

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

SDMS Document



110446

IN THE MATTER OF:

LIGHTMAN DRUM COMPANY SUPERFUND SITE

U.S.E.P.A. Index No.
CERCLA-02-2007-2007

AIR PRODUCTS AND CHEMICALS, INC.;
AMERICAN PACKAGING CORPORATION
COLONIAL HEIGHTS PACKAGING INC.;
CONTINENTAL HOLDING INC.;
CRODA INKS CORPORATION;
FORENCO, INC, as successor
to WHITING-PATTERSON COMPANY;
GENERAL MOTORS CORPORATION;
HENKEL CORPORATION for itself and
on behalf of AMCHEM PRODUCTS, INC.;
KIMBERLY-CLARK TISSUE COMPANY on
behalf of SCOTT PAPER COMPANY;
REYNOLDS METALS COMPANY;
SARA LEE HOUSEHOLD AND BODYCARE USA on
behalf of KIWI BRANDS;
SONOCO PRODUCTS COMPANY;
STAUFFER CHEMICAL COMPANY;
STEPAN COMPANY;
SYNTHANE-TAYLOR CORPORATION;
UNION CARBIDE CORPORATION for itself and
on behalf of AMCHEM PRODUCTS, INC.;
USG CORP. for itself and on behalf of DAP, INC.;
UNITED STATES STEEL CORPORATION;
WILMINGTON CHEMICAL COMPANY;

Respondents.

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.

ADMINISTRATIVE SETTLEMENT AGREEMENT AND
ORDER ON CONSENT FOR REMOVAL ACTION

TABLE OF CONTENTS

I.	<u>JURISDICTION AND GENERAL PROVISIONS</u>	4
II.	<u>PARTIES BOUND</u>	4
III.	<u>DEFINITIONS</u>	5
IV.	<u>EPA FINDINGS OF FACT AND CONCLUSIONS OF LAW</u>	7
V.	<u>DETERMINATIONS</u>	9
VI.	<u>SETTLEMENT AGREEMENT AND ORDER</u>	10
VII.	<u>DESIGNATION OF CONTRACTOR, PROJECT COORDINATOR, AND ON-SCENE COORDINATOR</u>	10
VIII.	<u>WORK TO BE PERFORMED</u>	11
IX.	<u>SITE ACCESS</u>	15
X.	<u>ACCESS TO INFORMATION</u>	16
XI.	<u>RECORD RETENTION</u>	16
XII.	<u>COMPLIANCE WITH OTHER LAWS</u>	17
XIII.	<u>EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES</u>	17
XIV.	<u>AUTHORITY OF ON-SCENE COORDINATOR</u>	18
XV.	<u>PAYMENT OF RESPONSE COSTS</u>	18
XVI.	<u>DISPUTE RESOLUTION</u>	20
XVII.	<u>FORCE MAJEURE</u>	21
XVIII.	<u>STIPULATED PENALTIES</u>	21
XIX.	<u>COVENANT NOT TO SUE BY EPA</u>	23
XX.	<u>RESERVATIONS OF RIGHTS BY EPA</u>	23
XXI.	<u>COVENANT NOT TO SUE BY RESPONDENTS</u>	24

XXII.	<u>OTHER CLAIMS</u>	25
XXIII.	<u>CONTRIBUTION</u>	26
XXIV.	<u>INDEMNIFICATION</u>	26
XXV.	<u>INSURANCE</u>	27
XXVI.	<u>FINANCIAL ASSURANCE</u>	27
XXVII.	<u>MODIFICATIONS</u>	28
XXVIII.	<u>NOTICE OF COMPLETION OF WORK</u>	29
XXIX.	<u>SEVERABILITY/INTEGRATION/APPENDICES</u>	29
XXX.	<u>EFFECTIVE DATE</u>	29

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") and the entities identified in Appendix A ("Respondents"). This Settlement Agreement provides for the performance of a removal action by Respondents and the reimbursement of certain response costs incurred by the United States at or in connection with the property located at the Lightman Drum Company Superfund Site, 139 North Route 73, Winslow Township, Camden County, New Jersey (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 New Jersey (the "State") of this action pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

4. EPA and Respondents recognize that this Settlement Agreement has been negotiated in good faith and that the actions undertaken by Respondents in accordance with this Settlement Agreement do not constitute an admission of any liability. Respondents 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 facts, conclusions of law, and determinations in Sections IV and V of this Settlement Agreement. Respondents 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 upon Respondents and their successors and assigns. Respondents shall instruct their officers, directors, employees, and agents involved in the performance of the Work required by this Settlement Agreement to cooperate in carrying out Respondents' obligations under this Settlement Agreement. Respondents' officers, directors, employees, and agents involved in the performance of the Work required by this Settlement Agreement shall take all necessary steps to accomplish the performance of said Work in accordance with this Settlement Agreement. Any change in ownership or corporate status of Respondents including, but not limited to, any transfer of assets or real or personal property shall not alter Respondents' responsibilities under this Settlement Agreement.

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

7. Respondents are jointly and severally liable for carrying out all activities required by this Settlement Agreement. In the event of the insolvency or other failure of any one or more Respondents to implement the requirements of this Settlement Agreement, the remaining Respondents shall complete all such requirements.

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 any appendices attached hereto and incorporated hereunder, the following definitions shall apply:

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

b. "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.

c. "Effective Date" shall be the effective date of this Settlement Agreement as provided in Section XXX.

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

e. "Former Waste Storage Tank Area" shall mean an area of the Site identified on the map attached as Appendix C to this Settlement Agreement.

f. "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.

g. "Lightman Property" shall mean land consisting of approximately 15 acres located at 139 North Route 73, Winslow Township, Camden County, New Jersey and identified as Block 4004, Lot 6 on the Winslow Township Tax Assessor Map.

h. "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.

i. "NJDEP" shall mean the "New Jersey Department of Environmental Protection."

j. "Parties" shall mean EPA and Respondents.

k. "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).

l. "Removal Action Future Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States incurs in reviewing or developing plans, reports and other items pursuant to this Settlement Agreement, verifying the Work, or otherwise implementing, overseeing, or enforcing this Settlement Agreement, including but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, the costs incurred pursuant to Paragraph 43 (costs and attorneys fees and any monies paid to secure access, including the amount of just compensation), Paragraph 53 (emergency response), and Paragraph 74 (work takeover). Removal Action Future Response Costs shall also include all Removal Action Interim Response Costs.

m. "Removal Action Interim Response Costs" shall mean all Removal Action Future Response Costs a) paid by the United States in connection with the Work between March 15, 2007 and the Effective Date, or b) incurred in connection with the Work prior to the Effective Date, but paid after that date.

n. "Respondents" shall mean those parties identified in Appendix A to this Settlement Agreement.

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

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

q. "Site" shall mean the Lightman Drum Company Superfund Site located at 139 North Route 73, Winslow Township, Camden County, New Jersey and identified as Block 4004, Lot 6 on the Winslow Township Tax Assessor Map. The Site also includes any area in the vicinity of the Lightman Property into which hazardous substances have migrated or threaten to migrate and all areas in close proximity to the contamination necessary for implementation of the Work.

r. "State" shall mean the State of New Jersey.

s. "Statement of Work" or "SOW" shall mean the statement of work for implementation of the removal action as set forth in Appendix B to this Settlement Agreement, and any modifications made thereto in accordance with this Settlement Agreement.

t. "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); 3) any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27); 4) any mixture containing any of the constituents noted in (1), (2) or (3), above; and 4) any "hazardous material" under the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10 et seq.

u. "Work" shall mean all activities Respondents are required to perform under this Settlement Agreement.

