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UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

IN THE MATTER OF:  
The Constitution Road Drum Site  
Atlanta, DeKalb County, Georgia

ADMINISTRATIVE SETTLEMENT  
AGREEMENT AND ORDER ON  
CONSENT FOR REMOVAL ACTION

Settling Parties (Listed in Appendix A) and  
Settling Federal Agencies (Listed in  
Appendix B)

U.S. EPA Region 4  
Docket No. CERCLA-04-2006-3797

Proceeding Under Sections 104, 106(a), 107  
and 122 of the Comprehensive  
Environmental Response, Compensation,  
and Liability Act, as amended, 42 U.S.C. §§  
9604, 9606(a), 9607 and 9622



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## I. JURISDICTION AND GENERAL PROVISIONS

1. This Administrative Settlement Agreement and Order on Consent ("Settlement Agreement") is entered into voluntarily by the United States Environmental Protection Agency ("EPA"), the parties listed in Appendix A attached hereto ("Settling Parties"), and the federal agencies listed in Appendix B attached hereto ("Settling Federal Agencies"). This Settlement Agreement provides for the performance of a removal action by Settling Parties and the reimbursement of certain response costs incurred by the United States at or in connection with the property located at 1235 Constitution Road in Atlanta, DeKalb County, Georgia (the "Constitution Road Drum Site" or the "Site").

2. This Settlement Agreement is issued under the authority vested in the President of the United States by Sections 104, 106(a), 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9604, 9606(a), 9607 and 9622, as amended ("CERCLA").

3. EPA has notified the State of Georgia (the "State") of this action pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

4. EPA, Settling Parties, and Settling Federal Agencies recognize that this Settlement Agreement has been negotiated in good faith and that the actions undertaken by Settling Parties and Settling Federal Agencies in accordance with this Settlement Agreement do not constitute an admission of any liability. Settling Parties and Settling Federal Agencies do not admit, and retain the right to controvert in any subsequent proceedings, other than proceedings to implement or enforce this Settlement Agreement, the validity of the findings of fact, conclusions of law, and determinations in Sections IV and V of this Settlement Agreement. Settling Parties and Settling Federal Agencies agree to comply with and be bound by the terms of this Settlement Agreement and further agree that they will not contest the basis or validity of this Settlement Agreement or its terms.

## II. PARTIES BOUND

5. This Settlement Agreement applies to and is binding upon EPA and Settling Federal Agencies, and upon Settling Parties and their heirs, successors and assigns. Any change in ownership or corporate status of a Settling Party including, but not limited to, any transfer of assets or real or personal property shall not alter such Settling Party's responsibilities under this Settlement Agreement.

6. Settling Parties agree, for the purpose of this Settlement Agreement only, to be jointly and severally liable for carrying out all activities required of Settling Parties by this Settlement Agreement. In the event of the insolvency or other failure of any one or more Settling Parties to implement the requirements of this Settlement Agreement, the remaining Settling Parties shall complete all such requirements.

7. Settling Parties shall ensure that their contractors, subcontractors, and representatives receive a copy of this Settlement Agreement and comply with this Settlement Agreement. Settling Parties shall be responsible for any noncompliance with this Settlement Agreement.

### III. DEFINITIONS

8. Unless otherwise expressly provided herein, terms used in this Settlement 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 Settlement Agreement or in the appendices attached hereto and incorporated hereunder, the following definitions shall apply:

a. "Action Memorandum" shall mean the EPA Enforcement Action Memorandum relating to the Site, signed on June 8, 2006, by the Regional Administrator, or his delegatee. The "Action Memorandum" is attached as Appendix C.

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

c. "Day" shall mean a calendar day. In computing any period of time under this Settlement 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. "Effective Date" shall be the effective date of this Settlement Agreement as provided in Section XXXIII.

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

f. "GAEPD" shall mean the Georgia Department of Natural Resources, Environmental Protection Division, and any successor departments or agencies of the State.

g. "Future Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States incurs, beginning on April 13, 2006, in reviewing or developing plans, reports and other items related to the Work pursuant to this Settlement Agreement, verifying the Work, or otherwise implementing or overseeing the Work, or enforcing this Settlement Agreement, including but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, the costs incurred pursuant to Paragraph 24 (costs and attorneys' fees and any monies paid to secure access), Paragraph 35 (emergency response) and Paragraph 63 (work takeover).

h. "Interest" shall mean interest at the rate specified for interest on investments of the EPA 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). The

applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

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

j. "Paragraph" shall mean a portion of this Settlement Agreement identified by an Arabic numeral.

k. "Parties" shall mean EPA, Settling Parties, and Settling Federal Agencies.

l. "Past Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States incurred or paid at or in connection with the Site through April 12, 2006, plus Interest on all such costs through such date.

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

n. "Scope of Work" shall mean the detailed description of the work to be performed by Settling Parties to implement the removal action. The "Scope of Work" is attached as Appendix D.

o. "Settling Federal Agencies" shall mean those federal agencies identified in Appendix B.

p. "Settling Parties" shall mean those Parties identified in Appendix A.

q. "Section" shall mean a portion of this Settlement Agreement identified by a Roman numeral.

r. "Settlement Agreement" shall mean this Administrative Settlement Agreement and Order on Consent and all appendices attached hereto (listed in Section XXXII). In the event of a conflict between this Settlement Agreement and any appendix, this Settlement Agreement shall control.

s. "Site" shall mean the Constitution Road Drum Superfund Site, encompassing approximately five (5) acres, located at 1235 Constitution Road in Atlanta, DeKalb County, Georgia, and depicted generally on the map attached as Appendix E.

t. "State" shall mean the State of Georgia.

u. "United States" shall mean the United States of America, including its departments, agencies, and instrumentalities, which includes without limitation EPA and Settling Federal Agencies.

v. "Waste Material" shall mean 1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); 2) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); and 3) any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27).

w. "Work" shall mean all activities which the Settling Parties are required to perform under Section VIII of this Settlement Agreement.

#### IV. FINDINGS OF FACT

9. For the purposes of this Settlement Agreement, EPA finds that:

a. The Site is located at 1235 Constitution Road, Atlanta, DeKalb County, Georgia, and is comprised of approximately five (5) acres. Over 2,000 people work and/or live on the properties east of the Site. Surface water flow from the Site is to the south, into a small stream which flows east approximately half a mile into Entrenchment Creek. Entrenchment Creek empties into South River shortly after it is joined by the small stream. Two (2) businesses have been operating at this location, including a small trucking company, and Southeastern Research and Recovery, Inc. ("SRR"), which purportedly operated as a RCRA non-hazardous transfer station from at least January 2003 through April 2004.

b. In April 2003, SRR was issued a solid waste transfer station permit from GAEPD. Although the facility was only permitted as a transfer station, SRR was stockpiling drums, totes, and other containers at the Site in lieu of shipping them to final disposal facilities. The Site also received truckloads of waste from a warehouse in Alpharetta, Georgia sometime during the Spring of 2003.

c. During subsequent inspections by GAEPD, several violations of GAEPD's regulations were noted. In October 2003, SRR agreed to correct the violations and paid a fine. In January 2004, GAEPD determined that SRR was again potentially violating GAEPD's waste transfer rules. On February 19, 2004, GAEPD issued a notice of violation regarding solid waste regulations.

d. In March 2004, during a GAEPD and EPA inspection at the Site, no SRR personnel were on site. During a sampling visit in April 2004, GAEPD found two (2) drums which contained hazardous waste at the Site. Based upon those sampling results, GAEPD initiated hazardous waste enforcement proceedings against SRR on May 24, 2004. SRR failed to comply with a proposed consent order issued by GAEPD. On June 3, 2004, the Site was formally referred to EPA's *Emergency Response and Removal Branch* ("ERRB"). Sometime in March or April 2004, SRR abandoned the Site, leaving several tanker trucks, and approximately 13,000 drums, totes, and other containers on site. At the commencement of an EPA emergency removal action on July 9, 2004, several drums and tote containers were discovered leaking. Among those leaking containers were containers with labels indicating the contents to be "hazardous" or "flammable liquids."

e. Since initial mobilization in July 2004, EPA and its contractors have completed the following actions: (1) removed drum and tote containers from haphazard piles and staged them in an orderly manner; (2) overpacked leaking drums and totes; (3) created a database of all label and container information from the drums and totes; (4) taken digital pictures of all container markings and entered the pictures into a database; (5) hazcatted approximately 1,500 containers; and (6) maintained security at the Site. In addition, several thousand small containers (less than five (5) gallons each) of mixed hazardous and non-hazardous substances have been bulked together, analyzed and disposed of off-site, along with several hundred empty drums.

f. Initial analytical results indicate that substances such as xylene, chromium, flammable and acidic liquid wastes are present at the Site in drums and other containers and pose a threat to human health, welfare and the environment. Drums continue to be exposed to the elements, and remain a continuing threat to human health, welfare and the environment. There is an actual, as well as a potential, risk for exposure to nearby human populations, animals, or the food chain from releases of hazardous substances or pollutants or contaminants (see Action Memorandum, Appendix C).

## **V. CONCLUSIONS OF LAW AND DETERMINATIONS**

10. Based on the Findings of Fact set forth above, and the Administrative Record supporting this removal action, EPA has determined that:

a. The Constitution Road Drum Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

b. The contamination found at the Site, as identified in the Findings of Fact above, includes "hazardous substances" as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

c. Each Settling Party and Settling Federal Agency is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

d. Each Settling Party and Settling Federal Agency is a responsible party under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and is liable for performance of response actions and/or for response costs incurred and to be incurred at the Site. Settling Parties (as listed in Appendix A) and Settling Federal Agencies (as listed in Appendix B) arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances found at the Site, within the meaning of Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

e. Some of the conditions described in Paragraph 9 of the Findings of Fact above constitute an actual or a threatened "release" of a hazardous substance from the facility as defined by Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

f. The continuation of removal activities required by this Settlement Agreement is necessary to protect the public health, welfare, or the environment and, if carried

out in compliance with the terms of this Settlement Agreement, will be considered consistent with the NCP, as provided in Section 300.700(c)(3)(ii) of the NCP.

## **VI. SETTLEMENT AGREEMENT AND ORDER**

11. Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the Administrative Record for this Site, it is hereby Ordered and Agreed that Settling Parties and Settling Federal Agencies shall comply with all provisions of this Settlement Agreement, all attachments to this Settlement Agreement and all documents incorporated by reference into this Settlement Agreement.

## **VII. DESIGNATION OF CONTRACTOR, PROJECT COORDINATOR, AND ON-SCENE COORDINATOR**

12. Settling Parties shall perform the Work required by this Settlement Agreement themselves, or retain one (1) or more contractors to perform the Work and shall notify EPA of the name(s) and qualifications of such contractor(s) within forty-five (45) days of the Effective Date. Settling Parties shall also notify EPA of the name(s) and points of contact of any other contractor(s) or subcontractor(s) retained to perform the Work at least ten (10) days prior to commencement of such Work. EPA retains the right to disapprove any or all of the contractors and/or subcontractors retained by Settling Parties. If EPA disapproves of a selected contractor, Settling Parties shall retain a different contractor and shall notify EPA of that contractor's name and qualifications within twenty (20) days of EPA's disapproval.

13. Within forty-five (45) days after the Effective Date, Settling Parties shall designate a Project Coordinator who shall be responsible for administration of all actions by Settling Parties required by this Settlement Agreement and shall submit to EPA the designated Project Coordinator's name, address, telephone number, e-mail, and qualifications. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site work. EPA retains the right to disapprove of the designated Project Coordinator. If EPA disapproves of the designated Project Coordinator, Settling Parties shall retain a different Project Coordinator and shall notify EPA of that person's name, address, telephone number, and qualifications within twenty (20) days following EPA's disapproval. Receipt by Settling Parties' Project Coordinator of any notice or communication from EPA relating to this Settlement Agreement shall constitute receipt by all Settling Parties.

14. EPA has designated Robert N. Rosen of the Emergency Response and Removal Branch, Region 4, as its On-Scene Coordinator ("OSC"). Except as otherwise provided in this Settlement Agreement, Settling Parties shall direct all submissions required by this Settlement Agreement via electronic and certified mail, unless otherwise specified, to the OSC at the following address:



Robert N. Rosen  
On-Scene Coordinator  
U.S. Environmental Protection Agency  
61 Forsyth St., S.W.  
Atlanta, GA 30303-8960  
404-562-8761 (office)  
404-562-8699 (fax)  
rosen.bob@epa.gov

In the event Mr. Rosen is unavailable, Settling Parties may contact the Emergency Response and Removal Branch, Regional Duty Officer, at 404-562-8700.

15. EPA and Settling Parties shall have the right, subject to Paragraph 13, to change their respective designated OSC or Project Coordinator. Settling Parties shall notify EPA ten (10) days before such a change is made. The initial notification may be made orally, but shall be promptly followed by a written notice.

