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**CERCLA SECTION 122(h)(1) AGREEMENT
FOR RECOVERY OF PAST RESPONSE COSTS**

**CHEMET COMPANY SUPERFUND SITE
Moscow, Fayette County, Tennessee**

DF-2001-375R

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**CERCLA SECTION 122(h)(1) AGREEMENT
FOR RECOVERY OF PAST RESPONSE COSTS**

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	AGREEMENT FOR RECOVERY
)	OF PAST RESPONSE COSTS
Chemet Company Superfund Site)	
Moscow, Fayette County, Tennessee)	U.S. EPA Region 4
)	CERCLA Docket No. 04=2001-3757

I. JURISDICTION AND PARTIES

1. This Agreement is entered into pursuant to the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9622(h)(1), which authority has been delegated to the Regional Administrators of the EPA by EPA Delegation No. 14-14-D, and redelegated to the Director of the Waste Management Division by EPA Delegation No. 8-14-C and further redelegated to the Chief of the Waste Programs Branch.

2. This Agreement is made and entered into by EPA and the parties referenced in Appendix A ("Settling Parties"). Each Settling Party agrees to undertake all actions required by this Agreement and further consents to and will not contest EPA's jurisdiction to enter into this Agreement or to implement or enforce its terms.

3. Although the Settling Parties deny EPA's allegations of fact and dispute EPA's conclusions of law, the Settling Parties and EPA desire to resolve the Settling Parties' alleged civil liability for Past Response Costs without litigation. This Agreement shall not constitute or be used as evidence of an admission of any liability or fact or concession of any questions of law by the United States, any Settling Party, or any person or entity not a

party to this Agreement.

II. BACKGROUND

4. This Agreement concerns the Chemet Company Superfund Site located in Moscow, Fayette County, Tennessee ("the Site"). EPA alleges that the Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9). An antimony oxide processing facility was operated by the Chemet Company ("Chemet ") on the Site from 1977 until approximately 1987. The facility accepted lead laden ores and other scrap metals and processed them to yield antimony. Furnaces were used during the processing of antimony ore. As a result, slag or dross materials were generated and accumulated in piles throughout the Site. The slag and dross contained impurities from the process operations which included, but were not limited to, arsenic, barium, cadmium, lead, nickel and zinc.

5. Various Site inspections by the Tennessee Department of Health and Environment ("TDHE ") revealed the presence of antimony, arsenic, and lead at high concentration levels. In May of 1992, the Tennessee Division of Superfund ("TDS") conducted a Site Investigation ("SI") which verified that heavy metals were present because of the antimony processing at the Chemet facility. The SI demonstrated that the contamination from the Site had migrated off-Site.

6. The Site was then referred to EPA and was placed on the National Priorities list ("NPL ") in May of 1994. In response to the release or threatened release of hazardous substances at or from the Site, EPA undertook response actions at the Site pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604. The work was conducted as a non-time critical removal action. EPA conducted an Engineering Evaluation/Cost Analysis at the Site in May of 1994, to determine the appropriate removal actions for the Site.

7. On August 18, 1994, EPA issued an Action Memorandum authorizing the use of Superfund monies to clean up the Site. Beginning on August 29, 1994, EPA conducted removal actions at the Site consisting of the excavation and off-site disposal of over 26,000 tons of soil, and the treatment and off-site disposal of over 120 drums of slag and 37 boxes of ore. The entire Site was then backfilled with a six-inch layer of clean soil. On May 15, 1996, EPA issued a No Action Record of Decision for the Site.

8. In performing this response action, EPA incurred response costs at or in connection with the Site in the amount of at least \$1,705,767.38 as of May 31, 1997.