IV. EPA FINDINGS OF FACT AND CONCLUSIONS OF LAW

9. The Site consists of the Lightman Property, which comprises approximately 15 acres located at 139 North Route 73, Winslow Township, Camden County, New Jersey and is identified as Block 4004, Lot 6 on the Winslow Township Tax Assessor Map. The Site also includes any area in the vicinity of the Lightman Property into which hazardous substances have migrated or threaten to migrate and all areas in close proximity to the contamination necessary for implementation of the Work.

10. Located in a semi-rural area, approximately 8,000 people live within a three mile radius of the Lightman Property. Jerome Lightman owns the Lightman Property, and Lightman Drum Company, Inc. ("LDC") currently operates a drum brokerage business there. A small office building, several sheds and a drum storage area are situated on the Lightman Property, with the remainder of the Site consisting of mostly vacant land, along with some recent commercial developments.

11. In the 1970s, LDC operated an industrial waste hauling and drum reclamation business. It moved its operations to the Site in spring 1974, storing empty drums and drums filled with wastes there.

12. In 1974, an inspector for the New Jersey Department of Environmental Protection ("NJDEP") inspected the Site and ascertained that LDC disposed of chemical material from drums into two excavated areas. The inspector detected a strong solvent and lacquer odor emanating from the excavated areas. During further inspections from 1974 to 1982, NJDEP observed evidence of chemical spills at the Site. Inspectors also noted numerous drums containing chemicals, which were allowed to run onto the ground, and many drums leaking wastes onto the ground.

13. In 1977, NJDEP determined that LDC installed two 5,000-gallon underground storage tanks ("Waste Storage Tanks" or "Former Waste Storage Tanks") in the north-central portion of the Site in order to store waste materials, including waste paint pigments, thinner and solvents. In 1978, NJDEP issued a one-year Temporary Operating Authorization to LDC allowing it to store wastes at the Site, including, but not limited to, chemical powders, pesticides, waste oil, oil sludges, paint, pigment, thinner, ink residues, ketone, alcohols, and mixed solvents. NJDEP did not renew the Temporary Operating Authorization.

14. In 1984, an NJDEP inspector observed that the Waste Storage Tanks had been excavated. The inspector noted stains on the exterior of one Waste Storage Tank, holes in that Waste Storage Tank and stains on the ground immediately beneath the holes and stains, indicating that the Waste Storage Tank had leaked while underground.

15. NJDEP issued an Administrative Order ("New Jersey Order") to LDC in 1988 requiring it to conduct a remedial investigation and feasibility study at the Site. The soil investigation conducted pursuant to the New Jersey Order revealed that the surface and subsurface soil contained numerous hazardous substances, including volatile organic compounds ("VOCs"), semi-volatile organic compounds ("SVOCs"), inorganic chemicals and pesticides. A groundwater investigation conducted pursuant to the New Jersey Order detected that the groundwater underlying the Site contained hazardous substances, including VOCs and semi-volatile organic chemicals.

16. At the request of NJDEP, EPA performed a Hazard Ranking System ("HRS") Evaluation of the Site in May 1999 pursuant to 40 CFR Part 300, Appendix A. The purpose of the HRS Evaluation was to assess the potential score of the releases at the Site to determine its eligibility for placement on the National Priorities List ("NPL") set forth at 40 CFR Part 300, Appendix B. Based on the results of the HRS Evaluation, EPA placed the Site on the NPL by publication in the Federal Register on October 22, 1999, 48 Fed. Reg. 40658.

17. In November 2000, potentially responsible parties collectively known as the Lightman Yard PRP Group entered into an Administrative Order on Consent, U.S.E.P.A. Index No. 02-2000-2034 ("November 2000 Order"), with EPA. The November 2000 Order required the Lightman Yard PRP Group to conduct a Remedial Investigation/Feasibility Study ("RI/FS") and perform other actions at and relating to the Site, as specified in the November 2000 Order.

18. Sampling of the groundwater at the Site during the RI/FS detected hazardous substances, including but not limited to, VOCs, such as trichloroethene, tetrachloroethene, benzene, toluene ethylbenzene, and xylenes; semi-volatile organic compounds such as bis(2-ethylhexyl)phthalate and caprolactam; and inorganic compounds such as cadmium, thallium, arsenic, antimony, and lead; and pesticides such as heptachlor epoxide, endsulfan I and dieldrin.

19. Two plumes of contaminated groundwater underlie the Site. One plume extends approximately 4,500 feet downgradient south from a source on the Site directly under the

the Former Waste Storage Tank Area. Two municipal water supply wells operated by Winslow Township are located approximately 3,000 feet to the west of the end point of this plume. The second plume extends approximately 1,500 feet downgradient south from an area on the Site where a waste disposal pit was situated.

20. During the RI/FS, samples were taken of water-saturated soil located below the water table in the immediate vicinity of the Former Waste Storage Tanks. The sampling detected hazardous substances, including tetrachloroethene, ethylbenzene and xylene, in the saturated soil in a localized area below the water table in the Former Waste Storage Tank Area. The saturated soil is a source of contamination for a contaminated groundwater plume that extends approximately 4,500 feet south from a point directly under the Former Waste Storage Tank Area.

21. This Settlement Agreement addresses the removal of contaminated soils in the vicinity of the Former Waste Storage Tank Area.

22. The Site is a "facility" as defined in section 101(9) of CERCLA, 42 U.S.C. §9601(9).

23. 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).

24. Each Respondent is a "person" as defined in section 101(21) of CERCLA, 42 U.S.C. §9601(21).

25. Each Respondent is a responsible party under Section 107(a) of CERCLA, 42 U.S.C. §9607(a), and is jointly and severally liable for response costs incurred and to be incurred at the Site. Respondents identified in Appendix A arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment of hazardous substances at the facility, within the meaning of Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

26. The conditions described in Paragraphs 18 - 20 constitute an actual or threatened "release" of a hazardous substance from the facility as defined by Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

V. DETERMINATIONS

27. The conditions present at the Site constitute a threat to the public health, welfare or the environment based upon factors set forth in Section 300.415(b)(2) of the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"). The factors include, but are not limited to, actual or potential contamination of drinking water supplies or sensitive ecosystems.

28. The actual or threatened release of hazardous substances at or from the Site may present an imminent and substantial endangerment to the public health, welfare, or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. Section 9606(a).

29. The removal action 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

30. 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 Respondents shall comply with all provisions of this Settlement Agreement, including, but not limited to, 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

31. Respondents have retained Golder Associates, Inc. to perform the Work and EPA has approved that selection. Respondents shall also notify EPA of the name(s) and qualification(s) of any other contractor(s) or subcontractor(s) retained to perform the Work at least seven (7) days prior to commencement of such Work. EPA retains the right to disapprove of any or all of the contractors and/or subcontractors retained by Respondents. If EPA disapproves of a selected contractor, Respondents shall retain a different contractor and shall notify EPA of that contractor's name and qualifications within seven (7) days of EPA's disapproval. The proposed contractor must demonstrate compliance 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), by submitting a copy of the proposed contractor's Quality Management Plan ("QMP"). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B0-1/002), or equivalent documentation as required by EPA.