### **VIII. WORK TO BE PERFORMED**

16. Settling Parties shall perform, at a minimum, all actions necessary to implement the Action Memorandum attached in Appendix C. The actions to be performed generally include, but are not limited to, the following described below. Additional detail regarding the actions to be performed is set forth in the Scope of Work contained in Appendix D.

a. Arranging for the sampling and appropriate transportation and disposal of all drum and tote containers currently located at the Site. Settling Parties shall develop a stringent sampling plan for the effective evaluation of the contents of all drums and totes at the Site. Such sampling plan may include analyses for total metals, RCRA metals, TCLP, and volatile and semi-volatile organics. Disposal shall be based upon the results of such sampling and analyses.

b. Conducting soil sampling along the south and west property lines, and at selected locations around the periphery of the loading dock. The OSC will assist in determining the sampling grid locations. Initial sampling will be limited to no more than ten (10) grids. Each grid will have a 5-point composite sample taken from a depth of one (1) foot below grade, for a total of up to ten (10) soil samples to be submitted for analysis. All samples will be subject to analyses for volatile organic compounds, semi-volatile organic compounds, PCBs, pesticides, herbicides, and total metals. Based on the results of the soil sampling analyses, additional sampling may be required to delineate the level and extent of contamination. The decision to further sample and delineate contamination will be made solely by the OSC, in consultation with Settling Parties and their contractor(s).

#### **17. Work Plan and Implementation.**

a. Within forty-five (45) days after the Effective Date, Settling Parties shall submit to EPA for approval a draft Work Plan for performing the removal action generally

described in Paragraph 16 above. The draft Work Plan shall provide a description of, and an expeditious schedule for, the actions required by this Settlement Agreement. EPA shall require preparation of a Quality Assurance Project Plan ("QAPP") as part of the Work Plan. The QAPP should be prepared in accordance with "EPA Requirements for Quality Assurance Project Plans (QA/R-5)" (EPA/240/B-01/003, March 2001), and "EPA Guidance for Quality Assurance Project Plans (QA/G-5)" (EPA/600/R-98/018, February 1998).

b. EPA may approve, disapprove, require revisions to, or modify the draft Work Plan in whole or in part. If EPA requires revisions, Settling Parties shall submit a revised draft Work Plan within fifteen (15) days of receipt of EPA's notification of the required revisions. Settling Parties shall implement the Work Plan as approved in writing by EPA in accordance with the schedule approved by EPA. Once approved, or approved with modifications, the Work Plan, the schedule, and any subsequent modifications shall be incorporated into and become fully enforceable under this Settlement Agreement.

c. Settling Parties shall not commence any Work except in conformance with the terms of this Settlement Agreement. Settling Parties shall not commence implementation of the Work Plan developed hereunder until receiving written EPA approval pursuant to Paragraph 17(b).

18. Health and Safety Plan. Within forty-five (45) days after the Effective Date, Settling Parties shall submit for EPA review and comment a plan that ensures the protection of the public health and safety during performance of on-Site work under this Settlement Agreement. This plan shall be prepared in accordance with EPA's Standard Operating Safety Guide (PUB 9285.1-03, PB 92-963414, June 1992). In addition, the plan shall comply with all currently applicable Occupational Safety and Health Administration ("OSHA") regulations found at 29 C.F.R. Part 1910. If EPA determines that it is appropriate, the plan shall also include contingency planning. Settling Parties shall incorporate all changes to the plan recommended by EPA and shall implement the plan during the pendency of the removal action.

19. Quality Assurance and Sampling.

a. All sampling and analyses performed pursuant to this Settlement Agreement shall conform to EPA direction, approval, and guidance regarding sampling, quality assurance/quality control ("QA/QC"), data validation, and chain of custody procedures. Settling Parties shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with the appropriate EPA guidance. Settling Parties shall follow, as appropriate, "Quality Assurance/Quality Control Guidance for Removal Activities: Sampling QA/QC Plan and Data Validation Procedures" (OSWER Directive No. 9360.4-01, April 1, 1990), as guidance for QA/QC and sampling. Settling Parties shall only use laboratories that have a documented Quality System that complies with ANSI/ASQC E-4 1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs" (American National Standard, January 5, 1995), and "EPA Requirements for Quality Management Plans (QA/R-2) (EPA/240/B-01/002, March 2001)," or equivalent documentation as determined by EPA. EPA may consider laboratories accredited under the

National Environmental Laboratory Accreditation Program ("NELAP") as meeting the Quality System requirements.

b. Upon request by EPA, Settling Parties shall have such a laboratory analyze samples submitted by EPA for QA monitoring. Settling Parties shall provide to EPA the QA/QC procedures followed by all sampling teams and laboratories performing data collection and/or analysis.

c. Upon request by EPA, Settling Parties shall allow EPA or its authorized representatives to take split and/or duplicate samples. Settling Parties shall notify EPA not less than ten (10) days in advance of any sample collection activity, unless shorter notice is agreed to by EPA. EPA shall have the right to take any additional samples that EPA deems necessary. Upon request, EPA shall allow Settling Parties to take split or duplicate samples of any samples it takes as part of its oversight of Settling Parties' implementation of the Work.

20. Post-Removal Site Control. In accordance with the Work Plan schedule, or as otherwise directed by EPA, Settling Parties shall submit a proposal for post-removal site control consistent with Section 300.415(l) of the NCP and OSWER Directive No. 9360.2-02.

21. Reporting.

a. Settling Parties shall submit a written progress report to EPA concerning actions undertaken pursuant to this Settlement Agreement every 30th day after the date of receipt of EPA's approval of the Work Plan until termination of this Settlement Agreement, unless otherwise directed in writing by the OSC. These reports shall describe all significant developments during the preceding period, including the actions performed and any problems encountered, analytical data received during the reporting period, and the developments anticipated during the next reporting period, including a schedule of actions to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

b. Settling Parties shall submit one (1) copy of all plans, reports or other submissions required by this Settlement Agreement, or any approved work plan. Upon request by EPA, Settling Parties shall submit such documents in electronic form.

22. Final Report. Within sixty (60) days after completion of all Work required by this Settlement Agreement, Settling Parties shall submit for EPA review and approval a final report summarizing the actions taken to comply with this Settlement Agreement. The final report shall conform, at a minimum, with the requirements set forth in Section 300.165 of the NCP entitled "OSC Reports." The final report shall include a good faith estimate of total costs or a statement of actual costs incurred in complying with the Settlement Agreement, a listing of quantities and types of materials removed off-Site or handled on-Site, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destination(s) of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (e.g., manifests, invoices, bills, contracts, and permits). The final report shall also include the

following certification signed by a person who supervised or directed the preparation of that report:

"Under penalty of law, I certify that to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of the report, the information submitted is 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."

23. Off-Site Shipments.

a. Settling Parties shall, prior to any off-site shipment of Waste Material from the Site to an out-of-state waste management facility, provide written notification of such shipment of Waste Material to the appropriate state environmental official in the receiving facility's state and to the On-Scene Coordinator. However, this notification requirement shall not apply to any off-site shipments when the total volume of all such shipments will not exceed ten (10) cubic yards.

i. Settling Parties shall include in the written notification the following information: 1) the name and location of the facility to which the Waste Material is to be shipped; 2) the type and quantity of the Waste Material to be shipped; 3) the expected schedule for the shipment of the Waste Material; and 4) the method of transportation. Settling Parties shall notify the state in which the planned receiving facility is located of major changes in the shipment plan, such as a decision to ship the Waste Material to another facility within the same state, or to a facility in another state.

ii. The identity of the receiving facility and state will be determined by Settling Parties following the award of the contract for the removal action. Settling Parties shall provide the information required by Paragraph 23(a) and 23(b) as soon as practicable after the award of the contract and before the Waste Material is actually shipped.

b. Before shipping any hazardous substances, pollutants, or contaminants from the Site to an off-site location, Settling Parties shall obtain EPA's certification that the proposed receiving facility is operating in compliance with the requirements of CERCLA Section 121(d)(3), 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440. Settling Parties shall only send hazardous substances, pollutants, or contaminants from the Site to an off-site facility that complies with the requirements of the statutory provision and regulation cited in the preceding sentence.

**IX. SITE ACCESS**

24. Settling Parties have secured access to the Site for the duration of the Work to be performed under this Settlement Agreement. Settling Parties shall immediately notify EPA if access has been limited or revoked and, if after using their best efforts, Settling Parties are unable to continue to secure access to the Site. For purposes of this Paragraph, "best efforts" includes the payment of reasonable sums of money in consideration of access. Settling Parties shall

describe in writing their efforts to obtain access. EPA may then assist Settling Parties in gaining access, to the extent necessary to effectuate the response actions described herein, using such means as EPA deems appropriate. Settling Parties shall reimburse EPA for all its costs and attorneys' fees incurred by the United States in obtaining such access, in accordance with the procedures in Section XV (Payment of Response Costs).

25. Notwithstanding any provision of this Settlement Agreement, EPA retains all of its access authorities and rights, including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

#### **X. ACCESS TO INFORMATION**

26. Settling Parties shall provide to EPA, upon request, copies of all documents and information within their possession or control or that of their contractors or agents relating to activities at the Site or to the implementation of this Settlement Agreement, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Work. Settling Parties shall also make available to EPA, for purposes of investigation, information gathering, or testimony, their employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

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

28. Settling Parties may assert that certain documents, records and 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 in lieu of providing documents, 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 contents of the document, record, or information; and 6) the privilege asserted by Settling Parties. However, no documents, reports or other information created or generated pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged.

29. Subject to Paragraph 28, no claim of confidentiality shall be made with respect to any data, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at or around the Site.

**XI. RECORD RETENTION**

30. Until ten (10) years after Settling Parties' receipt of EPA's notification pursuant to Section XXVIII (Notice of Completion of Work), each Settling Party shall preserve and retain all non-identical copies of records and documents (including records or documents in electronic form) now in its possession or control or which come into its possession or control that relate in any manner to the performance of the Work or the liability of any person under CERCLA with respect to the Site, regardless of any corporate retention policy to the contrary. In the event Settling Parties want to destroy documents covered by this Section that relate to the performance of the Work at the Site before ten (10) years, Settling Parties shall give EPA notice and an opportunity to review and take possession of any documents that are proposed to be destroyed. Until ten (10) years after Settling Parties' receipt of EPA's notification pursuant to section XXVIII (Notice of Completion of Work), Settling Parties shall also instruct their contractors and agents to preserve all documents, records, and information of whatever kind, nature or description relating to performance of the Work.

31. At the conclusion of this document retention period, Settling Parties shall notify EPA at least ninety (90) days prior to the destruction of any such records or documents, and, upon request by EPA, shall deliver any such records or documents to EPA. Settling Parties may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If 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 by Settling Parties. However, no documents, reports or other information created or generated pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged.

32. Each Settling Party hereby certifies individually that to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents or other information (other than identical copies) relating to its potential liability regarding the Site since notification of potential liability by EPA or the State or the filing of suit against it regarding the Site and that it has fully complied with any and all EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

33. The United States acknowledges that each Settling Federal Agency 1) is subject to all applicable Federal record retention laws, regulations, and policies; and 2) has fully complied with any and all EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

## **XII. COMPLIANCE WITH OTHER LAWS**

34. Settling Parties shall perform all actions required pursuant to this Settlement Agreement in accordance with all applicable local, state, and federal laws and regulations except as provided in Section 121(e) of CERCLA, 42 U.S.C. § 6921(e), and 40 C.F.R. §§ 300.400(e) and 300.415(j). In accordance with 40 C.F.R. § 300.415(j), all on-site actions required pursuant to this Settlement Agreement shall, to the extent practicable, as determined by EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements ("ARARs") under federal environmental or state environmental or facility siting laws.

## **XIII. EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES**

35. In the event of any action or occurrence during performance of the Work which causes or threatens a release of Waste Material from the Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Settling Parties shall immediately take all appropriate action. Settling Parties shall take these actions in accordance with all applicable provisions of this Settlement Agreement, including, but not limited to, the Health and Safety Plan, in order to prevent, abate or minimize such release or endangerment caused or threatened by the release. Settling Parties shall also immediately notify the OSC or, in the event of his/her unavailability, the Emergency Response and Removal Branch, Regional Duty Officer at 404-562-8700, of the incident or Site conditions. In the event that Settling Parties fail to take appropriate response action as required by this Paragraph, and EPA takes such action instead, Settling Parties shall reimburse EPA all costs of the response action not inconsistent with the NCP pursuant to Section XV (Payment of Response Costs).