9. EPA alleges that the Settling Parties, as generators of waste to the Site, are responsible parties pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

III. PARTIES BOUND

10. This Agreement shall be binding upon EPA and upon the Settling Parties and their successors and assigns. Any change in ownership or corporate or other legal status of a Settling Party, including but not limited to, any transfer of assets or real or personal property, shall in no way alter such Settling Party's responsibilities under this Agreement. Each signatory to this Agreement certifies that he or she is authorized to enter into the terms and conditions of this Agreement and to bind legally the party represented by him or her.

IV. DEFINITIONS

11. Unless otherwise expressly provided herein, terms used in this Agreement which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Agreement or in any appendix attached hereto, the following definitions shall apply:

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

b. "Agreement" shall mean this Agreement and any attached appendices. In the event of conflict between this Agreement and any appendix, the Agreement shall control.

c. "Day" shall mean a calendar day. In computing any period of time under this Agreement, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

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

e. "Interest" shall mean interest at the current rate specified for interest on investments of the Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a).

f. "Paragraph" shall mean a portion of this Agreement identified by an arabic numeral or a lower case letter.

g. "Parties" shall mean EPA, and the Settling Parties.

h. "Past Response Costs" shall mean all costs, including but not limited to direct and indirect costs, that EPA or the U.S. Department of Justice on behalf of EPA has incurred and/or paid at or in connection with the Site through the effective date of this Agreement, including without limitation accrued Interest on all such costs through such date.

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

j. "Settling Parties" shall mean ContiGroup Companies, Inc., Harcros Chemicals Inc., Kewanee Industries, Inc., Chevron Environmental Management Company, Pechiney World Trade (U.S.A.), Inc.

k. "Site" shall mean the Chemet Company Superfund Site located in Moscow, Fayette County, Tennessee, and depicted on the map in Appendix B.

l. "United States" shall mean the United States of America, including all of its departments, agencies and instrumentalities.

V. REIMBURSEMENT OF RESPONSE COSTS

12. Within 30 days after receiving notice from EPA of the effective date of this Agreement, the Settling Parties shall pay to the EPA Hazardous Substance Superfund in reimbursement of Past Response Costs as follows:

ContiGroup Companies, Inc.	\$50,000
Harcros Chemicals Inc.	\$50,000
Kewanee Industries, Inc. and Chevron Environmental Management Company	\$50,000
Pechiney World Trade (U.S.A.), Inc.	\$50,000

13. The payments made pursuant to Paragraph 12 shall be made by a company, certified or cashier's check made payable to "EPA Hazardous Substance Superfund." And shall be deposited in the Cement Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site. Any balance remaining in the Cement Special Account shall be transferred by EPA to the EPA "Hazardous Substance Superfund." The check(s) shall reference the name and address of the party making payment, the Site name, the EPA Region and Site/Spill ID Number 04DU, and the EPA docket number for this action, and shall be sent to:

EPA Superfund
U.S. EPA Region 4
Attention Superfund Accounting
PO Box 100142
Atlanta, GA 30384

14. At the time of payment, the Settling Parties shall send a copy of the check(s) to:

Paula V. Batchelor
Waste Management Division
Cost Recovery Section
EPA - Region 4
4WD-PSB/11th Floor

61 Forsyth Street, S.W.
Atlanta, GA 30303

VI. FAILURE TO COMPLY WITH AGREEMENT

15. In the event that payment by any Settling Party as required by Paragraph 12 is not made when due, Interest shall accrue on the unpaid balance beginning on the 31st day after notice was provided by EPA of the effective date of this Agreement and continuing through the date of payment.

16. If any amount due to EPA by a Settling Party under Paragraph 12 is not paid by the required date, the Settling Party which did not make the payment shall pay to EPA, as a stipulated penalty, in addition to the Interest required by Paragraph 15, \$100 per violation per day that such payment is late.

17. Stipulated penalties are due and payable within 30 days of the date of demand for payment of the penalties. All payments to EPA under this Paragraph shall be identified as "stipulated penalties" and shall be made in accordance with Paragraphs 13 and 14.