32. Respondents have designated P. Stephen Finn of Golder Associates, Inc. as their Project Coordinator who shall be responsible for administration of all actions by Respondents required by this Settlement Agreement. Robert J. Illes of Golder Associates, Inc. has been designated as the Alternate Project Coordinator. EPA approves the designated Project Coordinator and Alternate Project Coordinator but retains the right to disapprove the Project Coordinator or Alternate Project Coordinator in the future. 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, Respondents shall retain a different Project Coordinator and shall notify EPA of that person's name, address, telephone number, and qualifications within seven (7) days

following EPA's disapproval. Receipt by Respondents' Project Coordinator of any notice or communication from EPA relating to this Settlement Agreement shall constitute receipt by the Respondents.

33. EPA has designated David Rosoff of the Removal Action Branch, Region 2, as its On-Scene Coordinator ("OSC"). Except as otherwise provided in this Settlement Agreement, Respondents shall direct all submissions required by this Settlement Agreement to the OSC at U.S. Environmental Protection Agency, 2890 Woodbridge Avenue, Edison, New Jersey 08837-3679 and Renee Gelblat, Remedial Project Manager, New Jersey Remediation Branch, U.S. Environmental Protection Agency, 290 Broadway, 19th Floor, New York, New York 10007-1866. Joseph Cosentino of the Removal Action Branch, Region 2, has been designated as the Alternate OSC in the event OSC Rosoff is not available.

34. EPA and Respondents shall have the right, subject to Paragraph 32, to change their respective designated OSC or Project Coordinator. Respondents shall notify EPA seven (7) 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

35. Respondents shall perform, at a minimum, all actions necessary to implement the SOW and the Work as set forth in this Paragraph. The time-critical actions to be implemented generally include, but are not limited to, the following :

- a. Removal of grossly contaminated soil in the source area at and in the vicinity of the Former Waste Storage Tank Area and an appropriate backfilling of the excavation to facilitate future remediation of the groundwater contamination;
- b. Proper transportation for off-site disposal of Waste Material from the Site after all analytical results have been received and the waste properly characterized, profiled and accepted for disposal; and
- c. After the excavation, the excavated area shall be backfilled with clean material as described in the SOW.

36. Work Plan and Implementation.

- a. Within 60 days after the Effective Date, Respondents shall submit to EPA for review and approval a Work Plan for performing the removal action generally described in Paragraph 35 above and in the SOW. The Work Plan shall provide a description of, and an expeditious schedule for, the actions required by this Settlement Agreement. Respondents shall prepare a Quality Assurance Project Plan as part of the Work Plan, as specified in the SOW.

b. EPA may approve, disapprove, require revisions to, or modify the Work Plan in whole or in part. If EPA requires revisions, Respondents shall submit a revised Work Plan within seven (7) days of receipt of EPA's notification of the required revisions, or within such longer time period as EPA may approve. Respondents 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. If EPA disapproves or otherwise requires any modifications to any plan, report or other item required to be submitted to EPA for approval pursuant to this Agreement and Order, Respondents shall have seven (7) days from the receipt of notice of such disapproval or the required modifications to correct any deficiencies and resubmit the plan, report, or other written document to EPA for approval, unless a shorter or longer period is specified in the notice. Any notice of disapproval will include an explanation of why the plan, report, or other item is being disapproved. Respondents shall address each of the comments and resubmit the plan, report, or other item with the required changes within the time stated above. At such time as EPA determines that the plan, report, or other item is acceptable, EPA will transmit to Respondents a written statement to that effect. If any resubmitted plan, report, or other item, or portion thereof, is disapproved by EPA, EPA may again direct Respondents to make the necessary modifications thereto, and/or EPA may amend or develop the item(s) and recover the costs from Respondents of doing so. Respondents shall implement any such item(s) as amended or developed by EPA.

c. Within 10 days after EPA's approval of the Work Plan and Site specific Health and Safety Plan, Respondents shall commence implementation of the EPA-approved Work Plan. Respondents shall fully implement the EPA-approved Work Plan in accordance with the terms and schedule therein and in accordance with this Settlement Agreement. Respondents shall not commence any Work except in conformance with the terms of this Settlement Agreement. Respondents shall not commence implementation of the Work Plan developed hereunder until receiving written EPA approval pursuant to Paragraph 36(b).

37. Health and Safety Plan. Not less than 21 days prior to commencement of on-Site work, Respondents 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. Respondents shall incorporate all changes to the plan recommended by EPA and shall implement the plan during the pendency of the removal action.

38. 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, as specified in the SOW.

b. Upon request by EPA, Respondents shall have the laboratories that it will be using to analyze samples submitted by EPA for quality-assurance monitoring. Respondents 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, Respondents shall allow EPA or its authorized representatives to take split and/or duplicate samples. Respondents shall notify EPA not less than 7 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 Respondents to take split or duplicate samples of any samples it takes as part of its oversight of Respondents implementation of the Work.

39. Reporting.

a. Respondents shall submit written progress reports in electronic form to EPA concerning actions undertaken pursuant to this Settlement Agreement. Commencing 30 days after the Effective Date, Respondents shall provide EPA with monthly progress reports detailing activities performed during the previous month and detailing activities planned for the following month. Commencing on the Friday after Respondents begin on-Site work, each Friday, Respondents shall submit to EPA a report that details the activities planned to be undertaken by Respondents for the following week. Each Monday, Respondents shall submit to EPA a report that details the activities that were performed during the previous week. Respondents' obligation to submit reports each Monday and Friday shall continue until termination of this Settlement Agreement, unless otherwise directed in writing by the OSC. These reports shall summarize 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. Except for progress reports, Respondents shall submit two (2) copies of all plans, reports or other submissions required by this Settlement Agreement, the Statement of Work, or any approved work plan to the attention of each of the following persons: David Rosoff, OSC, U.S. Environmental Protection Agency, Response and Prevention Branch, 2890 Woodbridge Avenue, Edison, New Jersey 08837 and Renee Gelblat, Remedial Project Manager, New Jersey Remediation Branch, U.S. Environmental Protection Agency, 290 Broadway, 19th Floor, New York, New York 10007-1866. Upon request by EPA, Respondents shall submit such documents in electronic form. Progress reports shall be submitted in electronic form to gelblat.renee@epa.gov and rosoff.david@epa.gov. Any correspondence from an attorney representing Respondents shall be directed to Lightman Drum Company Superfund Site Attorney, 290 Broadway, New York, New York 10007-1866.

40. Final Report. Within 30 days after completion of all Work required by this Settlement Agreement, Respondents 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 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 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."

41. Off-Site Shipments and Backfill Material.

a. Before shipping any hazardous substances, pollutants, or contaminants from the Site to an off-site location, Respondents 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. Respondents 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. Respondents shall notify the OSC that it has obtained EPA certification for any proposed receiving facility at least five (5) days prior to shipment.

b. Prior to contracting for the services of any transportation and disposal company, Respondents shall provide the following documentation to the OSC:

i. The valid RCRA transporter and disposal identification numbers for each transporter and disposal company for shipment of hazardous substances, pollutants or contaminants;

ii. The most recent six-month State or EPA regulatory inspection results of each disposal company; and

iii. the date of the most recent State or EPA regulatory inspection, and any special provisions or conditions attached to the RCRA disposal permits as a result of the most recent inspection.

c. Respondents 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 OSC. However, this notification requirement shall not apply to any off-Site shipments when the total volume of all such shipments will not exceed 10 cubic yards.

i. Respondents 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. Respondents 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. This notification shall take place at least five (5) days prior to the shipment.

d. After any permitted disposal facility has been approved by EPA, all wastes shall be properly manifested and shipped off-site via an appropriately-permitted transporter.

e. Before shipping any backfill material to the site, the Respondents shall submit the name of the source of all backfill material (including common fill, crushed stone, screened gravel, and topsoil) to EPA for approval and analyze the backfill material as specified in the SOW.