36. In addition, in the event of any release of a hazardous substance from the Site, Settling Parties shall immediately notify the Emergency Response and Removal Branch, Regional Duty Officer, at 404-562-8700, and the National Response Center, at (800) 424-8802. Settling Parties shall submit a written report to EPA within seven (7) days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. This reporting requirement is in addition to, and not in lieu of, reporting under Section 103(c) of CERCLA, 42 U.S.C. § 9603(c), and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11004, *et seq.*

## **XIV. AUTHORITY OF ON-SCENE COORDINATOR**

37. The OSC shall be responsible for overseeing Settling Parties' implementation of this Settlement Agreement. The OSC shall have the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any Work required by this Settlement Agreement, or to direct any other removal action undertaken at the Site. Absence of the OSC from the Site shall not be cause for stoppage of work unless specifically directed by the OSC.

**XV. PAYMENT OF RESPONSE COSTS**

**38. Payments by Settling Parties.**

a. Settling Parties shall pay EPA forty-six (46) percent of all Future Response Costs not inconsistent with the NCP, with the exception of Future Response Costs attributable to a Work Takeover pursuant to Paragraph 63, for which Settling Parties shall pay 100 percent. On a periodic basis, EPA will send Settling Parties a bill requiring payment that includes a regionally-prepared cost summary report (SCORPIOS report). Settling Parties shall make all payments within thirty (30) days of receipt of each bill requiring payment, except as otherwise provided in Paragraph 40 of this Settlement Agreement, or except when Settling Parties request additional documentation necessary to determine that the costs are not inconsistent with the NCP. Such request for additional documentation must be made within fifteen (15) days of Settling Parties' receipt of the bill. In such case, payment is due thirty (30) days after Settling Parties receive EPA's cost documentation package.

b. Settling Parties shall make all payments required by this Paragraph by a certified or cashier's check or checks made payable to "EPA Hazardous Substance Superfund," referencing the name and address of the party(ies) making payment and EPA Site/Spill ID number A4FK. Settling Parties shall send the check(s) to:

U.S. Environmental Protection Agency  
Cincinnati Accounting Operations  
Mellon lockbox 371099M  
Pittsburgh, PA 15251-7099

c. At the time of payment, Settling Parties shall send notice that payment has been made to:

Robert N. Rosen  
On-Scene Coordinator  
U.S. Environmental Protection Agency  
61 Forsyth St., S.W.  
Atlanta, GA 30303-8960

with a copy to:

Paula V. Batchelor  
Environmental Protection Specialist  
U.S. EPA, Region 4  
61 Forsyth St., S.W.  
Atlanta, GA 30303-8960

d. The total amount to be paid by Settling Parties pursuant to Paragraph 38(a) shall be deposited in the EPA Hazardous Substance Superfund.



39. In the event that the payments for Future Response Costs are not made by Settling Parties when due, Settling Parties shall pay Interest on the unpaid balance. The Interest on Future Response Costs shall begin to accrue on the date of the bill and shall continue to accrue until the date of payment. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to the United States by virtue of Settling Parties' failure to make timely payments under this Section, including but not limited to, payment of stipulated penalties pursuant to Section XVIII.

40. Settling Parties may dispute all or part of a bill for Future Response Costs submitted under this Settlement Agreement, if Settling Parties allege that EPA has made an accounting error, or if Settling Parties allege that a cost item is inconsistent with the NCP. If any dispute over costs is resolved before payment is due, the amount due will be adjusted as necessary. If the dispute is not resolved before payment is due, Settling Parties shall pay the full amount of the uncontested costs to EPA as specified in Paragraph 38 on or before the due date. Within the same time period, Settling Parties shall pay the full amount of the contested costs into an interest-bearing escrow account. Settling Parties shall simultaneously transmit a copy of both checks to the persons listed in Paragraph 38(c) above. Settling Parties shall ensure that the prevailing party or parties in the dispute shall receive the amount upon which they prevailed from the escrow funds plus interest within twenty (20) days after the dispute is resolved.

41. Payment by Settling Federal Agencies. As soon as reasonably practicable after the Effective Date of this Settlement Agreement, and consistent with Paragraph 41(c), the United States, on behalf of Settling Federal Agencies, shall:

a. Pay to EPA \$72,339.69 in reimbursement of Past Response Costs and Future Response Costs, which payment includes a premium payment for Future Response Costs. Of this amount, \$67,922.71 shall be paid on behalf of the U.S. Army, the U.S. Army Corps of Engineers, the U.S. Air Force, and the U.S. Navy; and \$4,416.98 shall be paid on behalf of the U.S. Postal Service.

b. The total amount to be paid by Settling Federal Agencies pursuant to Paragraph 41(a) shall be deposited in the EPA Hazardous Substance Superfund.

c. If the payment to EPA required by Paragraph 41(a) is not made as soon as reasonably practicable, the appropriate EPA Regional Branch Chief may raise any issues relating to payment to the appropriate DOJ Assistant Section Chief for the Environmental Defense Section. In any event, if this payment is not made within 120 days after the Effective Date, EPA and DOJ have agreed to resolve the issue within thirty (30) days in accordance with a letter agreement dated December 28, 1998.

42. The Parties to this Settlement Agreement recognize and acknowledge that the payment obligations of Settling Federal Agencies under this Settlement Agreement can only be paid from appropriated funds legally available for such purpose. Nothing in this Settlement Agreement shall be interpreted or construed as a commitment or requirement that any Settling Federal Agency obligate or pay funds in contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other applicable provision of law.

## XVI. DISPUTE RESOLUTION

43. Unless otherwise expressly provided for in this Settlement Agreement, the dispute resolution procedures of this Section shall be the exclusive mechanism for resolving disputes arising under this Settlement Agreement. The Parties shall attempt to resolve any disagreements concerning this Settlement Agreement expeditiously and informally.

44. If Settling Parties object to any EPA action taken pursuant to this Settlement Agreement, including billings for Future Response Costs, they shall notify EPA in writing of their objection(s) within thirty (30) days of such action, unless the objection(s) has/have been resolved informally. EPA and Settling Parties shall have thirty (30) days from EPA's receipt of Settling Parties' written objection(s) to resolve the dispute through formal negotiations (the "Negotiation Period"). The Negotiation Period may be extended at the sole discretion of EPA.

45. Any agreement reached by the Parties pursuant to this Section shall be in writing and shall, upon signature by both Parties, be incorporated into and become an enforceable part of this Settlement Agreement. If the Parties are unable to reach an agreement within the Negotiation Period, an EPA management official at the level of the Waste Management Division Director or higher will issue a written decision on the dispute to Settling Parties. EPA's decision shall be incorporated into and become an enforceable part of this Settlement Agreement. Settling Parties' obligations under this Settlement Agreement shall not be tolled by submission of any objection for dispute resolution under this Section. Following resolution of the dispute, as provided by this Section, Settling Parties shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with EPA's decision, whichever occurs.

## XVII. FORCE MAJEURE

46. Settling Parties agree to perform all requirements of this Settlement Agreement within the time limits established under this Settlement Agreement, unless the performance is delayed by a *force majeure*. For purposes of this Settlement Agreement, a *force majeure* is defined as any event arising from causes beyond the control of Settling Parties, or of any entity controlled by Settling Parties, including but not limited to their contractors and subcontractors, which delays or prevents performance of any obligation under this Settlement Agreement despite Settling Parties' best efforts to fulfill the obligation. *Force majeure* does not include financial inability to complete the Work or increased cost of performance.

47. If any event occurs or has occurred that may delay the performance of any obligation under this Settlement Agreement, whether or not caused by a *force majeure* event, Settling Parties shall notify EPA orally within ten (10) days of when Settling Parties first knew that the event might cause a delay. Within twenty (20) days thereafter, Settling Parties shall provide to EPA in writing an 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; Settling Parties' rationale for attributing such delay to a *force majeure* event if they intend to assert such a claim; and a statement as to whether, in the opinion of

Settling Parties, such event may cause or contribute to an endangerment to public health, welfare or the environment. Failure to comply with the above requirements shall preclude Settling Parties 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.

48. If EPA agrees that the delay or anticipated delay is attributable to a *force majeure* event, the time for performance of the obligations under this Settlement Agreement that are affected by the *force majeure* event will be extended by EPA 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. If EPA does not agree that the delay or anticipated delay has been or will be caused by a *force majeure* event, EPA will notify Settling Parties in writing of its decision. If EPA agrees that the delay is attributable to a *force majeure* event, EPA will notify Settling Parties in writing of the length of the extension, if any, for performance of the obligations affected by the *force majeure* event.

**XVIII. STIPULATED PENALTIES**

49. Settling Parties shall be liable to EPA for stipulated penalties in the amounts set forth in Paragraphs 50 and 51 for failure to comply with the requirements of this Settlement Agreement specified below, unless excused under Section XVII (*Force Majeure*). "Compliance" by Settling Parties shall include completion of the activities under this Settlement Agreement or any work plan or other plan approved under this Settlement Agreement identified below in accordance with all applicable requirements of law, this Settlement Agreement, and any plans or other documents approved by EPA pursuant to this Settlement Agreement and within the specified time schedules established by and approved under this Settlement Agreement.

50. Stipulated Penalty Amounts - Work. The following stipulated penalties shall accrue per violation per day for any noncompliance with any deadlines or schedules contained in Settling Parties' Work Plan:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$500	1st through 14th day
\$2,500	15th through 30th day
\$5,000	31st day and beyond

51. Stipulated Penalty Amounts - Reports. The following stipulated penalties shall accrue per violation per day for failure to submit timely or adequate reports or other written documents pursuant to Paragraphs 17, 18, 21, and 22:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$ 500	1st through 14th day
\$ 1,250	15th through 30th day
\$ 2,500	31st day and beyond

52. In the event that EPA assumes performance of a portion or all of the Work pursuant to Paragraph 63 of Section XX, Settling Parties shall be liable for a stipulated penalty in the amount of \$75,000.

53. All penalties shall begin to accrue on the day after the complete performance is due, or the day Settling Parties are notified that a violation has occurred, and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. However, stipulated penalties shall not accrue, with respect to a decision by the EPA Management Official at the Waste Management Division Director level or higher, under Paragraph 45 of Section XVI (Dispute Resolution), during the period, if any, beginning on the 21st day after the Negotiation Period begins until the date that the EPA management official issues a final decision regarding such dispute. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement Agreement.

54. Following EPA's determination that Settling Parties have failed to comply with a requirement of this Settlement Agreement, EPA may give Settling Parties written notification of the failure and describe the noncompliance. EPA may send Settling Parties a written demand for payment of the penalties.

55. All penalties accruing under this Section shall be due and payable to EPA within thirty (30) days of Settling Parties' receipt from EPA of a demand for payment of the penalties, unless Settling Parties invoke the dispute resolution procedures under Section XVI (Dispute Resolution). All payments to EPA under this Section shall be paid by certified or cashier's check(s) made payable to "EPA Hazardous Substance Superfund," shall be mailed to the U.S. Environmental Protection Agency, Cincinnati Accounting Operations, Mellon lockbox 371099M, Pittsburgh, PA 15251-7099, shall indicate that the payment is for stipulated penalties, and shall reference the EPA Region and Site/Spill ID Number A4FK, the EPA Docket Number, and the name and address of the party(ies) making payment. Copies of check(s) paid pursuant to this Section, and any accompanying transmittal letter(s), shall be sent to EPA as provided in Paragraph 14, and to:

Paula V. Batchelor  
Environmental Protection Specialist  
U.S. EPA, Region 4  
61 Forsyth St., S.W.  
Atlanta, GA 30303-8960

56. The payment of penalties shall not alter in any way Settling Parties' obligation to complete performance of the Work required under this Settlement Agreement.

57. Penalties shall continue to accrue during any dispute resolution period, but need not be paid until fifteen (15) days after the dispute is resolved by agreement or by receipt of EPA's decision, except such penalties as determined in the agreement or decision not to be owing.

58. If Settling Parties fail to pay stipulated penalties when due, EPA may institute proceedings to collect the penalties, as well as Interest. Settling Parties shall pay Interest on the unpaid balance, which shall begin to accrue on the date of demand made pursuant to Paragraph 53. Nothing in this Settlement Agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Settling Parties' violation of this Settlement Agreement or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to Sections 106(b) and 122(l) of CERCLA, 42 U.S.C. §§ 9606(b) and 9622(l), and punitive damages pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Provided, however, that EPA shall not seek civil penalties pursuant to Section 106(b) or 122(l) of CERCLA or punitive damages pursuant to Section 107(c)(3) of CERCLA for any violation for which a stipulated penalty is provided herein, except in the case of a willful violation of this Settlement Agreement, or in the event that EPA assumes performance of a portion or all of the Work pursuant to Section XX, Paragraph 63. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Settlement Agreement.

#### **XIX. COVENANTS BY EPA**

59. In consideration of the actions that will be performed and the payments that will be made by Settling Parties under the terms of this Settlement Agreement, and except as otherwise specifically provided in this Settlement Agreement, EPA covenants not to sue or to take administrative action against Settling Parties pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), for performance of the Work and for recovery of Past Response Costs and Future Response Costs. This covenant not to sue shall take effect upon the Effective Date, and is conditioned upon the complete and satisfactory performance by Settling Parties of their obligations under this Settlement Agreement, including, but not limited to, payment of Future Response Costs pursuant to Section XV. This covenant not to sue extends only to Settling Parties and does not extend to any other person.