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

19. In addition to the Interest and Stipulated Penalty payments required by this Section and any other remedies or sanctions available to EPA by virtue of Settling Parties' failure to comply with the requirements of this Agreement, any Settling Party who fails or refuses to comply with any term or condition of this Agreement shall be subject to enforcement action pursuant to Section 122(h)(3) of CERCLA, 42 U.S.C. § 9622(h)(3). If the United States, on behalf of EPA, brings an action to enforce this Agreement, the Settling Parties shall reimburse the United States for all costs of such action, including but not limited to costs of attorney time.

VII. COVENANT BY EPA

20. Except as specifically provided in Paragraph 21 (Reservations of Rights by EPA), EPA covenants not to sue the Settling Parties pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), to recover Past Response Costs. This covenant shall take effect as to each Settling Party upon receipt by EPA of that Settling Party's payment as required by Paragraph 12 (Reimbursement of Response Costs) and Paragraphs 15 (Interest on Late Payments) and 16 (Stipulated Penalty for Late Payment) if applicable. This covenant not to sue is conditioned upon the satisfactory performance by the Settling Parties of their obligations under this Agreement. This covenant not to sue extends only to the Settling Parties and does not extend to any other person.

VIII. RESERVATIONS OF RIGHTS BY EPA

21. The covenant by EPA set forth in Paragraph 20 does not pertain to any matters other than those expressly identified therein. EPA reserves, and this Agreement is without prejudice to, all rights against the Settling Parties with respect to all other matters, including but not limited to:

- a. liability of a Settling Party or Parties for failure to meet a requirement of this Agreement;
- b. liability for costs incurred or to be incurred by the United States that are not within the definition of Past Response Costs;
- c. liability for injunctive relief or administrative order enforcement under Section 106 of CERCLA, 42 U.S.C. § 9606;
- d. criminal liability; and
- e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments.

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

IX. COVENANT NOT TO SUE BY SETTLING PARTIES

23. The Settling Parties agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to Past Response Costs or this Agreement, including but not limited to:

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

b. any claims arising out of the response actions at the Site for which the Past Response Costs were incurred; and

c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to Past Response Costs.

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

X. WAIVER OF CLAIMS AGAINST DE MICROMIS PARTIES

25. The Settling Parties agree not to assert any claims and to waive all claims or causes of action that they may have for all matters relating to the Site, including for contribution, against any person where the person's liability to Settling Parties with respect to the Site is based solely on having arranged for disposal or treatment, or for transport for disposal or treatment, of hazardous substances at the Site, or having accepted for transport for disposal or treatment of hazardous substances at the Site, if the materials contributed by such person to the Site containing hazardous substances did not exceed the greater of (i) 0.002% of the total volume of waste at the Site, or (ii) 110 gallons of liquid materials or 200 pounds of solid materials. This waiver shall not apply to any claim or cause of action against any person meeting the above criteria if EPA has determined that the materials contributed to the Site by such person contributed or could contribute significantly to the costs of response at the Site.

XI. EFFECT OF SETTLEMENT/CONTRIBUTION PROTECTION

26. Except as provided in Paragraph 25 (Waiver of Claims Against De Micromis Parties), nothing in this Agreement shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Agreement. The preceding sentence shall not be construed to waive or nullify any rights that any person not a signatory to this Agreement may have under applicable law. Except as provided in Paragraph 25 (Waiver of Claims Against De Micromis Parties), EPA and each Settling Party reserves any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action which each Party may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto.

27. EPA and the Settling Parties agree that the actions undertaken by the Settling Parties in accordance with this Agreement do not constitute an admission of any liability by any Settling Party. The Settling Parties do not admit, and retain the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Agreement, the validity of the facts or allegations contained in Section II of this Agreement.

28. The Parties agree that the Settling Parties are entitled, as of the effective date of this Agreement, to protection from contribution actions or claims as provided by Section 122(h)(4) of CERCLA, 42 U.S.C. § 9622(h)(4), for "matters addressed" in this Agreement. The "matters addressed" in this Agreement are Past Response Costs.