IX. SITE ACCESS

42. If the Site, or any other property where access is needed to implement this Settlement Agreement, is owned or controlled by Respondents, Respondents shall, commencing on the Effective Date, provide EPA, the State, and their representatives, including contractors, with access at all reasonable times to the Site, or such other property, for the purpose of conducting any activity related to this Settlement Agreement.

43. Where any action under this Settlement Agreement is to be performed in areas owned by or in possession of someone other than Respondents, Respondents shall use their best efforts to obtain all necessary access agreements within 15 days after the Effective Date, or as otherwise specified in writing by the OSC. Best efforts shall not include payment of compensation to Jerome Lightman or any entities that own or operate the Lightman Property. Respondents shall immediately notify EPA if after using its best efforts they are unable to obtain such agreements. Respondents shall describe in writing their efforts to obtain access. EPA may then assist Respondents in gaining access, to the extent necessary to effectuate the response actions described herein, using such means as EPA deems appropriate. Respondents shall reimburse EPA for all costs and attorney's fees incurred by the United States in obtaining such access, in accordance with the procedures in Section XV (Payment of Response Costs).

44. 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

45. Respondents shall provide to EPA copies of all documents and information within their possession or control or that of its contractors or agents relating to the implementation of this Settlement Agreement, including, but not limited to, performance of the Work, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Work. Such documents or information include any of the preceding items that may be in electronic form. Respondents 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.

46. Respondents 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 Respondents 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 Respondents.

47. Respondents 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 Respondents 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 Respondents. 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.

48. 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

49. Until 5 years after Respondents' receipt of EPA's notification pursuant to Section XXVIII (Notice of Completion of Work), each Respondent 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. Until 5 years after

Respondents receipt of EPA's notification pursuant to Section XXVIII (Notice of Completion of Work), Respondents 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.

50. At the conclusion of this document retention period, Respondents shall notify EPA at least 90 days prior to the destruction of any such records or documents, and, upon request by EPA, Respondents shall deliver any such records or documents to EPA. Respondents 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 Respondents 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 Respondents. 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.

51. Each Respondent hereby certifies 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.

XII. COMPLIANCE WITH OTHER LAWS

52. Respondents 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

53. 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, Respondents shall immediately take all appropriate action. Respondents shall take these actions in accordance with all applicable provisions of this Settlement Agreement, including, but not limited to, the Health and Safety Plan, to prevent, abate or minimize such release or endangerment caused or threatened by the release. Respondents shall also immediately notify the OSC or, in the event of his/her

unavailability, the Chief of the Removal Action Branch of the Emergency and Remedial Response Division at 732-321-6658 of the incident or Site conditions. In the event that Respondents fail to take appropriate response action as required by this Paragraph, and EPA takes such action instead, Respondents shall reimburse EPA all costs of the response action not inconsistent with the NCP pursuant to Section XV (Payment of Response Costs).

54. In addition, in the event of any release of a hazardous substance from the Site, Respondents shall immediately notify the National Response Center at (800) 424-8802, the OSC at 732-321-6879 or 908-420-4465, and NJDEP at 609-584-4136. Respondents shall submit a written report to EPA within 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

55. The OSC shall be responsible for overseeing Respondents 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. Absence of the OSC or the Alternate OSC from the Site shall not be cause for stoppage of work unless specifically directed in writing by the OSC or the Alternate OSC.

XV. PAYMENT OF RESPONSE COSTS

56. Payments for Removal Action Future Response Costs.

a. Respondents shall pay EPA all Removal Action Future Response Costs not inconsistent with the NCP. On a periodic basis, EPA will send Respondents a bill requiring payment that includes a SCORPIOS Report and a narrative summary report, which includes direct and indirect costs incurred by EPA and its contractors. Respondents shall make all payments within thirty (30) days of receipt of each bill requiring payment.

b. All payments to the EPA under this Section shall indicate that the payment is for Removal Action Future Response Costs and shall be remitted via Electronic Funds Transfer ("EFT"), along with the following information, to EPA's Account with Mellon Bank, Pittsburgh, Pennsylvania, as follows:

- i. Amount of Payment
- ii. Title of Mellon Bank to receive the payment: EPA
- iii. Account code for Mellon Bank account receiving the payment: 9108544
- iv. Mellon Bank ABA Routing Number: 043000261
- v. Name of Party making payment

- vi. EPA Index Number: CERCLA-02-2007-2007
- vii. Site/Spill Identifier Number: 02MS

c. At the time of payment, Respondents shall send notice by letter or electronic mail that such payment has been made to:

David Rosoff, OSC
U.S. Environmental Protection Agency, Region 2
2890 Woodbridge Avenue
Edison, New Jersey 08837
rosoff.david@epa.gov

Michael J. van Itallie
Lightman Drum Company Site Attorney
U.S. Environmental Protection Agency, Region 2
290 Broadway
New York, New York 10007-1866
vanitallie.michael@epa.gov

Renee Gelblat
Remedial Project Manager, Lightman Drum Company Site
U.S. Environmental Protection Agency
290 Broadway, 19th Floor
New York, New York 10007-1866
gelbat.renee@epa.gov

U.S. Environmental Protection Agency
26 W. Martin Luther King Drive
Attention: Finance
MS: NWD
Cincinnati, Ohio 45268
AcctsReceivable.CINWD@epa.gov

d. The total amount to be paid by Respondents pursuant to Paragraph 56. a. shall be deposited by EPA in the Lightman Drum Company Superfund Site Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

57. In the event that the payments for Removal Action Future Response Costs are not made within 30 days of Respondents' receipt of a bill, Respondents shall pay Interest on the unpaid balance. The Interest on Removal Action 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 Respondents failure to make timely payments under this Section, including but not limited to, payment of stipulated penalties pursuant to Section XVIII.

58. Respondents may dispute all or part of a bill for Removal Action Future Response Costs submitted under this Settlement Agreement, if Respondents allege that EPA has made a mathematical error, or if Respondents 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, Respondents shall pay the full amount of the uncontested costs to EPA as specified in Paragraph 56 on or before the due date. Within the same time period, Respondents shall pay the full amount of the contested costs into an interest-bearing escrow account. Respondents shall simultaneously transmit a copy of both checks to the persons listed in Paragraph 56(c) above. Respondents 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 ten (10) days after the dispute is resolved.

XVI. DISPUTE RESOLUTION

59. 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 relating to EPA billings sent to Respondents for Removal Action Future Response Costs. The Parties shall attempt to resolve any such disagreements expeditiously and informally.

60. If Respondents object to any EPA billings sent to Respondents for Removal Action Future Response Costs pursuant to this Agreement, Respondents shall notify EPA in writing of their objection(s) within ten (10) days of such action, unless the objection(s) has/have been resolved informally. EPA and Respondents shall have thirty (30) days from EPA's receipt of Respondents 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.

61. 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 Division Director level or higher will issue a written decision on the dispute to Respondents. EPA's decision shall be incorporated into and become an enforceable part of this Settlement Agreement. Respondents 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, Respondents 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

62. Respondents 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 Respondents, or of any entity controlled by Respondents, including but not limited to its contractors and subcontractors, which delays or prevents performance of any obligation under this Settlement Agreement despite Respondents best efforts to fulfill the obligation. *Force majeure* does not include financial inability to complete the Work or increased cost of performance.

63. 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, Respondents shall notify EPA orally within 48 hours of when Respondents first knew that the event might cause a delay. Within 5 days thereafter, Respondents 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; Respondents 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 Respondents, 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 Respondents 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.