60. In consideration of the payments that will be made by Settling Federal Agencies under the terms of this Settlement Agreement, and except as otherwise specifically provided in this Settlement Agreement, EPA covenants not to take administrative action against Settling Federal Agencies pursuant to Sections 106 and 107(a) of CERCLA for performance of the Work and for recovery of Past Response Costs and Future Response Costs. This covenant shall take effect upon the receipt of the payments required by Paragraph 41 of Section XV (Payment of Response Costs) and is conditioned upon the satisfactory performance by Settling Federal Agencies of their obligations under this Settlement Agreement. This covenant extends only to Settling Federal Agencies and does not extend to any other person.

#### **XX. RESERVATIONS OF RIGHTS BY EPA**

61. Except as specifically provided in this Settlement Agreement, nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize

an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Settlement Agreement, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Settling Parties in the future to perform additional activities pursuant to CERCLA or any other applicable law.

62. The covenant not to sue set forth in Section XIX above does not pertain to any matters other than those expressly identified therein. EPA reserves, and this Settlement Agreement is without prejudice to, all rights against Settling Parties with respect to all other matters, including, but not limited to:

a. claims based on a failure by Settling Parties to meet a requirement of this Settlement Agreement;

b. liability for costs not included within the definitions of Past Response Costs or Future Response Costs;

c. liability for performance of response action other than the Work;

d. criminal liability;

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

f. liability arising from the past, present, or future disposal, release or threat of release of Waste Materials outside of the Site; and

g. liability for costs incurred or to be incurred by the Agency for Toxic Substances and Disease Registry related to the Site.

63. Work Takeover. In the event EPA determines that Settling Parties have ceased implementation of any portion of the Work, are seriously or repeatedly deficient or late in their performance of the Work, or are implementing the Work in a manner which may cause an endangerment to human health or the environment, EPA may assume the performance of all or any portion of the Work as EPA determines necessary. Settling Parties may invoke the procedures set forth in Section XVI (Dispute Resolution) to dispute EPA's determination that takeover of the Work is warranted under this Paragraph; however, invocation of these procedures will not prevent EPA from performing all, or any portion, of the Work as it determines necessary. Costs incurred by the United States in performing the Work pursuant to this Paragraph shall be considered Future Response Costs that Settling Parties shall pay 100 percent of in accordance with Section XV (Payment of Response Costs). Notwithstanding any other provision of this Settlement Agreement, EPA retains all authority and reserves all rights to take any and all response actions authorized by law.

**XXI. COVENANTS BY SETTLING PARTIES AND SETTLING FEDERAL AGENCIES**

64. Covenant Not to Sue by Settling Parties. Settling Parties covenant not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Work, Past Response Costs, Future Response Costs, or this Settlement Agreement, including, but not limited to:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund established by 26 U.S.C. § 9507, based on 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 claim arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, the Georgia Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law;

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

Except as provided in Paragraph 67 (De Micromis Waivers), these covenants not to sue shall not apply in the event the United States brings a cause of action or issues an order pursuant to the reservations set forth in Paragraphs 62 (b), (c), and (e) - (g), but only to the extent that Settling Parties' claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

Settling Parties reserve, and this Settlement Agreement is without prejudice to, claims against the United States that are outside the scope of this Settlement Agreement.

65. Nothing in this Settlement 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).

66. Covenant by Settling Federal Agencies. Settling Federal Agencies hereby agree not to assert any direct or indirect claim for reimbursement from the Hazardous Substance Superfund (established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507) through CERCLA Sections 106(b)(2), 107, 111, 112, 113, or any other provision of law with respect to Past and Future Response Costs as defined herein or this Settlement Agreement.

67. De Micromis Waivers.

a. Settling Parties and Settling Federal Agencies 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 or

Settling Federal Agencies 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 all or part of the disposal, treatment, or transport occurred before April 1, 2001, and the total amount of material containing hazardous substances contributed by such person to the Site was less than 110 gallons of liquid materials or 200 pounds of solid materials.

b. This waiver shall not apply with respect to any defense, claim, or cause of action that a Settling Party or Settling Federal Agency may have against any person meeting the above criteria if such person asserts a claim or cause of action relating to the Site against such Settling Party or Settling Federal Agency. This waiver shall also not apply to any claim or cause of action against any person meeting the above criteria if EPA determines (1) that such person has failed to comply with any EPA requests for information or administrative subpoenas issued pursuant to Section 104(e) or 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) or 9622(e), or Section 3007 of the Solid Waste Disposal Act (also known as the Resource Conservation and Recovery Act or "RCRA"), 42 U.S.C. § 6972, or has impeded or is impeding, through action or inaction, the performance of a response action or natural resource restoration with respect to the Site, or has been convicted of a criminal violation for the conduct to which this waiver would apply and that conviction has not been vitiated on appeal or otherwise; or (2) that the materials containing hazardous substances contributed to the Site by such person have contributed significantly, or could contribute significantly, either individually or in the aggregate, to the cost of response action or natural resource restoration at the Site.

## **XXII. OTHER CLAIMS**

68. By issuance of this Settlement Agreement, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Settling Parties. The United States or EPA shall not be deemed a party to any contract entered into by Settling Parties or their directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Settlement Agreement.

69. Except as expressly provided in Section XXI, Paragraph 64 (Covenant Not to Sue by Settling Parties), Section XXI, Paragraph 67 (De Micromis Waivers) and Section XIX (Covenants by EPA), nothing in this Settlement Agreement constitutes a satisfaction of or release from any claim or cause of action against Settling Parties, Settling Federal Agencies, or any person not a party to this Settlement Agreement, for any liability such person may have under CERCLA, other statutes, or common law, including but not limited to any claims of the United States for costs, damages and interest under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607.

70. No action or decision by EPA pursuant to this Settlement Agreement shall give rise to any right to judicial review, except as set forth in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).



### **XXIII. CONTRIBUTION**

71. a. The Parties agree that this Settlement Agreement constitutes an administrative settlement for purposes of Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), and that Settling Parties and Settling Federal Agencies are entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), for "matters addressed" in this Settlement Agreement. The "matters addressed" in this Settlement Agreement are the Work, Past Response Costs, and Future Response Costs.

b. The Parties agree that this Settlement Agreement constitutes an administrative settlement for purposes of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B), pursuant to which Settling Parties and Settling Federal Agencies have, as of the Effective Date, resolved their liability to the United States for the Work, Past Response Costs, and Future Response Costs.

c. Except as provided in Section XXI, Paragraph 67, of this Settlement Agreement (De Micromis Waivers), nothing in this Settlement Agreement precludes the United States or Settling Parties from asserting any claims, causes of action, or demands for indemnification, contribution, or cost recovery against any persons not parties to this Settlement Agreement. Nothing herein diminishes the right of the United States, pursuant to Sections 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613(f)(2)-(3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2).

### **XXIV. INDEMNIFICATION**

72. Settling Parties shall indemnify, save and hold harmless the United States (with the exception of Settling Federal Agencies) and its officials, agents, contractors, subcontractors, employees and representatives from any and all claims or causes of action arising from, or on account of, negligent or other wrongful acts or omissions of Settling Parties, their officers, directors, employees, agents, contractors, or subcontractors, in carrying out actions pursuant to this Settlement Agreement. In addition, Settling Parties agree to pay the United States (with the exception of Settling Federal Agencies) all costs it incurs, including but not limited to attorneys' fees and other expenses of litigation and settlement, arising from or on account of claims made against the United States based on negligent or other wrongful acts or omissions of Settling Parties, their officers, directors, employees, agents, contractors, subcontractors and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Settlement Agreement. The United States shall not be held out as a party to any contract entered into by or on behalf of Settling Parties in carrying out activities pursuant to this Settlement Agreement. Neither Settling Parties nor any such contractor shall be considered an agent of the United States.

73. The United States shall give Settling Parties notice of any claim for which the United States plans to seek indemnification pursuant to this Section and shall consult with Settling Parties prior to settling such claim.

74. Settling Parties waive all claims against the United States (with the exception of Settling Federal Agencies) for damages or reimbursement or for set-off of any payments made or to be made to the United States, arising from or on account of any contract, agreement, or arrangement between any one or more of Settling Parties and any person for performance of Work on or relating to the Site, including, but not limited to, claims on account of construction delays. In addition, Settling Parties shall indemnify and hold harmless the United States (with the exception of Settling Federal Agencies) with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between any one or more of Settling Parties and any person for performance of Work on or relating to the Site, including, but not limited to, claims on account of construction delays.

#### **XXV. INSURANCE**

75. At least seven (7) days prior to commencing any on-site work under this Settlement Agreement, Settling Parties shall secure and shall maintain, through their contractor, for the duration of this Settlement Agreement, comprehensive general liability insurance and automobile insurance with limits of one (1) million dollars, combined single limit. Within the same time period, Settling Parties shall provide EPA with certificates of such insurance and a copy of each insurance policy held by their contractor. In addition, for the duration of the Settlement Agreement, Settling Parties shall satisfy, or shall ensure that their contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of Settling Parties in furtherance of this Settlement Agreement.

#### **XXVI. FINANCIAL ASSURANCE**

76. Within thirty (30) days of the Effective Date, Settling Parties shall establish an escrow account in the amount of two million dollars (\$2,000,000) to be used for the performance of the Work. The terms of any escrow agreement under this Section shall be reviewed and approved by EPA.

Settling Parties shall send all documents guaranteeing financial assurance directly to the Superfund Records Program Manager at:

Superfund Records Program Manager  
U.S. Environmental Protection Agency  
Region 4  
Atlanta Federal Center  
61 Forsyth St., S.W.  
Atlanta, GA 30303-8960

Such documents must contain notification or a cover letter identifying the Site name, and the EPA docket number for this action. A copy of the document and transmittal letter shall also be sent to Robert N. Rosen, On-Scene Coordinator, at the above address.

## **XXVII. MODIFICATIONS**

77. The OSC may make modifications to any plan or schedule in writing or by oral direction. Any oral modification will be memorialized in writing by EPA promptly, but shall have as its effective date the date of the OSC's oral direction. Any other requirements of this Settlement Agreement may be modified in writing by mutual agreement of the Parties.

78. If Settling Parties seek permission to deviate from any approved work plan or schedule, Settling Parties' Project Coordinator shall submit a written request to EPA for approval outlining the proposed modification and its basis. Settling Parties may not proceed with the requested deviation until receiving oral or written approval from the OSC pursuant to Paragraph 77.

79. No informal advice, guidance, suggestion, or comment by the OSC or other EPA representatives regarding reports, plans, specifications, schedules, or any other writing submitted by Settling Parties shall relieve Settling Parties of their obligation to obtain any formal approval required by this Settlement Agreement, or to comply with all requirements of this Settlement Agreement, unless it is formally modified.

## **XXVIII. NOTICE OF COMPLETION OF WORK**

80. When EPA determines, after EPA's review of the Final Report, that all Work has been fully performed in accordance with this Settlement Agreement, with the exception of any continuing obligations required by this Settlement Agreement, including payment of Future Response Costs or record retention, EPA will provide written notice to Settling Parties. If EPA determines that any such Work has not been completed in accordance with this Settlement Agreement, EPA will notify Settling Parties, provide a list of the deficiencies, and require that Settling Parties modify the Work Plan if appropriate in order to correct such deficiencies. Settling Parties shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the EPA notice. Failure by Settling Parties to implement the approved modified Work Plan shall be a violation of this Settlement Agreement.

## **XXIX. PUBLIC COMMENT**

81. Final acceptance by EPA of Section XV (Payment of Response Costs) of this Order shall be subject to Section 122(i) of CERCLA, 42 U.S.C. § 9622(i), which requires EPA to publish notice of the proposed settlement in the Federal Register, to provide persons who are not parties to the proposed settlement an opportunity to comment, solely, on the cost recovery component of the settlement, and to consider comments filed in determining whether to consent to the proposed settlement. EPA may withhold consent from, or seek to modify, all or part of Section XV of this Order if comments received disclose facts or considerations that indicate that

Section XV of this Order is inappropriate, improper or inadequate. Otherwise, Section XV shall become effective when EPA issues notice to Settling Parties and Settling Federal Agencies that public comments received, if any, do not require EPA to modify or withdraw from Section XV of this Order.

### **XXX. ATTORNEY GENERAL APPROVAL**

82. The Attorney General or his designee has approved the response cost settlement embodied in this Order in accordance with Section 122(h)(1) of CERCLA, 42 U.S.C. § 9622(h)(1).

### **XXXI. NOTICES AND SUBMISSIONS**

83. 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 Party in writing. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of this Agreement with respect to EPA and Settling Parties or Settling Federal Agencies.