29. Each Settling Party agrees that with respect to any suit or claim for contribution brought by it for matters related to this Agreement, it will notify EPA in writing no later than 60 days prior to the initiation of such suit or claim. Each Settling Party also agrees that, with respect to any suit or claim for contribution brought against it for matters related to this Agreement, it will notify EPA in writing within 10 days of service of the complaint or claim upon it. In addition, each Settling Party shall notify EPA within 10 days of service or receipt of any Motion for Summary Judgment and within 10 days of receipt of any order from a court setting a case for trial, for matters related to this Agreement.

30. In any subsequent administrative or judicial proceeding initiated by the United States, for injunctive relief, recovery of response costs, or other appropriate relief relating to the Site, the Settling Parties shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the covenant not to sue by EPA set forth in Paragraph 20.

XII. RETENTION OF RECORDS

31. Until five (5) years after the effective date of this Agreement, each Settling Party shall preserve and retain all records and documents now in its possession or control, or which come into its possession or control, that relate in any manner to response actions taken at the Site or to the liability of any person for response actions conducted and to be conducted at the Site, regardless of any corporate retention policy to the contrary.

32. After the conclusion of the document retention period in the preceding paragraph, the Settling Parties shall notify EPA at least 90 days prior to the destruction of any such records or documents, and, upon request by EPA, the Settling Parties shall deliver any such records or documents to EPA. The Settling Parties 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 the Settling Parties assert such a privilege, they shall provide EPA with 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 the 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. However, no documents, reports, or other information created or generated pursuant to the requirements of this or any other judicial or administrative settlement with the United States shall be withheld on the grounds that they are privileged. If a claim of privilege applies only to a portion of a document, the document shall be provided to EPA in redacted form to mask the privileged information only. The Settling Parties shall retain all records and documents that they claim to be privileged until EPA has had a reasonable opportunity to dispute the privilege claim and any such dispute has been resolved in the Settling Parties' favor.

33. By signing this Agreement, each Settling Party certifies individually that, to the best of its knowledge and belief, it has:

a. conducted a thorough, comprehensive, good faith search for documents, and has fully and accurately disclosed to EPA, all information currently in its possession, or in the possession of its officers, directors, employees, contractors or agents, which relates in any way to the ownership, operation or control of the Site, or to the ownership, possession, generation, treatment, transportation, storage or disposal of a hazardous substance, pollutant or contaminant at or in connection with the Site;

b. not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents or other information relating to its potential liability regarding the Site, after notification of potential liability or the filing of a suit against the Settling Party regarding the Site; and

c. fully complied with any and all EPA requests for information regarding the Site pursuant to Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), and Section 3007 of the Resource, Conservation and Recovery Act, 42 U.S.C. § 6927.

XIII. NOTICES AND SUBMISSIONS

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

As to EPA:

Robert West
Enforcement Project Manager
EPA – Region 4
4WD-PSB/11th Floor
61 Forsyth Street, S.W.
Atlanta, GA 30303

Wilda Cobb
Assistant Regional Counsel
EPA – Region 4
Environmental Accountability Division
61 Forsyth Street, S.W.
Atlanta, GA 30303

As to Settling Parties:
See Signature Pages

RE: DJ#90-11-3-06695

XIV. INTEGRATION/APPENDIX

35. This Agreement and its appendix constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Agreement. The Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Agreement. The following appendix is attached to and incorporated into this Agreement:

Appendix A – Settling Parties
Appendix B – Site Map

XV. PUBLIC COMMENT

36. This Agreement shall be subject to a public comment period of not less than 30 days pursuant to Section 122(i) of CERCLA, 42 U.S.C. § 9622(i). In accordance with Section 122(i)(3) of CERCLA, EPA may modify or withdraw its consent to this Agreement if comments received disclose facts or considerations which indicate that this Agreement is inappropriate, improper or inadequate.