64. 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 Respondents in writing of its decision. If EPA agrees that the delay is attributable to a *force majeure* event, EPA will notify Respondents in writing of the length of the extension, if any, for performance of the obligations affected by the *force majeure* event.

XVIII. STIPULATED PENALTIES

65. If Respondents fail, without prior EPA approval, to comply with any of the requirements or time limits set forth in or established pursuant to this Settlement Agreement, and such failure is not excused under the terms of Section XVII, above (Force Majeure), Respondents shall, upon demand by EPA, pay a stipulated penalty to EPA in the amount indicated below:

a. For all requirements of this Settlement Agreement, other than the timely submission of weekly progress reports, stipulated penalties shall accrue in the amount of \$1,000

per day, per violation, for the first fourteen (14) days of noncompliance; \$1,500 per day, per violation, for the 15th through 30th day of noncompliance; and \$4,000 per day, per violation, for the 31st day of noncompliance and beyond.

b. For weekly progress reports, stipulated penalties shall accrue in the amount of \$250 per day, per violation, for the first fourteen (14) days of noncompliance; \$750 per day, per violation, for the 15th through 30th day of noncompliance; and \$1,000 per day, per violation, for the 31st day of noncompliance and beyond.

66. In the event that EPA assumes performance of a portion or all of the Work pursuant to Section XX (Reservations of Rights by EPA), Respondents shall be liable for a stipulated penalty in the amount of \$75,000.

67. Any such penalty shall accrue as of the first day after the applicable deadline has passed and shall continue to accrue until the noncompliance is corrected or EPA notifies Respondents that it has determined that it will perform the tasks for which there is non-compliance. Such penalty shall be due and payable thirty (30) days following receipt of a written demand from EPA. Payment of any such penalty to EPA shall be made, in accordance with direction provided by EPA upon request by Respondents, by electronic funds transfer with a notation of the index number of this Settlement Agreement. A letter stating the basis for the penalty, the name and address of Respondents, the name of the Site, and the EPA Region number shall accompany any such payment; a copy of the letter shall be mailed to the EPA addressees listed in Paragraph 56(c) above. Respondents shall pay interest on any amounts overdue under this Paragraph. Such interest shall begin to accrue on the first day that the respective payment is overdue. Interest shall accrue at the rate of interest on investments of the Hazardous Substances Superfund, in accordance with Section 107(a) of CERCLA.

68. Even if violations are simultaneous, separate penalties shall accrue for separate violations of this Settlement Agreement. Penalties accrue and are assessed per violation per day. Penalties shall accrue regardless of whether EPA has notified Respondents of a violation or act of noncompliance. The payment of penalties shall not alter in any way Respondents' obligation to complete the performance of the Work required under this Settlement Agreement.

69. Notwithstanding any other provision of this Settlement Agreement, failure of Respondents to comply with any provision of this Settlement Agreement may subject Respondents to civil penalties of up to thirty-two thousand five hundred dollars (\$32,500) per violation per day, as provided in Section 106(b)(1) of CERCLA, 42 U.S.C. §9606(b)(1), unless such failure to comply is excused by EPA under the terms of Section XVII, above. Respondents may also be subject to punitive damages in an amount at least equal to and not more than three times the amount of any costs incurred by the United States as a result of such failure to comply with this Settlement Agreement, as provided in Section 107(c)(3) of CERCLA, 42 U.S.C. §9607(c)(3). Should Respondents violate this Settlement Agreement or any portion thereof, EPA may carry out the required actions unilaterally, pursuant to Section 104 of CERCLA, 42 U.S.C. §9604, and/or

may seek judicial enforcement of this Settlement Agreement pursuant to Section 106 of CERCLA, 42 U.S.C. §9606.

70. All payments to the EPA under this Section shall indicate that the payment is for stipulated penalties, and shall be remitted via Electronic Funds Transfer ("EFT"), along with the following information, to EPA's Account with Mellon Bank, Pittsburgh, Pennsylvania, as follows:

- i. Amount of Payment
- ii. Title of Mellon Bank to receive the payment: EPA
- iii. Account code for Mellon Bank account receiving the payment: 9108544
- iv. Mellon Bank ABA Routing Number: 043000261
- v. Name of Party making payment
- vi. EPA Index Number: CERCLA-02-2007-2007
- vii. Site/Spill Identifier Number: 02MS

At the time of payment, Respondents shall send notice by letter or electronic mail that such payment has been made to the addresses specified in Section XV. The notice must reference the date of the EFT, the payment amount, that the payment is for stipulated penalties, the name of the Site, the case index number, and the name and address of the party making payment to the United States.

XIX. COVENANT NOT TO SUE BY EPA

71. In consideration of the actions that will be performed and the payments that will be made by Respondents 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 Respondents pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), for the Work and the Removal Action 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 Respondents of all obligations under this Settlement Agreement, including, but not limited to, payment of all Removal Action Future Response Costs pursuant to Section XV. This covenant not to sue extends only to Respondents and does not extend to any other person.

XX. RESERVATIONS OF RIGHTS BY EPA

72. 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 Respondents in the future to perform additional activities pursuant to CERCLA or any other applicable law.

73. 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 Respondents with respect to all other matters, including, but not limited to:

- a. claims based on a failure by Respondents to meet a requirement of this Settlement Agreement;
- b. liability for costs not included within the definition of Removal Action Future Response Costs;
- c. liability for performance of response actions 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.

74. Work Takeover. In the event EPA determines that Respondents 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. Costs incurred by the United States in performing the Work pursuant to this Paragraph shall be considered Removal Action Future Response Costs that Respondents shall pay pursuant to 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. COVENANT NOT TO SUE BY RESPONDENTS

75. Respondents 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, Removal Action 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 the Work or arising out of the response actions for which Removal Action Future Response Costs have or will be incurred, including any claim under the United States Constitution, the New Jersey 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; or

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 Work.

76. 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 73(b), (c), and (e) - (g), but only to the extent that Respondents' claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

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

XXII. OTHER CLAIMS

78. 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 Respondents or their employees, contractors, agents, or consultants in carrying out any activity pursuant to this Settlement Agreement. The United States or EPA shall not be deemed a party to any contract entered into by Respondents or their directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Settlement Agreement.

79. Nothing in this Settlement Agreement constitutes or shall be construed as a satisfaction of or release from any claim or cause of action the United States and/or EPA may have at present or which may arise in the future against Respondents 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 injunctive relief, costs, damages and interest under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607.

80. Nothing in this Settlement Agreement shall be construed to constitute preauthorization under Section 111(a)(2) of CERCLA, 42 U.S.C. Section 9611(a)(2), and 40 C.F.R. 300.700(d).

81. 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).

82. Respondents hereby waive any rights they may have to seek reimbursement pursuant to Sections 106(b)(2), 111 and/or 112 of CERCLA, 42 U.S.C. 42 Sections 9606(b)(2), 9611, 9612, or

any other provision of law, either directly or indirectly, from EPA or the Hazardous Substance Superfund of costs incurred by Respondents in complying with this Settlement Agreement.