#### As to EPA:

Colleen E. Michuda  
Associate Regional Counsel  
U.S. EPA, Region 4  
61 Forsyth St., S.W.  
Atlanta, GA 30303  
Phone: (404) 562-9685  
Fax: (404) 562-9486  
[michuda.colleen@epa.gov](mailto:michuda.colleen@epa.gov)

Bob Rosen  
On-scene Coordinator  
U.S. EPA, Region 4  
61 Forsyth St., S.W.  
Atlanta, GA 30303  
Phone: (404) 562-8761  
Fax: (404) 562-8699  
[rosen.bob@epa.gov](mailto:rosen.bob@epa.gov)

#### As to Settling Parties:

Barbara Goetz  
Mohawk Industries  
P.O. Box 12069  
Calhoun, GA 30703  
Phone: (706) 624-2645  
Fax: (706) 624-2483  
[barbara\\_goetz@mohawkind.com](mailto:barbara_goetz@mohawkind.com)

Randy Waskul  
Mohawk Industries  
P.O. Box 1006  
405 Virgil Drive  
Dalton, GA 30721  
Phone: (706) 428-8147  
Fax: (706) 428-8120  
[Randy\\_Waskul@mohawkind.com](mailto:Randy_Waskul@mohawkind.com)

Chet Tisdale  
 King & Spalding LLP  
 1180 Peachtree Street, N.E.  
 Atlanta, GA 30309-3521  
 Phone: (404) 572-3357  
 Fax: (404) 572-5138  
[CTisdale@kslaw.com](mailto:CTisdale@kslaw.com)

As to Settling Federal Agencies:

Chief, Environmental Enforcement Section  
 Environment and Natural Resources Division  
 U.S. Department of Justice  
 P.O. Box 7611  
 Washington, DC 20044-7611  
 Re: DJ# 90-11-3-08618

**XXXII. SEVERABILITY/INTEGRATION/APPENDICES**

84. If a court issues an order that invalidates any provision of this Settlement Agreement or finds that Settling Parties or Settling Federal Agencies have sufficient cause not to comply with one or more provisions of this Settlement Agreement, Settling Parties and Settling Federal Agencies shall remain bound to comply with all provisions of this Settlement Agreement not invalidated or determined to be subject to a sufficient cause defense by the court's order.

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

Appendix A – List of Settling Parties  
 Appendix B – List of Settling Federal Agencies  
 Appendix C – Action Memorandum  
 Appendix D – Scope of Work  
 Appendix E – Site Map

**XXXIII. EFFECTIVE DATE**

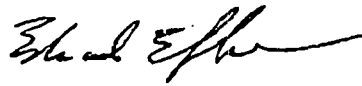
86. This Settlement Agreement shall be effective on the date it is signed by the Regional Administrator or his delegatee, with the exception of Section XV, which shall be effective when EPA issues notice to Settling Parties and Settling Federal Agencies that public

comments received, if any, do not require EPA to modify or withdraw from Section XV of this Settlement Agreement.

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 20 day of June, 2006

For Settling Party 1888 Mills

By: Edward E Johnson 

Title: Sr. V.P.

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 28<sup>th</sup> day of JUNE, 2006

For Settling Party A#E AUTO ELECTRIC, INC.

By: Ben Cimonis

Title: Manager



The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 21 day of JUNE, 2006.

For Settling Party Acut, Brands Inc. on behalf of Enforcee Products

By: *Dan Koh*

Title: VP, Compliance

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 10<sup>th</sup> day of April, 2006.

For Settling Party [Signature]

By: [Signature]

Title: [Signature]

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this **23rd** day of **June**, 2006.

For Settling Party **AEROTRON AIRPOWER, Inc.**

By:   
\_\_\_\_\_

**Michael E. Cannady**

Title: **Executive Vice President**

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 22 day of June, 2006

For Settling Party Ajay North America, LLC

By: Richard Griffin

Title: V.P., Operations

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 21<sup>st</sup> day of June, 2006.

For Settling Party Allied Graphics, Inc.

By: MB Duenher

Title: VP

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 22 day of JUNE, 2006

For Settling Party ARM ENV. SVCS., INC.

By: Andrew Weil

Title: PRINCIPAL

10 11 039

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 20<sup>th</sup> day of June, 2006

For Settling Party Associated Rubber Company

By: Yelda Cash

Title: EHS Specialist

10 11 040

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 27 day of June, 2006

For Settling Party Astro American Chemical Co., Inc.

By: Randolph Beagles

Title: President



The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 5 day of JULY, 2006

For Settling Party ATLANTA GIZOTNES MACHINE CO.

By: Carol Hunter

Title: PRESIDENT

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 17 day of June, 2006

For Settling Party Atlantic Envelope Company LLC

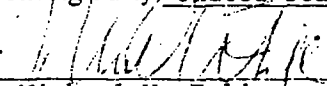
By: Carol Ellis Morgan

Title: CEO

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 22 day of June, 2006.

For Settling Party Ball Aerosol and Specialty  
Container Inc. formerly known as  
United States Can Company

By:   
Michael W. Feldser

Title: President

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 20 day of June, 2006.

For Settling Party Barry Grant Inc

By: Andra A. Lee

Title: Senior Accountant

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 13 day of JUNE, 2006.

For Settling Party BEKAERT CORPORATION

By: *[Signature]*

Title: PLANT MANAGER

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 16 day of June, 2006

For Settling Party Bennet Graphics

By: James J. Bennett

Title: Sec. Treasurer

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 17<sup>th</sup> day of June, 2006.

For Settling Party:

BULK PLUS LOGISTICS

By: [Signature]

Title: Secretary

For Settling Party:

TRIMAC TRANSPORTATION, INC.

By: [Signature]

Title: Secretary

For Settling Party:

DSI TRANSPORT, INC.

By: [Signature]

Title: Secretary

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 23 day of June, 2010

For Settling Party CTC REFINANCE, LLC

By: Kim Bevington

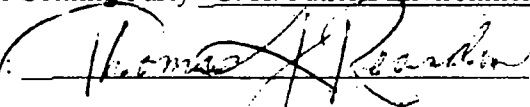
Title: EXECUTIVE VICE PRESIDENT



The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 13 day of June, 2006 .

For Settling Party C. H. Patrick/Environmental Recycling Services

By: 

Title: President/CEO

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 28 day of July, 2006

For Settling Party Caterpillar Inc

By: Nelson Mink

Title: Safety Manager

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this settlement Agreement and to bind the Settling Party to this document.

Agreed this 12 day of June, 2006.

For Settling Party Clayton Group Services Inc.  
f/k/a Clayton Environmental Consultants

By: 

Title: Richard Tong, Executive Vice President

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 15 day of June, 2006.

For Settling Party Colonial Chemical, Inc.

By: Scott Smith

Title: Vice President, Manufacturing

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 27<sup>th</sup> day of June, 2006.

For Settling Party Colonial Printing

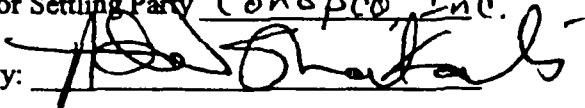
By: Andy McClure

Title: V.P. Corporate Services

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 12 day of July, 2006.

For Settling Party Conopco Inc.

By: 

Title: Andrew Shakalis  
~~Associate General Counsel-~~  
~~Environmental & Safety~~  
as in-house counsel, acting  
on behalf of Conopco, Inc.

10 11 055 .

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 29 day of June, 2006.

For Settling Party Contract Packaging Inc.

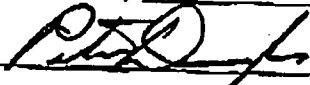
By: J. Kirk Kelly

Title: President

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 12 day of June, 2006

For Settling Party CUSTOM CHIP CONNECTIONS INC.

By: 

Title: PRESIDENT.



**FRANK & GRAMLING**ATTORNEYS AT LAW  
A PARTNERSHIP OF PROFESSIONAL ASSOCIATIONSTAMPA OFFICE:118 SOUTH NEWPORT AVENUE  
TAMPA, FLORIDA 33606-1944  
TELEPHONE (813) 259-1060  
FACSIMILE (813) 259-1020  
gramling@frankandgramling.com  
st.ank@frankandgramling.com

## REPLY TO:

118 SOUTH NEWPORT AVENUE  
TAMPA, FLORIDA 33606-1944TALLAHASSEE OFFICE:3323 THOMASVILLE ROAD  
SUITE C  
TALLAHASSEE, FLORIDA 32308  
TELEPHONE (850) 385-1212  
FACSIMILE (850) 385-7778  
fingar@frankandgramling.com

June 20, 2006

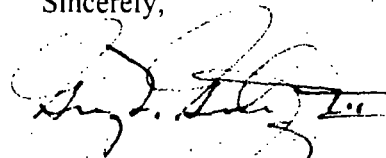
King & Spalding LLP  
Attn: Chet Tisdale  
1180 Peachtree Street N.E.  
Atlanta, GA 30309-3521RE: Constitution Road Drum Site "Final Administrative Settlement Agreement and  
Order on Consent for Removal Action"

Dear Mr. Tisdale:

As requested in your email dated June 12, 2006, I enclose the signature page for the Constitution Road Drum Site "Final Administrative Settlement and Order on Consent for Removal Action" signed by DSE, Inc., dba Balimoy Mfg. It is our understanding that DSE Inc., dba Balimoy Mfg., has made all required payments to the PRP Group/EPA and that its involvement in this proceeding is ended, subject only to the "re-opener" provision of the "Final Administrative Settlement and Order on Consent for Removal Action." If this is not the case please notify me immediately.

Should any questions arise, please feel free to give me a call.

Sincerely,



George F. Gramling, III

Cc: Jane Shin, DSE dba Balimoy Mfg.

F:\GFG\NW\DSE dba Balimoy\l.tr. Tisdale 6.20.06.doc

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 16 day of June, 2006.

For Settling Party \_\_\_\_\_

By: [Signature] \_\_\_\_\_

Title: Director, Corporate Operations

10 11 059

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 11<sup>th</sup> day of June, 2006.

For Settling Party DIG-TECH INDUSTRIES, INC.

By: [Signature]

Title: [Signature]

FAX TO: 404/572-5100 5140

10 11 060

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 21 day of 6, 2006.

For Settling Party DRUM SERVICE

By: D-S

Title: PRR

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 14<sup>th</sup> day of June, 2006.

For Settling Party Eaton Hydraulics, Inc.

By: Lisa D. Sutton  
Lisa D. Sutton

Title: Senior Attorney, Eaton Corporation

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document

Agreed this 26 day of JUNE 2006

For Settling Party Eco-Clean, Inc.

By: J. Michael King J. MICHAEL KING

Title: VICE - PRESIDENT

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 16 day of JUNE, 2006.

For Settling Party ECOLAB INC.

By: [Signature]

Title: SENIOR CORPORATE COUNSEL

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 13 day of June, 2024.

For Settling Party EKA CHEMICALS INC.

By: *Michael Jozym*

Title: V.P. Finance

*[Signature]* 6/13/24  
MICHAEL S. WENK  
MANAGER OF REGULATORY AFFAIRS



The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 15 day of June 2006

For Settling Party Epsilon Plastics of SC

By: [Signature]

Title: Exec. VP

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 13 day of June, 2006

For Settling Party Exopack

By: [Signature]

Title: V.P. General Manager Consumer Plastics US  
Exopack

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 21<sup>st</sup> day of June, 2006.

For Settling Party Fleet Operations, Inc. d/b/a - The Charlotte Tank Wash

By: [Signature] - William F. Sturgeon

Title: President

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 21<sup>st</sup> day of June, 2006.

For Settling Party Fleet Operations, Inc. - d.b.a. - The Spartanburg Tank Wash

By: [Signature] - William F. Sturgeon

Title: President

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 12<sup>th</sup> day of JUNE, 2006

For Settling Party FLOYD MEDICAL CENTER

By: [Signature]

Title: PRESIDENT / CEO

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 14<sup>th</sup> day of JUNE, 2006

For Settling Party Giant Resource Recovery - Sumter, Inc. (formerly Southeastern Chemical Company)

By: Richard A. Jamila

Title: PRESIDENT

*JAM/J  
Giant/  
Southeastern*

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 12<sup>th</sup> day of June, 2006

For Settling Party Heil Environmental

By: Paturalski

Title: Corporate Director of Risk Management

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 21<sup>st</sup> day of JUNE, 2006.

For Settling Party Henkel Corporation

By: 

Kevin M. Chu

Title: Assistant General Counsel



The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 20 day of 06, 2006.

For Settling Party Heraeus Quartz America LLC, Heraeus Quartzsch Inc.

By: 

Title: Executive Vice President

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 15 day of June, 2006.

For Settling Party House of Cheatham, Inc

By: [Signature]

Title: Sr. VP

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 16 day of June 2006.

For Settling Party ITW

By: Ralita Haul

Title: Environment Manager

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 13 day of June, 2006.