XVI. ATTORNEY GENERAL APPROVAL

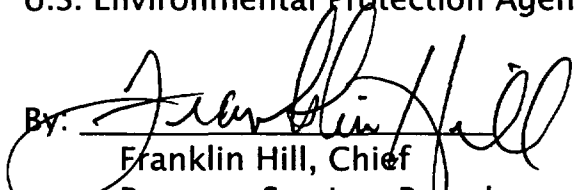
37. The Attorney General or her designee has approved the settlement embodied in this Agreement in accordance with Section 122(h)(1) of CERCLA, 42 U.S.C. § 9622(h)(1).

XVII. EFFECTIVE DATE

38. The effective date of this Agreement shall be the date upon which EPA issues written notice that the public comment period pursuant to Paragraph 36 has closed and that comments received, if any, do not require modification of or EPA withdrawal from this Agreement.

IT IS SO AGREED:

U.S. Environmental Protection Agency

By: 
Franklin Hill, Chief
Program Services Branch
Waste Management Division

6/15/01

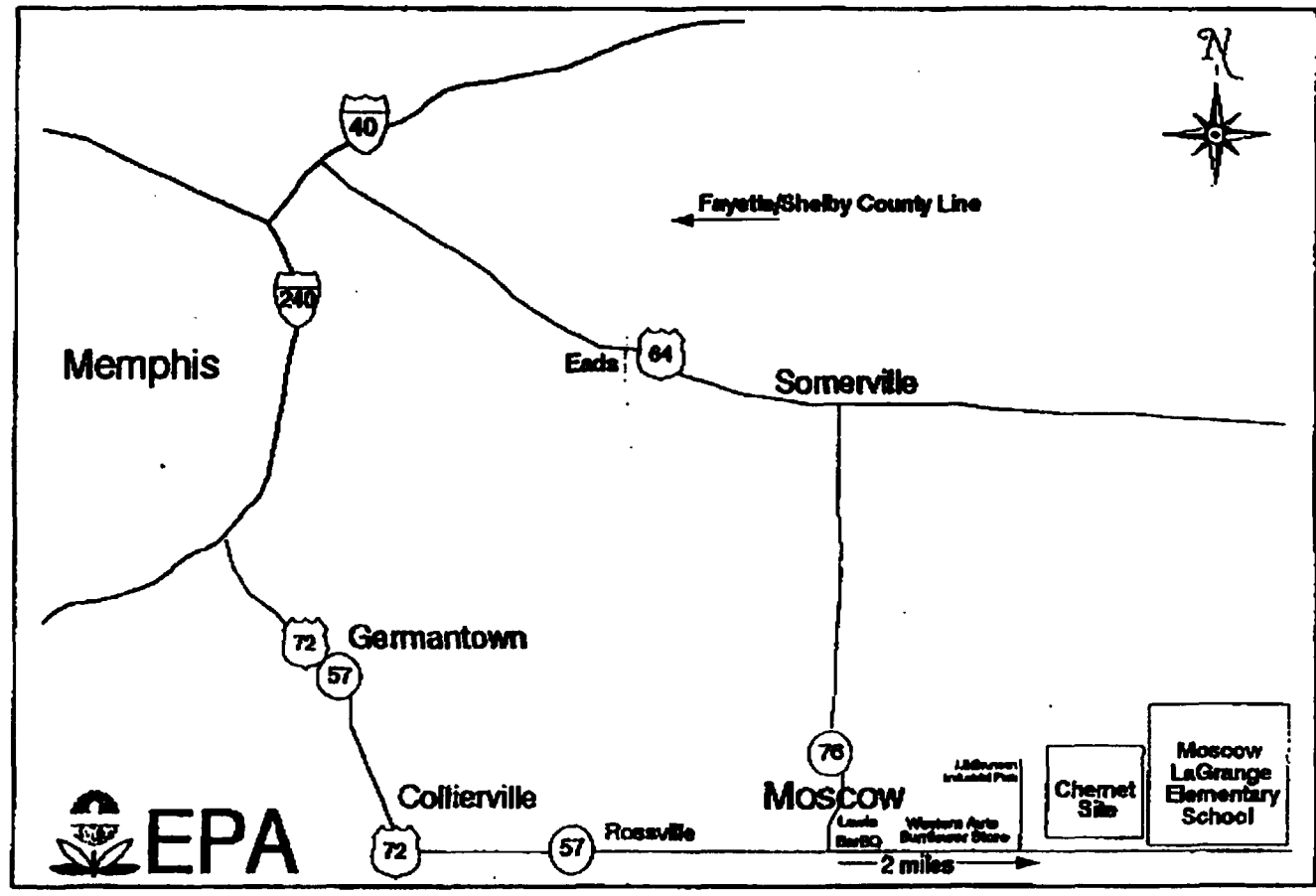
APPENDIX A

CERCLA SECTION 122(h)(1) AGREEMENT
FOR RECOVERY OF PAST RESPONSE COSTS

CHEMET COMPANY SUPERFUND SITE
Moscow, Fayette County, Tennessee

1. ContiGroup Companies, Inc.
2. Harcros Chemicals Inc.
3. Kewanee Industries, Inc.
and Chevron Environmental
Management Company
4. Pechiney World Trade (U.S.A.), Inc.

APPENDIX B



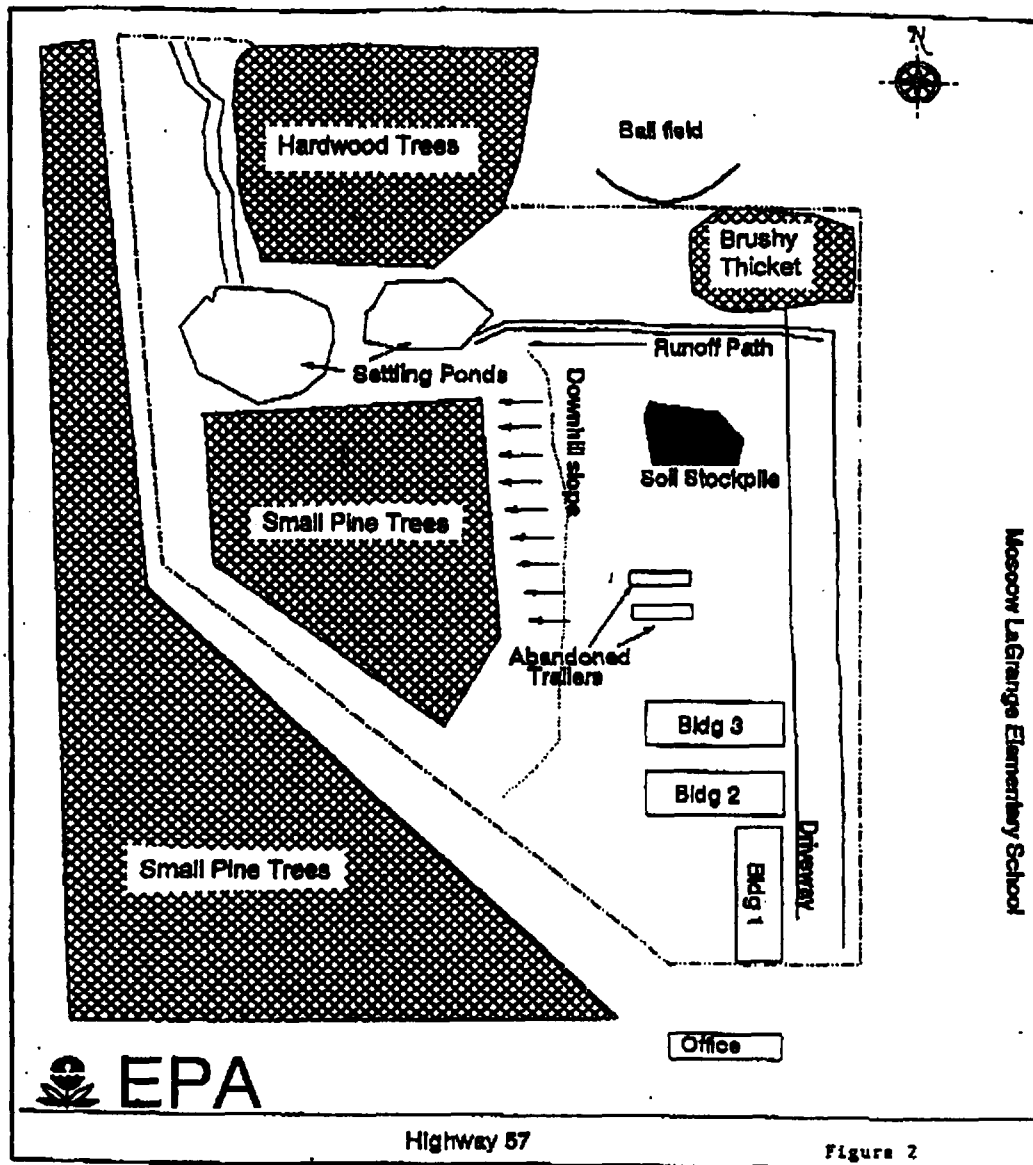
Source: EPA, Technical Director Document, 7/11/95