XXIII. CONTRIBUTION

83. 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. Section 9613(f)(2), and that Respondents are entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2), 42 U.S.C. §§ 9613(f)(2), for "matters addressed" in this Settlement Agreement. The "matters addressed" in this Settlement Agreement are the Work and Removal Action 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. Section 9613(f)(3)(B), pursuant to which the Respondents have, as of the Effective Date, resolved their liability to the United States, for the Work and Removal Action Future Response Costs.

c. Nothing in this Settlement Agreement precludes the United States or Respondents 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

84. Respondents shall indemnify, save and hold harmless the United States, 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 Respondents, their officers, directors, employees, agents, contractors, or subcontractors, in carrying out actions pursuant to this Settlement Agreement. In addition, Respondents agree to pay the United States all costs incurred by the United States, 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 Respondents, 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 Respondents in carrying out activities pursuant to this Settlement Agreement. Neither Respondents nor any such contractor shall be considered an agent of the United States.

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

86. Respondents waive all claims against the United States 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 Respondents 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, Respondents shall indemnify and hold harmless the United States with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between Respondents 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

87. At least 7 days prior to commencing any on-Site work under this Settlement Agreement, Respondents shall secure, and shall maintain for the duration of this Settlement Agreement, comprehensive general liability insurance with limits of \$1 million dollars, combined single limit. Within the same time period, Respondents shall provide EPA with certificates of such insurance and, if requested, a copy of each insurance policy. In addition, for the duration of the Settlement Agreement, Respondents 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 Respondents in furtherance of this Settlement Agreement. If Respondents demonstrate by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering some or all of the same risks but in an equal or lesser amount, then Respondents need provide only that portion of the insurance described above which is not maintained by such contractor or subcontractor.

XXVI. FINANCIAL ASSURANCE

88. Respondents hereby represent that at (a) least one Respondent has a net worth in excess of \$100,000,000 and (b) a senior unsecured debt rating of BBB+. If the representation that at least one Respondent has a net worth in excess of \$100,000,000 and a senior unsecured debt rating of BBB+ becomes inaccurate, Respondents shall immediately notify EPA that the representation is no longer accurate. Within 30 days of the aforementioned notification, Respondents shall establish and maintain financial security in the amount of \$300,000.00 in one or more of the following forms:

- a. A surety bond guaranteeing performance of the Work;
- b. One or more irrevocable letters of credit equaling the total estimated cost of the Work;
- c. A trust fund;

d. A guarantee to perform the Work by one or more parent corporations or subsidiaries, or by one or more unrelated corporations that has a substantial business relationship with Respondents; or

e. A demonstration that the Respondents satisfy the requirements of 40 C.F.R. Part 264.143(f).

89. If Respondents seek to demonstrate the ability to complete the Work through a guarantee by a third party pursuant to Paragraph 88(a) of this Section, Respondents shall demonstrate that the guarantor satisfies the requirements of 40 C.F.R. Part 264.143(f). If Respondents seek to demonstrate their ability to complete the Work by means of the financial test or the corporate guarantee pursuant to Paragraph 88(d) or (e) of this Section, they shall resubmit sworn statements conveying the information required by 40 C.F.R. Part 264.143(f) annually, on the anniversary of the Effective Date. In the event that EPA determines at any time that the financial assurances provided pursuant to this Section are inadequate, Respondents shall, within 30 days of receipt of notice of EPA's determination, obtain and present to EPA for approval one of the other forms of financial assurance listed in Paragraph 88 of this Section. Respondents' inability to demonstrate financial ability to complete the Work shall not excuse performance of any activities required under this Settlement Agreement.

90. If, after the Effective Date, Respondents can show that the estimated cost to complete the remaining Work has diminished below the amount set forth in Paragraph 88 of this Section, Respondents may, on any anniversary date of the Effective Date, or at any other time agreed to by the Parties, reduce the amount of the financial security provided under this Section to the estimated cost of the remaining Work to be performed. Respondents shall submit a proposal for such reduction to EPA, in accordance with the requirements of this Section, and may reduce the amount of the security upon approval by EPA.

91. Respondents may change the form of financial assurance provided under this Section at any time, upon written notice to and approval by EPA, provided that the new form of assurance meets the requirements of this Section.

XXVII. MODIFICATIONS

92. The OSC may make modifications to any plan or schedule or Statement of Work 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 as set forth in Paragraph 95.

93. If Respondents seek permission to deviate from any approved work plan or schedule or Statement of Work, Respondents' Project Coordinator shall submit a written request to EPA for approval outlining the proposed modification and its basis. Respondents may not proceed with the

requested deviation until receiving oral or written approval from the OSC pursuant to Paragraph 92.

94. 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 Respondents shall relieve Respondents 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.

95. This Settlement Agreement may be amended by mutual agreement of EPA and Respondents. Amendments shall be in writing and shall be effective when signed by EPA. EPA's OSC does not have the authority to sign amendments to the Settlement Agreement. All amendments to this Settlement Agreement must be approved in writing and signed by the Branch Chief, Removal Action Branch, EPA Region 2 and/or a higher level official in EPA Region 2.

XXVIII. NOTICE OF COMPLETION OF WORK

96. 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, EPA will provide written notice to Respondents. If EPA determines that any such Work has not been completed in accordance with this Settlement Agreement, EPA will notify Respondents, provide a list of the deficiencies, and require that Respondents modify the Work Plan if appropriate in order to correct such deficiencies. Respondents shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the EPA notice. Failure by Respondents to implement the approved modified Work Plan shall be a violation of this Settlement Agreement.

XXIX. SEVERABILITY/INTEGRATION/APPENDICES

97. If a court issues an order that invalidates any provision of this Settlement Agreement or finds that Respondents have sufficient cause not to comply with one or more provisions of this Settlement Agreement, Respondents 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.

98. 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" is a List of Respondents to this Settlement Agreement, "Appendix B" is the Statement of Work, and "Appendix C" is a map of the Former Waste Storage Tank Area.

XXX. EFFECTIVE DATE

99. This Settlement Agreement shall be effective three days following the day that a copy of this Settlement Agreement signed by the Director, Emergency and Remedial Response Division, EPA Region 2, or his delegatee is served upon counsel for the Respondents by facsimile. For purposes of this Paragraph Respondents' counsel is:

Lori A. Mills, Esq.
Drinker, Biddle & Reath LLP
105 College Road East
Princeton, NJ 08542-0627
Facsimile: 609-799-7000

It is so ORDERED and Agreed this 13th day of Sept, 2007.

BY: 

George Pavlou

Director

Emergency and Remedial Response Division

U.S. Environmental Protection Agency, Region 2

CONSENT

The undersigned representative of Respondents certifies that it is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party it represents to this document.

Agreed this 27 day of July, 2007

For Respondent Air Products and Chemicals, Inc.

By Wayne M. Mitchell '8

Print Wayne M. Mitchell

Title Vice President and General Manager -
Performance Materials Division

JUL 30 2007

CONSENT

The undersigned representative of Respondents certifies that it is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party it represents to this document.

Agreed this 24th day of July, 2007.

For Respondent American Packaging Corporation

By Thomas P. May

Print Thomas P. May

Title Chief Financial Officer

CONSENT

The undersigned representative of Respondents certifies that it is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party it represents to this document.

Agreed this 31st day of July, 2007.

For Respondent Colonial Heights Packaging Inc.

By Arthur A. Vogel, Jr.

Print Arthur A. Vogel, Jr.

Title Attorney

CONSENT

The undersigned representative of Respondents certifies that it is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party it represents to this document.

Agreed this 29th day of AUG, 2007.

For Respondent Continental Holdings INC.

By [Signature]

Print LISA HOGAN

Title VP Managing Corporate Counsel

CONSENT

The undersigned representative of Respondents certifies that it is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party it represents to this document.

Agreed this 26th day of July, 2007.

