains a solid waste bunker which receives the facility’s waste from throughout the plant. The bunker is approximately 83.5 feet by 152 feet, concrete lined and divided into 4 sections. Each section is bordered by a containment wall on three sides.

Cupola lime slag is quenched in Area 4 then moved to Area 2. Sand/cement waste and water based paint waste are mixed in Area 3 and moved to Area 1. Exempt materials such as shell core sand and lime slag are mixed together in Area 2 and shipped offsite for disposal. All other wastes are nonexempt and are mixed in Area 1 and shipped offsite for disposal. (Cupola slag and foundry sand are currently beneficially reused and are not currently handled in the solid waste bunker.) The proposed project will entail building an approximately 100 feet by 152 feet three sided enclosure and roof over the existing solid waste bunker. The bunker will be open on the front side for accessibility.

Given the nature of the material stored there, the bunker is the source of fugitive air emissions. Although these emissions are fully permitted, they will be further minimized through the construction of a partial enclosure.

3. Project Timeline

As this project will not be implemented unless there are excess unspent funds, as outlined in paragraphs 22 and 23 of the Consent Decree, the timelines for this project are in relation to the selection of this project under those provisions. Thus, McWane shall complete the project no later than 365 days following its selection, according to the following schedule:

Upon selection of this project, McWane will design an enclosure for its solid waste bunker at the facility. This should be completed in approximately 90 days. After design, McWane will select a vendor for the enclosure based on quotes received from reputable vendors. The materials will be ordered from the selected vendor, which will specially manufacture for, and deliver to, McWane the materials for the enclosure. McWane estimates that this will occur within approximately 180 days. McWane will then construct the enclosure.

4. Project Costs

McWane estimates the project costs to be as follows

Building	\$180,000
Erection	\$ 50,000
Design	\$ 15,000
Foundation	\$ 45,000
Floor	\$ 40,000
<u>Liner panels</u>	<u>\$ 10,000</u>
<b>Total</b>	<b>\$340,000</b>

5. Project Completion Criteria

The project will be deemed to be complete for the purposes of Paragraph 24 of the Consent Decree if McWane constructs a new bunker with three walls and roof as described in Section 2, above.

## H. Caldwell Conservation Project

### 1. Project Summary

This project will consist of construction of a nature reserve with an arboretum, two ponds, restoration of oak and hickory savanna

### 2. Project Detail

This project will consist of the construction of an approximately 60-acre nature reserve called the Caldwell Conservation Area. This would include removing farm debris and illegally dumped debris and transforming farm fields into a conservation area consisting of an arboretum; two ponds; restoration of oak and hickory savanna; and learning areas regarding prairie, upland woodland, and other native vegetative areas. The conservation area will recreate the natural ecosystems that were found in Oskaloosa at the time of settlement. The location, which is in Mahaska County's largest population center, Oskaloosa, will provide individuals the opportunity to visit and learn more about the natural ecosystems that were previously found in Oskaloosa. The project's current location next to Oskaloosa and the degraded natural ecosystems present make it a great location to develop into a community-wide ecosystem learning center. The area already has several extremely degraded examples of natural ecosystems. This project will allow those ecosystems to be managed, as well as expanded.

The conceptual design for this project was described in design materials provided to EPA on September 24, 2009. McWane will submit to EPA for its approval a design consistent with the above criteria and the conceptual design

### 3. Project Timeline

As this project will not be implemented unless there are excess unspent funds, as outlined in paragraphs 22 and 23 of the Consent Decree, the timelines for this project are in relation to the selection of this project under those provisions. Thus, McWane shall complete the project no later than 4 years and three months following its selection, according to the following timetable:

<b>Description</b>	<b>Design</b>	<b>Contractor</b>	<b>Permitting</b>	<b>Completion</b>
Upland Woodland and Prairie Learning Center	4 months	7 months		1 year and 4 months
Arboretum	1 year and 4 months	1 year and 7 months		2 years and 3 months
Wetland Learning Center and Fishing Pond	2 years and 4 months	2 years and 8 months	2 years and 8 months	3 years
Oak-Hickory Savanna and Caldwell Pond	3 years and 4 months	3 years and 8 months	3 years and 10 months	4 years and 3 month
Max				4 years and 3 months

#### 4. Project Costs

McWane expects to spend approximately \$216,500 for the non-recreational costs of this project which constitute the project's SEP costs, as follows:

<b>Arboretum</b>						
Specimen native plantings	1	ls	@	\$25,000	=	\$25,000
Rain garden demonstration	1	ls	@	\$4,000	=	\$4,000
Edible landscaping demonstration	1	ls	@	\$4,000	=	\$4,000
Backyard wildlife demonstration	1	ls	@	\$4,000	=	\$4,000
Butterfly garden demonstration	1	ls	@	\$4,000	=	\$4,000
Turf	5	ac	@	\$500	=	\$2,500
				<b>Sub Total</b>		<b>\$43,500</b>
<b>Wetland Learning Center</b>						
Specimen native plantings	1	ls	@	\$8,000	=	\$8,000
Wetland pot holes	1	ls	@	\$4,000	=	\$4,000
Wetland planting	5	ac	@	\$2,000	=	\$10,000
Wetland interpretive demonstration	1	ls	@	\$6,000	=	\$6,000
Lowland landscape buffer trees	75	ea	@	\$100	=	\$7,500
				<b>Sub Total</b>		<b>\$35,500</b>
<b>Prairie Learning Center</b>						
Prairie interpretive demonstration	1	ls	@	\$4,000	=	\$4,000
Prairie Plantings	9	ac	@	\$1,500	=	\$13,500
Council ring	1	ls	@	\$5,000	=	\$5,000
Lowland woodlands planting	50	ea	@	\$100	=	\$5,000
				<b>Sub Total</b>		<b>\$27,500</b>
<b>Caldwell Pond</b>						
Pond bank restoration	1,600	lf	@	\$10	=	\$16,000
Group informal gathering area	1	ls	@	\$3,000	=	\$3,000
				<b>Sub Total</b>		<b>\$19,000</b>
<b>Fishing Pond</b>						
Dam and pond edge construction	1	ls	@	\$36,750	=	\$36,750
Accessible fishing dock	1	ls	@	\$10,000	=	\$10,000
Seating areas	4	ea	@	\$1,000	=	\$4,000
				<b>Sub Total</b>		<b>\$50,750</b>
<b>Oak-Hickory Savanna Restoration</b>						
Prairie interpretive demonstration	1	ls	@	\$4,000	=	\$4,000
Prairie Plantings	2	ac	@	\$1,500	=	\$3,000
Savanna planting	25	ea	@	\$150	=	\$3,750
				<b>Sub Total</b>		<b>\$10,750</b>
<b>Upland Woodland and Prairie Learning Center</b>						
Upland interpretive demonstration	1	ls	@	\$4,000	=	\$4,000
Prairie Plantings	12	ac	@	\$1,500	=	\$18,000
Upland woodland planting	50	ea	@	\$150	=	\$7,500
				<b>Sub Total</b>		<b>\$29,500</b>
				<b>Total</b>		<b>\$216,500</b>

5. Project Completion Criteria

This project will be deemed to be complete for the purposes of Paragraph 24 of the Consent Decree if McWane constructs a project consistent with the design approved by EPA as described in Section 2.