Map Not to Scale



Site Location Map
Chemet Company Site
 Moscow, Fayette County, Tennessee

Figure 1



Moscow LaGrange Elementary School

Source: EPA, ROD, 3/95

Map Not to Scale



Site Layout Map
 Chemet Company Site
 Moscow, Fayette County, Tennessee

Figure 2

The Undersigned Settling Party enters into this Agreement in the matter relating to the Chemet Company Superfund Site located in Moscow, Fayette County, Tennessee,

FOR SETTLING PARTY: Conti Group Companies, Inc.
[Name]

277 Park Avenue

New York NY 10172
[Address]

By: 
[Name]

5-29-01
[Date]

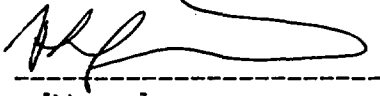
The Undersigned Settling Party enters into this Agreement in the matter relating to the Chemet Company Superfund Site located in Moscow, Fayette County, Tennessee,

FOR SETTLING PARTY: Hareros Chemicals Inc
[Name]

5200 speaker Rd.

K.C., MO 66106

[Address]

By: 

[Name]

Kevin G. Mirner
President + CEO

5/2/01

[Date]

The Undersigned Settling Party enters into this Agreement in the matter relating to the Chemet Company Superfund Site located in Moscow, Fayette County, Tennessee,

Kewanee Industries Inc. :

FOR SETTLING PARTY: Chevron Environmental Management Co.

[Name]
6001 Bollinger Canyon Rd.
K-2040

SAN RAMON, CA, 94583
[Address]

By: *Mark P. Grella*
[Name]

6/11/2001
[Date]

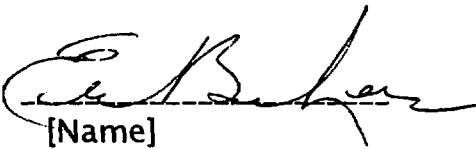
The Undersigned Settling Party enters into this Agreement in the matter relating to the Chemet Company Superfund Site located in Moscow, Fayette County, Tennessee,

FOR SETTLING PARTY: Pecuniary World Trade (U.S.A.)
[Name] INC.

333 LUDLOW STREET

STANFORD, CT. 06902

[Address]

By 
[Name]

6/5/01

[Date]