For Respondent Croda Inks Corporation

By [Signature]

Print Martin Novack

Title Secretary

CONSENT

The undersigned representative of Respondents certifies that it is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party it represents to this document.

Agreed this 13 day of August, 2007.

FORENCO, INC., as successor to
For Respondent Whiting Patterson Company

By John T. Sobota

Print JOHN T. SOBOTA

Title VICE PRES.

CONSENT

The undersigned representative of Respondents certifies that it is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party it represents to this document.

Agreed this 2 day of August, 2007.

For Respondent General Motors Corporation

By James P. Wall

Print James P. Wall

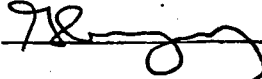
Title ATTORNEY - GM Legal Staff
P31178

CONSENT

The undersigned representative of Respondents certifies that it is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party it represents to this document.

Agreed this 8th day of August, 2007.

For Respondent Henkel Corporation, for itself and on behalf of Amchem Products, Inc.

By 

Print Glenn W. Young

Title Assistant General Counsel
Henkel of America, Inc.

CONSENT

The undersigned representative of Respondents certifies that it is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party it represents to this document.

Agreed this 24th day of July, 2007.

For Respondent Kimberly Clark Corp., successor to Scott Paper Company,

also known as Kimberly-Clark Tissue Company

By Susan L. Gaynor

Print Susan L. Gaynor

Title Rosevelt Adm. Staff Team leader
& Senior Paralegal II

CONSENT

The undersigned representative of Respondents certifies that it is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party it represents to this document.

Agreed this 7th day of July, 2007.

For Respondent Reynolds Metals Company

By *Ronald D. Dickel*

Print Ronald D. Dickel

Title Vice President

CONSENT

The undersigned representative of Respondents certifies that it is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party it represents to this document.

Agreed this 1ST day of AUGUST, 2007.

For Respondent SARA LEE HOUSEHOLD & BODYCARE USA

By *John J. Witzig*

ON BEHALF OF KIWI BRANDS

Print JOHN J. WITZIG

Title ASST. SECTY

CONSENT

The undersigned representative of Respondents certifies that it is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party it represents to this document.

Agreed this 30 day of JULY, 2007

For Respondent SONOCO PRODUCTS COMPANY

By Ritchie L. Bond

Print RITCHIE L. BOND

Title TREASURER

CONSENT

The undersigned representative of Respondents certifies that it is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party it represents to this document.

Agreed this 25th day of July, 2007

For Respondent Stauffer Chemical Company now known as Bayer CropScience Inc. by its Litigation Agent Stauffer Management Company LLC

By 

Print Glen R. Stuart

Title Attorney for Stauffer Chemical Company

CONSENT

The undersigned representative of Respondents certifies that it is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party it represents to this document.

Agreed this 1st day of August, 2007.

For Respondent Stepan Company

By H. Edward Wynn

Print H. Edward Wynn

Title Vice President, General Counsel and Secretary

CONSENT

The undersigned representative of Respondents certifies that it is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party it represents to this document.

Agreed this 8th day of August, 2007.

For Respondent Synthane-Taylor Corporation

By T. Lawrence Way

Print T. Lawrence Way

Title President

CONSENT

The undersigned representative of Respondents certifies that it is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party it represents to this document.

Agreed this 26th day of July, 2007.

For Respondent UNION CARBIDE CORPORATION, FOR ITSELF AND ON BEHALF
By [Signature] OF AMCIEM PRODUCTS, INC.

Print MICHAEL KAY

Title ATTORNEY

CONSENT

The undersigned representative of Respondents certifies that it is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party it represents to this document.

Agreed this 6th day of Sept, 2007

For Respondent USG CORPORATION

By Mary A Martin

Print MARY A MARTIN

Title ASSOCIATE GENERAL COUNSEL - LITIGATION

CONSENT

The undersigned representative of Respondents certifies that it is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party it represents to this document.

Agreed this 21st day of August, 2007.

For Respondent United States Steel Corporation

By 

Print Christopher R. Gibson

Title Counsel for United States Steel Corporation

CONSENT

The undersigned representative of Respondents certifies that it is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party it represents to this document.

Agreed this _____ day of _____, 2____.

For Respondent Wilmington Chemical Corp. / by Sato n Company

By _____

Print ROBERT D. MARSHALL

Title President

APPENDIX A

Appendix A

Each of the entities identified below comprise the Respondents as to the Settlement Agreement to which this list is Appendix A:

Air Products and Chemicals, Inc.
American Packaging Corporation
Colonial Heights Packaging Inc.
Continental Holding Inc.
Croda Inks Corporation
Forenco, Inc. as successor
 to Whiting-Patterson Company
General Motors Corporation
Henkel Corporation for itself and on
 behalf of Amchem Products, Inc.
Kimberly-Clark Tissue Company on
 behalf of Scott Paper Company
Reynolds Metals Company
Sara Lee Household and Bodycare USA on
 behalf of Kiwi Brands
Sonoco Products Company
Stauffer Chemical Company
Stepan Company
Synthane-Taylor Corporation
Union Carbide Corporation for itself and
 on behalf of Amchem Products, Inc.
USG Corp. for itself and
 on behalf of Dap, Inc.
United States Steel Corporation
Wilmington Chemical Company

APPENDIX B

Appendix B

Statement of Work

1. Within sixty (60) days after the effective date of this Settlement Agreement, the Respondents shall submit a Work Plan to EPA for review and approval. The Work Plan shall provide for the removal of grossly contaminated soil in the source area at and in the vicinity of the Former Waste Storage Tank Area and an appropriate backfilling of the excavation to facilitate future remediation of the groundwater contamination. The location and approximate extent of the source area at and in the vicinity of the Former Waste Storage Tank Area is depicted in Appendix C to this Settlement Agreement. Upon EPA's approval, the Respondents shall implement the approved plan.
2. For all paragraphs that reference EPA or other documents, the Respondents shall use the named document, or a more recent edition of the named document that supercedes the named document, or an equivalent document that supercedes the named document.
3. The Work Plan shall include a detailed description of how the tasks referred to in Paragraph 1 above will be accomplished, and shall also include, but not be limited to, the following:
 - a. Maps depicting, to the extent known and determined, all work and safety zones, including but not limited to: exclusion zones, contaminant reduction zones, staging and sampling areas, waste segregation areas, and command posts, all located from fixed reference points and plotted approximately to scale.
 - b. Sampling and Analysis Plan ("S&A Plan"), which shall include detailed procedures and methods to be implemented to sample soil and water in the excavation, as necessary, and to conduct sampling required for transportation and disposal, as described in Paragraph 3.d. The S&A Plan shall include procedures set forth in "Test Methods for Evaluating Solid Wastes" ("SW-846"), November 1986 or as updated, for sampling and testing, as required by EPA. The S&A Plan shall be completed in accordance with, but not limited to, the relevant applicable methods as specified in the following EPA published documents: "Characterization of Hazardous Waste Sites - A Methods Manual, Volume I - Site Characterization, and Volume II - Available Sampling Methods", August 1985 and December 1984.
 - c. A Quality Assurance Project Plan ("QAPP") which includes a description of Quality Assurance and Quality Control ("QA/QC") Procedures, and a description

of Chain of Custody Procedures to be followed, which shall satisfy the following requirements:

- (i) The QAPP shall be completed in accordance with the most recent edition of the following documents:

- (a) "Quality Assurance/Quality Control Guidance for Removal Activities: Sampling QA/QC Plan and Data Validation Procedures," OSWER Directive Number 360.4-01;

- (b) "Environmental Response Team Standard Operating Procedures," OSWER Directive Numbers 9360.4-02 through 9360.4-08;

- (c) "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (EPA, 3rd Edition, or as updated)("SW-846");

- (d) "EPA Requirements for Quality Assurance Project Plans" (QA/R-5)(EPA/240/B-01/003, March 2001, found at <http://www.epa.gov/region02/desa/hsw/sops.html> and

- (e) "EPA Guidance for Quality Assurance Project Plans - QA/G-5" (EPA/600/R-02/009), December 2002, or newer, and be consistent with Uniform Federal Policy for Quality Assurance Project Plans (UFP-QAPP), Parts 1,2 and 3, EPA-505-B-04-900A, B and C, March 2005 or newer, and other guidance documents referenced in the aforementioned guidance documents.