For Settling Party Innovative Containers Services

By: [Signature]

Title: President

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 12 day of JUNE, 2006

For Settling Party INTL. MARBLE INDUSTRIES, INC

By: DIRK DE VUYST

Title: PRES. & CEO

10 11 078

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 15 day of June, 2006.

For Settling Party J&S Chemical

By: [Signature]

Title: R+D Manager

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 29 day of June, 2006

For Settling Party Jackson Lea

By: [Signature]

Title: V.P. Operations

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 22 day of June, 2006

For Settling Party Keystone Aniline Corporation

By: Robert Rhodes, CHMM *Robert Rhodes*

Title: EH&S Coordinator



The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 15<sup>th</sup> day of June, 2006.

For Settling Party Kirk-Rudy, Inc.

By: *Murray A. Kirk*

Title: CEO

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 12th day of June, 2006.

For Settling Party KONE Inc.

By: 

Title: ASSISTANT SECRETARY

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 21 day of June, 2000.

For Settling Party L. M. Scofield Company

By: [Signature]

Title: CFO

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 16 day of June, 2006

For Settling Party CAP Tech Industries

By: Ramon L. Guzman

Title: President

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 23<sup>rd</sup> day of June, 2006.

For Settling Party Lexington Insurance

By: [Signature]

Title: President

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 20 day of JUNE, 2006.

For Settling Party THE LOJER SHOP INC

By: [Signature]

Title: SP. VP / SEC.

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 20 day of June, 2006

For Settling Party Mercury Air Centers, Inc.

By: Robert S. Klein

Title: Vice President - HR

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 12<sup>th</sup> day of June, 2006

For Settling Party Mohawk Industries, Inc.

By: Barbara M. Gault

Title: VP + Corporate Secretary



The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 19 day of June, 2006.

For Settling Party Moto + Gear Engineering

By: [Signature]

Title: President

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 9<sup>th</sup> day of June, 2006

For Settling Party Nalley Collision of Roswell

By: Elna Wilford

Title: Collision Center Director

10 11 091

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 13 day of JUNE, 2006 . . .

For Settling Party NATIONAL CEMENT COMPANY OF ALABAMA, INC.

By: Jandy Gray

Title: VICE PRESIDENT DEVELOPMENT

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 12<sup>th</sup> day of JUNE, 2009.

For Settling Party NEVAMAR COMPANY, LLC

By: *Jeff M. Miller*

Title: GENERAL COUNSEL

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 20<sup>th</sup> day of JUNE, 2006.

For Settling Party NORTHROP GRUMMAN SHIP SYSTEMS, INC. (FORMERLY KNOWN AS  
AVONDALE INDUSTRIES, INC.)

By: Robert J. Quinlan, Jr.

Title: SENIOR COUNSEL, ASSISTANT SECRETARY

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 13<sup>TH</sup> day of JUNE, 2006

For Settling Party OOZ INCORPORATED

By: M E Burke

Title: Vice President Finance

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 2 day of June, 2000

For Settling Party Princeton Associates, LLC

By: [Signature]

Title: President

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 16<sup>th</sup> day of June, 2006

For Settling Party Paper con, Inc.

By: [Signature] Patrick T. Chambliss

Title: Vice President & CFO



The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 7<sup>th</sup> day of July, 2007.

For Settling Party Plastic Associates Mfg. Inc.

By: [Signature]

Title: Vice President

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document, provided however, that the undersigned's signature shall not be effective until the Settling Party receives approval to enter into the Settlement Agreement from the United States Bankruptcy Court for the District of Delaware.

Agreed this 28th day of June, 2006.

For Settling Party: Pliant Corporation

By: Steven R. Shuder

Signature: 

Title: VP Quality and Manufacturing Services

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 12 day of July, 2006

For Settling Party Precision Concrete Construction, Inc.

By: Wayne P. Moore

Title: PRESIDENT

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 19<sup>th</sup> day of June, 2006.

For Settling Party PRIDE Enterprises

By: J. Egeman

Title: President

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 21<sup>st</sup> day of June, 2006

For Settling Party Proline Products LLC

By: Stephen A. Adams

Title: V.P.

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 28th day of June, 2006 .

For Settling Party Quebecor World Central Florida Press, LC

By: *[Signature]*

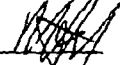
Title: *Attorney for Quebecor World Central Florida Press, LC*  
*in this matter*

This is a signature page for the Administrative Settlement Agreement and Order on Consent for Removal Action with U.S. EPA re: The Constitution Road Drum Site, Atlanta, DeKalb County, Georgia

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 29<sup>th</sup> day of June, 2006

For Settling Party R.E. Phelan Company, Inc.

By: Ron Hetzler 

Title: Project Manager

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 12 day of JUNE, 2006.

For Settling Party RELIANCE TRADING CORPORATION OF AMERICA, INC.

By: [Signature]

Title: VICE PRESIDENT/CFO

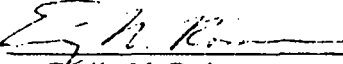
R.T. Corp



The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 20th day of June, 2006.

For Settling Party Ringling Bros.

By:   
Emily N. Roisman

Title: Corporate Counsel

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 22 day of June, 2006.

For Settling Party Boce-Tone Co. Inc.

By: Gregory King

Title: President & CEO

Signature: [Handwritten Signature]

BAB  
B

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 22 day of JUNE, 2006.

For Settling Party SKC, Inc

By: (A. P. Jumper)

Title: Purchasing and General Administration Mgr

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this    day of   , 200  .

For Settling Party SKE USA Inc

By: Timothy D. Gifford

Title: VP, GENERAL COUNSEL & SECRETARY

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 11 day of April, 2011

For Settling Party W. J. ...

By: [Signature]

Title: [Title]

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 20 day of JUNE, 2

For Settling Party THE SHERWIN-WILLIAMS COMPANY

By: [Signature]

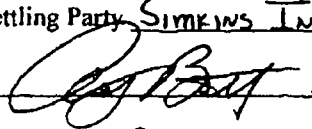
Title: V.P. G.C.

*Diversified  
Brands*

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 12 day of JUNE, 2006

For Settling Party SIMKINS INDUSTRIES INC.

By:  ANTHONY BATTAGLIA

Title: CFO

10 11 112

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 28 day of July, 2006

For Settling Party South Wash Services DBA B'ham Tank Wash

By: Donald C Puchitt

Title: President



The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 14 day of June, 2006.

For Settling Party Stevens Graphics, Inc.

By: *D. Alan Simmons*

Title: President

10 11 114

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 27 day of July, 2006.

For Settling Party Sureheat Manufacturing, Inc.

By: [Signature]

Title: Chief Financial Officer

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 26 day of June, 2009.

For Settling Party T&D Remarketed Services, Inc

By: David E Gunderland

Title: V.P.

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 14<sup>th</sup> day of JUNE, 2006

For Settling Party TRANTECH RADIATORS

By: *[Signature]*

Title: President

The undersigned representative of the Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the Settling Party to this document.

Agreed this 5 day of June, 2005

For Settling Party [Signature]

By: [Signature]

Title: [Signature]

The undersigned representatives of Settling Federal Agencies certify that they are fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the agencies they represent to this document.

Agreed this 7th day of June, 2006.

For Settling Federal Agency United States Army

By: 

Colonel, U.S. Army

Title: Chief, Environmental Law Division

The undersigned representatives of Settling Federal Agencies certify that they are fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the agencies they represent to this document.

Agreed this 11 day of Aug, 2006.

For Settling Federal Agency: US Army Corps of Engineers

By: Mark S. Held  
(Signature)

Printed Name: Colonel Mark S. Held

Title: District Commander

Address: PO Box 889, Savannah, GA 31402-0889

10 11 120

The undersigned representatives of Settling Federal Agencies certify that they are fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the agencies they represent to this document.

Agreed this 20 day of July, 2006.

For Settling Federal Agency United States Air Force

By: Chris Carey

Title: Acting Division Chief, AFLJA/JACE



The undersigned representatives of Settling Federal Agencies certify that they are fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the agencies they represent to this document.

Agreed this 15 day of August, 2006.

For Settling Federal Agency United States Navy

By: Edward B

Title: Commanding Officer (acting)

The undersigned representatives of Settling Federal Agencies certify that they are fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the agencies they represent to this document.

Agreed this 14 day of July, 2006.

For Settling Federal Agency United States Postal Service

By: Dorinda G. Farmer

Title: Environmental Specialist - Facilities

In the Matter of the Constitution Road Drum Site, Docket No. CERCLA-04-2006-3797:

It is so ORDERED and Agreed this 26<sup>th</sup> day of Sept, 2006

BY: Matthew W. Johnson DATE: 9/26/06

A. Shane Hitchcock, Chief,  
Emergency Response & Removal Branch  
Waste Management Division  
Region 4  
U.S. Environmental Protection Agency

EFFECTIVE DATE: 9/26/06

APPENDIX A

10 11 124

Settling Parties  
Constitution Road Drum Site

1888 Mills  
A&E Auto Electric, Inc.  
Acuity Brands Inc. (on behalf of Enforcer Products)  
Advanced Design and Packaging, Inc.  
Aerotron Airpower, Inc.  
Ajay North America, LLC  
Allied Graphics, Inc.  
Arm Env. Svcs., Inc.  
Associated Rubber Company  
Astro American Chemical Co., Inc.  
Atlanta Grotnes Machine Co.  
Atlantic Envelope Company LLC  
Ball Aerosol and Specialty Container Inc. (formerly known as United States Can Company)  
Barry Grant Inc.  
Bekaert Corporation  
Bennett Graphics  
Bulk Plus Logistics  
CFC Refimax, LLC  
C.H. Patrick/Environmental Recycling Services  
Caterpillar Inc.  
Clayton Group Services Inc. (formerly known as Clayton Environmental Consultants)  
Colonial Chemical, Inc.  
Colonial Printing  
Conopco, Inc.  
Contract Packaging Inc.  
Custom Chip Connections Inc.  
DSE, Inc. d/b/a Balimoy Mfg.  
DSI Transport, Inc.  
Die-Tech Industries, Inc.  
Drum Service  
Eaton Hydraulics, Inc.  
Eco-Clean, Inc.  
Ecolab Inc.  
Eka Chemicals Inc.  
Epsilon Plastics of SC  
Exopack  
Fleet Operations, Inc. d/b/a The Charlotte Tank Wash and The Spartanburg Tank Wash  
Floyd Medical Center  
Giant Resource Recovery-Sumter, Inc. (formerly Southeastern Chemical Company)  
Heil Environmental  
Henkel Corporation  
Heraeus Quartz America LLC (Heraeus Quartztech Inc.)  
House of Cheatham, Inc.  
ITW

APPENDIX A

10 11 125

Settling Parties  
Constitution Road Drum Site

Innovative Container Services  
Intl. Marble Industries, Inc.  
J&S Chemical  
JacksonLea  
Keystone Aniline Corporation  
Kirk-Rudy, Inc.  
KONE Inc.  
L.M. Scofield Company  
LAP Tech Industries  
Lexington Insulators  
The Louver Shop Inc.  
Mercury Air Centers, Inc.  
Mohawk Industries, Inc.  
Motor & Gear Engineering  
Nalley Collision of Roswell  
National Cement Company of Alabama, Inc.  
Nevamar Company, LLC  
Northrop Grumman Ship Systems, Inc. (formerly known as Avondale Industries, Inc.)  
ODL Incorporated  
Pangean-CMD Associates, Inc.  
Papercon, Inc.  
Plastic Associates Mfg Inc.  
Pliant Corporation  
Precision Concrete Construction, Inc.  
Pride Enterprises  
Profile Products LLC  
Quebecor World Central Florida Press, LC  
R.E. Phelon Company, Inc.  
Reliance Trading Corporation of America, Inc.  
Ringling Bros.  
Rock-Tenn Converting, Co.  
SKC, Inc.  
SKF USA Inc.  
Selig Enterprises, Inc.  
The Sherwin-Williams Company  
Simkins Industries Inc.  
Southwash Services d/b/a B'ham Tank Wash  
Stevens Graphics, Inc.  
Sureheat Manufacturing, Inc.  
T&D Remarketed Services, Inc.  
Trantech Radiators  
Trimac Transportation, Inc.  
U.S. Jetting LLC

**APPENDIX B**

**Settling Federal Agencies**

**United States Army**  
**United States Army Corps of Engineers**  
**United States Air Force**  
**United States Navy**  
**United States Postal Service**




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

4WD-ERRB

**ENFORCEMENT ACTION MEMORANDUM**

**SUBJECT:** Request for Removal Action at the Constitution Road Drum Site, Atlanta, DeKalb County, Georgia

**FROM:** Robert N. Rosen   
Federal On-Scene Coordinator

**TO:** Shane Hitchcock, Chief  
Emergency Response and Removal Branch

**Site ID #: A4FK**

**I. PURPOSE**

The purpose of this Action Memorandum is to request and document approval of the proposed enforcement-lead removal action described herein for the Constitution Road Drum Site (the "Site"), located in Atlanta, DeKalb County, Georgia. This removal action is based on the presence of over 9,000 drum and tote containers of waste abandoned at the Site. The Site poses a threat to public health and the environment that meets the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") Section 300.415(b)(2) criteria for removal actions. This removal action is anticipated to be enforcement lead pursuant to an Administrative Settlement Agreement and Order on Consent with a group of Potentially Responsible Parties ("PRPs") whose wastes were abandoned at the Site.

**II. SITE CONDITIONS AND BACKGROUND**

The CERCLIS ID number for this time-critical removal action is GAD981258270.

From approximately January 2003 through March 2004, Southeastern Research and Recovery, Inc. ("SRR") used the Site as a RCRA non-hazardous transfer station. When SRR ceased operations in April or May 2004, it abandoned approximately 13,000 drum and tote containers of waste at the Site. Many of these drums were unlabeled and some were leaking.

**A. Site Description****1. Removal Site Evaluation**

A preliminary assessment and Site visit was conducted by an On-Scene Coordinator ("OSC") from the Region 4, Emergency Response and Removal Branch ("ERRB") in March 2004, at the request of the Georgia Environmental Protection Division ("GAEPD") of the Georgia Department of Natural Resources. At that time, the facility was still in operation and the OSC's presence was a support role to the GAEPD. A second Site visit by the OSC was conducted after SRR had ceased operations. Site conditions at that time were not as tenuous as they would later become and there was the anticipation that GAEPD would be able to obtain a response to their enforcement orders by the Site operators and/or property owner. Based on noncompliance with GAEPD's clean up requirements, and given the additional discovery of leaking containers, the OSC initiated an emergency response on July 9, 2004. At that time, several drums and tote containers, many with markings stating the contents to be "hazardous" or "flammable liquids," were discovered leaking. Several leaking containers exhibited an odor similar to lacquer thinner. At the time, approximately 13,000 drums, totes, 5-gallon pails, 1-gallon buckets, bags of solid materials, 2 tank trucks, 2 three thousand pound lead-acid batteries and other miscellaneous containers and materials were all abandoned with no security at the Site. In total, the volume of waste, both liquid and solid, was estimated to exceed 800,000 gallons.

**2. Physical Location**

The Constitution Road Drum Site is located at 1235 Constitution Road Southeast, Atlanta, DeKalb County, Georgia. The geographic coordinates are latitude 33° 41' 20.483" north and longitude 84° 20' 28.421" west. The property is located amid a mixed residential and industrial area and is approximately five (5) acres in size. The Site is surrounded by a chain-link fence. In the center of the property is a covered loading dock where a large number of drums were stored. A small office building is attached to the east side of the loading dock and is being used by Evans Trucking. The Site is owned by Reliable Express and was leased to SRR. The nearest population is located immediately adjacent to the Site's eastern property line. That property houses several correctional institutions, including Metro State Prison, a "diversion center" (halfway house) and a juvenile prison. Estimated population of detainees and staff among all three (3) facilities exceeds 1,800 people. In addition to the detention centers, there are several trucking companies, churches and residences within a quarter mile of the Site.

**3. Site Characteristics**

Topographically, the Site is relatively flat, with elevations around 800 feet above mean sea level. In the southwest corner of the property is a washout area that drains into a small stream to the south of the property. This washout area is visibly stained with various materials that have drained as a result of spills and surface water flushing. The vast majority of the property is paved with asphalt or concrete. The property is bordered to the north by Constitution Road. A trucking company maintenance facility lies adjacent to the property on the west side, and a



corrections facility is immediately east of the property. Surface water drainage on the Site is to the south into a small stream which flows east approximately half a mile to Entrenchment Creek. Entrenchment Creek empties into the South River shortly after it is joined by the small stream.

**4. Release or threatened release into the environment of a hazardous substance, or pollutant or contaminant**

The presence of abandoned drums, totes, and other containers on the Site constitutes a release of hazardous substances as defined by CERCLA 101(14). Initial sampling results and drum labels indicate the presence of hazardous substances such as xylene, chromium, flammable and acidic liquids. The Site remains abandoned and trespassers could come into contact with containers containing hazardous substances. Containers remaining on site continue to be exposed to the elements and could deteriorate and leak.

**5. NPL Status**

This Site is not on the National Priorities List ("NPL"), nor is it likely to be listed in the future.

**6. Maps, pictures and other graphic representations**

All removal file information, including maps and aerial photos of the Site, will be maintained by the OSC and released to the EPA record center for inclusion in the Site file.

**B. Other Actions to Date**

**1. Previous Actions**

The OSC mobilized to the Site on July 9, 2004. Initial activities included: properly segregating and staging all containers; overpacking leaking containers; providing security to minimize the threat of vandalism; conducting hazard categorization of approximately 15% of all drums and totes in order to more clearly characterize the hazards present; disposal of the liquid contents of two (2) tankers; disposal of the two (2) overflowing sludge boxes; developing a comprehensive inventory of all containers at the Site before label information degraded (due to weathering); and disposal of several thousand small containers of mixed hazardous and non-hazardous substances.

These actions were largely completed by December 2004. Since that time, the Site has been monitored for leaking containers, and security has been maintained.

**2. Current Actions**

EPA and the PRP Group are currently negotiating an Administrative Settlement Agreement and Order on Consent for the removal action at the Site. The property owner has been cooperative with respect to granting access for such work.

**C. State and Local Authorities' Role**

1. State and Local Actions to Date:

State involvement included early efforts by GAEPD to identify and order the Site operators to correct violations at the Site. When SRR officials ceased operations and abandoned the Site, GAEPD promptly requested EPA assistance. The future roles of state government personnel include limited project oversight and other support.

2. Potential for Continued State/Local Response:

GAEPD has referred this Site to EPA because of insufficient state funds to implement this action.

**III. THREATS TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT, AND STATUTORY AND REGULATORY AUTHORITIES**

**A. Threats to Public Health or Welfare**

Xylene, chromium, and RCRA characteristic wastes are hazardous substances as defined by section 101(14) of CERCLA and RCRA characteristic definitions. The large number of containers remaining on site may contain more than 800,000 gallons of a wide range of materials and hazardous substances. A large quantity of potentially hazardous substances or pollutants or contaminants are presently staged at the Site in drums and or other bulk storage containers and these pose a threat of release.

There still exists a clear threat of fire or explosion. During a June 2004 visit to the Site, the OSC noted that a drum of flammable liquid had developed a leak. The leakage created a small puddle around several drums before draining towards the corner of the property. This material could have been ignited by a spark from a falling drum, a match, carelessly dropped cigarette, lightning, or by vandalism. This possibility is exacerbated by the lack of segregation of containers. The Site is highly vulnerable to vandalism. There is a large prison population on the adjacent property (Metro State Juvenile Prison, Metro State Prison, and two halfway houses). Fire or explosion would create a security threat to these institutions. Although many of the containers are marked as "non-hazardous," there are also a significant number of containers with hazardous placards or labels identifying the contents as materials such as "methyl ethyl ketone, xylene, poison/pesticides, flammable liquids" and other hazardous substances. The danger presented by the Site lies in the large number of unknown materials, their present storage in deteriorating containers, and the lack of segregation of containers,

The EPA OSC has determined, therefore, that Site conditions meet the requirements for a time-critical removal action according to criteria listed in Section 300.415 of the NCP. In evaluating the potential risks posed by the Site, the following factors cited from the National Contingency Plan must be considered in determining the appropriateness of a removal action:

- *Section 300.415 (b)(2)(i): "Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances or pollutants or contaminants." - the potential for exposure continues as containers could leak potentially hazardous*

substances onto the ground. Precipitation runoff would carry this material to a nearby creek and thence to the South River. People entering the property could walk in puddles of liquid. Fires resulting from natural or man-made activities could result in a large-scale release of hazardous substances onto the ground and via air dispersion. Over 2,000 people work and are incarcerated on the properties east of the Site;

- *Section 300.415(b)(2)(iii) "Hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release"* - the number of containers currently abandoned on site is 9,361, of which approximately 8,299 are 55-gallon containers (456,500 gallons), and 1,062 are tote containers of approximately 250 gallons (265,500 gallons);
- *Section 300.415(b)(2)(v) "Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released"* - approximately 85% of all containers are exposed to direct weather. As drums heat in the sun, the subsequent expansion causes drum lids to pop and also slightly pressurizes the drum. In some instances, this increase in pressure has been enough to cause pin-hole leaks in containers whose integrity may be compromised by physical damage or corrosion. Leaks from drums and totes may also be washed off the property at the southwestern corner where precipitation could carry the leaking material to a nearby creek;
- *Section 300.415(b)(2)(vi) "Threat of fire and explosion"* - during a June 2004 visit to the Site, the OSC noted that a drum of flammable liquid had developed a leak. The leakage created a small puddle around several drums before draining towards the corner of the property. This material could have been ignited by a spark from a falling drum, a match, carelessly dropped cigarette, lightning, or by vandalism. The Site is highly vulnerable to vandalism;
- *Section 300.415(b)(2)(vii) "Availability of other appropriate federal or state response mechanisms to respond to a release"* - the GAEPD has formally referred the Site to EPA and requested that EPA conduct a removal action to mitigate the threats to human health and welfare and the environment which is posed by the large number of unknown containers, the ongoing leakage, and their state of abandonment.

## **B. Threats to the Environment**

Xylene, chromium and flammable and acidic liquid wastes at the Site pose a significant threat to the environment. Uncontrolled releases of contaminated water from spills and drum leaks could be transported via the surface water pathway during major rain events into the South River via creeks, and could pose a threat to aquatic species, including fish and mammal populations. There is no facility secondary containment wall to prevent such a release. There is an actual as well as a potential for exposure to nearby human populations, animals, or the food chain from releases of hazardous substances or pollutants or contaminants. The potential for exposure continues as containers could leak potentially hazardous substances onto the ground. Precipitation runoff could carry this material to a nearby creek and thence to the South River. People entering the property could walk in puddles of liquid. Fires resulting from natural or man-made activities could result in a large-scale release of hazardous substances onto the ground and via air dispersion.

#### IV. ENDANGERMENT DETERMINATION

Actual or threatened releases of the hazardous substances from this Site, if not addressed by implementing the removal action selected in this Action Memorandum, may present an imminent and substantial endangerment to the public health or welfare or the environment.

#### V. PROPOSED ACTIONS AND ESTIMATED COSTS

##### A. Proposed Actions

##### 1. Proposed action description

The PRP Group shall perform, at a minimum, all actions necessary to implement this Action Memorandum. The actions to be implemented generally include, but are not limited to, the following:

- a. Arrange for the sampling and appropriate transportation and disposal of all drum and tote containers currently located at the Site. A stringent sampling plan shall be developed for the effective evaluation of the contents of all drums and totes at the Site. Such sampling plan may include analyses for total metals, RCRA metals, TCLP, and volatile and semi-volatile organics. Disposal shall be based upon the results of such sampling and analyses;
- b. Conduct soil sampling along the south and west property lines, and at selected locations around the periphery of the loading dock. The OSC will assist in determining the sampling grid locations. Initial sampling will be limited to no more than ten (10) grids. Each grid will have a 5-point composite sample taken from a depth of one (1) foot below grade, for a total of up to ten (10) soil samples to be submitted for analysis. All samples will be subject to analyses for volatile organic compounds, semi-volatile organic compounds, PCBs, pesticides, herbicides, and total metals. Based on the results of the soil sampling analyses, additional sampling may be required to delineate the level and extent of contamination. The decision to further sample and delineate contamination will be made solely by the OSC, in consultation with the PRP Group and its contractor(s).

##### 2. Contribution to remedial performance

The proposed removal action will address the threats discussed in Section III, which meet the NCP Section 300.415(b)(2) removal criteria. Although future remedial action is unlikely, the removal action contemplated in this Action Memorandum would be consistent with any future remedial action.

### 3. Description of alternative technologies

Because waste materials at the Site have not been fully characterized, no formal evaluation of alternative technologies has been made. Any evaluations of alternative technologies will take place before the disposal phase of the response action and will be documented at that time.

### 4. Environmental Evaluation/ Cost Analysis (EE/CA)

Due to the time-critical nature of this removal action, an EE/CA is not required.

### 5. Applicable or relevant and appropriate requirements (ARARs)

On-site removal activities conducted under CERCLA are required to attain ARARs to the extent practicable considering the exigencies of the situation. Off-site removal activities need only comply with all applicable Federal and State laws, unless there is an emergency. All waste transferred off-site will follow the CERCLA Off-Site Rule, and for materials determined to be hazardous waste, RCRA transportation storage, and disposal regulations.

The State of Georgia has not identified any additional ARARs.

### 6. Proposed Schedule

The EPA is currently negotiating with the PRP Group to undertake the removal actions outlined in this Action Memorandum. It is anticipated that the PRP Group will sign a Administrative Settlement Agreement and Order on Consent by July 2006. In that event, a PRP-lead removal action could begin by late July, with removal completion before the end of the calendar year. A detailed project schedule will be incorporated into the work plan submitted to EPA for approval under the Settlement Agreement. In the event the PRP group does not agree to complete the removal action, the OSC will propose that EPA complete a fund-lead removal action.

## VI. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED OR NOT TAKEN

If action is significantly delayed or not taken, the threats described herein will continue to exist, increasing the possibility of exposure to the public and to the environment of releases of hazardous substances.

## VII. OUTSTANDING POLICY ISSUES


None

**VIII. ENFORCEMENT**

EPA anticipates that a PRP Group of approximately ninety (90) parties will both fund and conduct the removal action. EPA and the PRP Group are currently negotiating the terms of the Settlement Agreement for the removal action. Five (5) federal agencies will also participate in this settlement and will pay a portion of EPA's past costs. EPA anticipates that the settlement will be final by July 2006.

**IX. RECOMMENDATION**

This decision document represents the selected removal action for the Constitution Road Drum Site in Atlanta, DeKalb County, Georgia, developed in accordance with CERCLA, as amended, and not inconsistent with the NCP. The document is based on the administrative record for the Site. Conditions at the Site meet the NCP Section 300.415(b)(2) criteria for a removal action, and I recommend your approval of this proposed enforcement removal action.

Approval:  Date: June 8, 2006  
A. Shane Hitchcock, Chief  
Emergency Response and Removal Branch

Disapproval: \_\_\_\_\_ Date: \_\_\_\_\_  
A. Shane Hitchcock, Chief  
Emergency Response and Removal Branch

**APPENDIX D****SCOPE OF WORK  
FOR THE CONSTITUTION ROAD DRUM SITE**

This Scope of Work (SOW) sets forth the specific activities which constitute the work to be performed by the Settling Parties (Work) pursuant to the Administrative Settlement Agreement and Order on Consent (Settlement Agreement). The SOW is not a substitute for the Work Plan, or any other deliverables required by the Settlement Agreement. In the event of any conflict between the Settlement Agreement and the SOW, the Settlement Agreement shall control. The two components of the Work are:

**A. CHARACTERIZATION, TRANSPORTATION & DISPOSAL OF WASTE MATERIALS**

The removal contractor (Contractor) shall characterize, load, transport and properly dispose of all containers presently staged at the Constitution Road Drum Site (Site). Based upon the information provided by the United States Environmental Protection Agency (EPA), the staged containers at the Site consist of approximately 8,299 drums and 1,062 totes. The Constitution Road PRP Group (PRP Group) has selected Homeland Environmental Services as its Contractor for the removal and proper handling of waste materials on the surface of the Site.

**B. SURFICIAL SOIL SAMPLING**

Surficial (depth of one foot below the ground surface) soil sampling will be completed along the south and west property lines and around the periphery of the loading dock. Samples will be collected from six grids. Two of these grids will be positioned so that they are located adjacent to the west side of the loading dock. A third grid will be established at the south side of the loading dock. The fourth and fifth grids will be positioned along the southern and western property boundaries. The sixth grid will be established for the purpose of establishing background concentrations at an offsite location. Within each grid, a 5-point composite sample will be obtained at a depth of one foot below the ground surface. Each sample will be analyzed for priority pollutant volatile organic compounds, priority pollutant semi-volatile organic compounds, PCBs, pesticides, herbicides and the eight Resource Conservation and Recovery Act (RCRA) metals. The PRP Group has not yet selected a contractor to complete the soil sampling and analysis.

The specific tasks to be performed in the Work described in Section A are as follows:

### **TASK 1: PLAN DEVELOPMENT**

The Contractor will prepare for EPA review and approval, the following documents.

- 1) **Work Plan-** This plan will outline the schedule, methodologies and protocols to be utilized by the Contractor during the removal action and may include the *Quality Assurance Project Plan* (QAPP), as prepared in accordance with EPA document EPA/240/B-01/003 and EPA/600/R-98/018. It is noted that the Contractor may opt to submit the QAPP as a separate document.
- 2) **Health And Safety Plan-** The Contractor will modify its existing Health And Safety Manual to ensure that site-specific procedures are identified and implemented prior to project initiation. All employees stationed at the Site will receive training in each program prior to assignment. The training will be documented and available for review at the Site.

It is currently envisioned that the following site-specific programs will be developed:

- Hazard Communication
- Personal Protective Equipment
- Respiratory Protection
- Medical Surveillance
- Powered Industrial Trucks
- Lifting / Back Safety

### **TASK 2: WASTE CHARACTERIZATION & SEGREGATION**

- 1) **Initial Hazard Evaluation:** The Contractor will perform a series of field measurements on all staged containers. Those containers that have been subjected to prior HAZCAT evaluation may not require the entire matrix of tests. The purpose of these evaluations is two-fold:
  - i) Provide detailed hazard determination, and
  - ii) Increase waste disposal options.
- i) The test measurements to be completed are as follows:
  - i) **Determination of Container Weight-** It is envisioned that by documenting the weight of each container, it will allow the Contractor to more accurately segregate the materials by similar waste streams thereby maximizing haul volumes.
  - ii) **Volatile Screening-** Through the use of an Organic Vapor Monitor (OVM) or Volatile Organic Analyzer (VOA) the Contractor will attempt to identify those wastes that may



exhibit the ignitability characteristic, allowing for their segregation in advance of analytical testing. An alternative test method for the ignitability characteristic may be used during the initial hazard evaluation with prior approval from EPA.

- iii) **Radiation Screening**- Through the use of a radiation detector, the Contractor will attempt to document that the wastes do not possess any radioactive characteristics.
  - iv) **pH**- The Contractor will perform this test in an effort to identify those wastes that may exhibit the corrosivity characteristic, allowing for their segregation in advance of analytical testing.
  - v) **Chlorine Measurement** - For those wastes found to be oils or oil-based liquids (through visual observation), the Contractor may elect to conduct field measurement for chlorine levels, to determine the materials' capacity to be processed through a used oil recycling protocol.
- 2) **Waste Segregation:** Upon completion of the field screening, the Contractor will segregate the materials into "lot batches" or "load batches", based upon two criteria:
- i) Results of pre-screening evaluation, and
  - ii) Measured container weights.

For instance, all containers exhibiting no hazardous characteristics from the pre-screening tests would be segregated into the NON-HAZARDOUS "pool" of containers. This "pool" of similar containers would then be further broken down into "lot batches" based upon their weight - with each lot batch being equal to the load capacity capable of being legally transported by highway. Likewise, all containers displaying a particular hazard characteristic (ignitability, corrosivity, etc.) would be segregated into "pools" and then further divided into "lot batches" based upon their individual container weights.

- 3) **Waste Characterization:** Once broken down into the "preliminary" lot batches, the Contractor will collect a composite sample from each lot, by obtaining an aliquot from each container within a given lot. Where a container has multiple layers, a sample shall be collected from each layer.

The Contractor will then conduct a HAZCAT evaluation on each lot composite sample obtained. Pre-screening with pH meters and VOA will qualify corrosivity and ignitability characteristics while lab analysis will flesh out the toxicity characteristics of each waste stream. HAZCAT testing will focus on the potential reactivity characteristics by performing the following tests:

- a. ammonia
- b. nitrogen compounds
- c. benzene

- d. sulphur dioxide
- e. phenol
- f. hydrocarbons
- g. petroleum naphtha
- h. hydrogen cyanide
- i. hydrogen sulfide
- j. chlorine

Where HAZCAT analysis reveals an un-expected result (i.e. a "hit" for ignitability in a composite sample collected from containers which were thought to be of a non-hazardous nature), individual HAZCAT testing of each container in the lot would be conducted to find the causative container(s) and so that it may be removed from the lot batch (i.e. each container in the lot would be tested for ignitability). A second composite sample would then be collected from the modified lot and the HAZCAT testing performed on the "revised" composite sample.

Once HAZCAT testing of each "lot batch" is completed, a composite sample will be sent to a laboratory where it will be tested for the following parameters:

- i) **Ignitability**
- ii) **Corrosivity**
- iii) **TCLP Metals / Volatile Organics / Semi-Volatile Organics**

If the results from a "lot batch" composite sample are compatible with the pre-screening and HAZCAT results, then the batch will be profiled as a single waste stream and approved for disposal. For instance, if the composite sample for a "lot batch" of suspect flammables indicates the presence of the ignitability characteristic, this would be consistent with the field screening, and the entire "lot batch" would be profiled for disposal. If however, the composite results differ significantly from the pre-screening data, then samples would be taken of each individual container within the lot batch and analyzed for the parameter that caused the anomaly. As an example, suppose a composite sample of suspected non-hazardous containers indicated a high level of lead above TCLP limits. In this case, a sample would be collected from each container in the "lot batch" and analyzed individually for TCLP lead. The container(s) causing the elevated reading would be removed from the batch, and a second composite taken of the remaining containers in the batch in order to verify the absence of hazardous characteristics.

### **TASK 3: WASTE DISPOSAL**

As results are received for a particular "lot batch", scheduling of disposal for the containers in that batch may commence. As each "lot batch" is analyzed and categorized, a waste profile will

be completed for the batch. The waste profile will be submitted to the appropriate disposal facility for approval and verification in advance of shipment.

The Contractor shall ensure that any disposal facility selected to receive waste from the Site is properly permitted to receive said materials, and is operating in compliance with the requirements of CERCLA §121(d)(3), 42 U.S.C. § 6921(e), and 40 CFR § 300.440.

In addition, the Contractor will provide written notification to the environmental agency in the home state of the receiving disposal facility and to the On-Scene Coordinator (OSC). Notification will be made for all waste shipments associated within the removal action. Each notification will include the name and location of the disposal facility, the type and quantity of waste to be shipped, the shipping frequency, method of transportation and any other pertinent information.

For purposes of the bid process, The PRP Group Technical Committee requested that Homeland assume that only non-hazardous and D001 hazardous wastes would be present at the site. Following is the list of facilities that Homeland anticipates utilizing for the disposal of the aforementioned waste types.

Non-Hazardous Wastes  
Armor Environmental  
101 South Park Drive  
Mt. Pleasant, Tennessee

D001 Hazardous Wastes  
M & M Chemical  
1229 Valley Drive  
Attalla, Alabama

#### **TASK 4: DELIVERABLES**

- 1) **Progress Reports:** The Contractor will provide the PRP Group Technical Committee with status reports every thirty (30) days. Each report will include developments during the reporting period, any analytical data obtained, problems encountered and anticipated developments during the forthcoming reporting period. Each report will be submitted in hard copy (6 copies) and electronic form.
- 2) **Final Report:** The Contractor will submit a Final Report to the PRP Committee within forty-five (45) days after completion of the project. Six (6) copies of this report would be submitted, as well as an electronic copy if requested. This Final Report will include a summary of all materials removed, all analytical data collected, manifests, permits and all subsequent paperwork generated during the removal action.

**Homeland's Proposed Project Timeline:**

Start Date:	Project Awarded. PRP / Contractor identify disposal facilities and PRP / EPA approve Site-specific plans (NOTE: The contractor considers project start date to begin upon receipt of written approval of Site-specific plans).
Day 5:	The contractor mobilization to Site
Day 10:	Pre-screening of containers begins at Site
Day 20:	First series of containers segregated into "lot batches" Pre-screening continues.
Day 40:	Composite sampling of first series of "lot batches" begins, samples submitted to laboratory. Pre-screening continues.
Day 80:	First series of analytical results available, profiling of "lot batches" begins. Pre-screening, compositing and sampling continue.
Day 90:	First series of "lot batches" approved for transportation and disposal to approved facility. Pre-screening, compositing and sampling continue.
Day 120:	Pre-screening of containers concludes. Compositing and sampling continues. Approved lot batches are loaded into trailers staged on-Site awaiting transportation.
Day 150:	Compositing and sampling concludes. Lot batches continue to be profiled for disposal as analytical data becomes available. Approved lot batches are loaded into trailers staged on-Site awaiting transportation.
Day 180:	Last of analytical data becomes available. Remaining lot batches are profiled for disposal.
Day 200:	Last of remaining trailers are transported for processing into approved disposal facilities. Homeland project team demobilizes from Site.

**NOTE:** The following table lists the labor force that Homeland has tentatively indicated will be present at the Site during the evaluation and processing of the identified wastes.

<b>Position</b>
Project Manager
Field Chemist – EHS Specialist
Forklift Operator
Sampling Technician (2)

APPENDIX E

# Constitution Road Drum Removal

**LEGEND**

- Forklift Access Way
- Drum Rows
- Tote Rows
- Fence Line
- Work Zone Boundary (Restrict)
- EPA, START, ERRS Office/Logistics

Scale: 1 inch = 50 feet



10 11 141