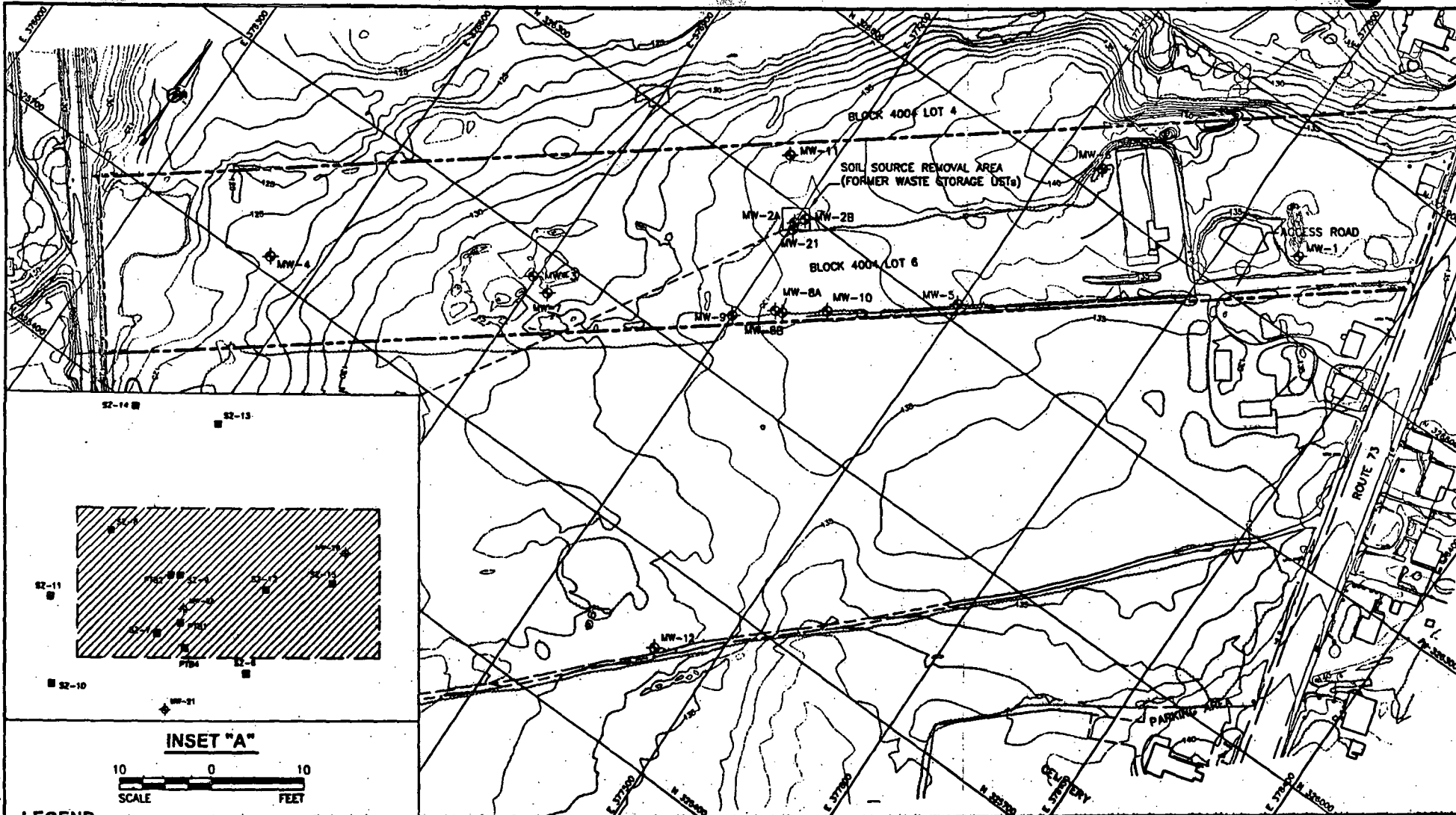
- (ii) Respondents shall provide to EPA the QA/QC procedures to be followed by all sampling teams and laboratories performing data collection and/or analysis. Respondents shall only use laboratories that have a documented quality system which complies with ANSI/ASQC E-4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs" (American National Standards Institute, 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. Upon request by EPA, Respondents shall have the laboratory(ies) that it will be using analyze samples submitted by EPA for quality-assurance monitoring.

- (iii) Respondents shall use QA/QC procedures in accordance with the QAPP submitted and approved by EPA pursuant to this Settlement Agreement and shall use standard EPA Chain of Custody procedures, as set forth in the National Enforcement Investigations Center Policies and Procedures Manual, as revised in November 1984, and the National Enforcement Investigations Center Manual for the Evidence Audit, published in September 1981, and SW-846, for all sample collection and analysis activities conducted pursuant to this Settlement Agreement.
 - (iv) If performance of any subsequent phase of the work required by this Settlement Agreement requires alteration of the QAPP, Respondents shall submit to EPA for review and approval proposed amendments to the QAPP.
- d. Transportation and Disposal Plan outlining procedures for transporting and disposing of all hazardous substances, hazardous waste and other solid waste generated during the work. These procedures shall include measures taken to mitigate potential spills during the work. This plan will include identification of proposed disposal facilities for all waste streams.
 - e. A plan to ensure that all fill material used to backfill the excavated area is free from chemical and radiological contamination and is consistent with background soil levels for the Pinelands area. All backfill material shall be screened for radiological contamination using a Ludlum Model 19 low level gamma meter to ensure that the Gamma Radiation Exposure Rate shall be less than 30 microRoentgen per hour (uR/hr). This plan shall also include a description of how the area will be restored.
 - f. A description of any potential dewatering activities, should it prove necessary. The description must include a description of how the water will be stored during removal of the soil as well as description of the final deposition of the water.
 - g. A plan for providing Site security including, but not limited to, measures to be taken to keep unauthorized personnel from entering restricted work areas.
 - h. A detailed proposed project schedule for accomplishing the assigned tasks.
4. Health and Safety Plan. Not less than twenty-one (21) days prior to the commencement of on-Site work, Respondents shall also submit to EPA for 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 the "EPA 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. Respondents shall incorporate all changes to the plan required by EPA and shall implement the plan during the duration of the removal action.

5. EPA will approve the Work Plan and Site specific Health and Safety Plan, in whole or in part, and/or will provide comments. Comments must be properly addressed within seven (7) days of receipt, unless such longer period is agreed by EPA. Upon its approval by EPA, the Work Plan shall be deemed to be incorporated into and an enforceable part of this Settlement Agreement.
6. Within ten (10) days after EPA's approval of the Work Plan and Site specific Health and Safety Plan, Respondents shall commence implementation of the EPA-approved Work Plan. Respondents shall fully implement the EPA-approved Work Plan in accordance with its terms and schedule and in accordance with this Settlement Agreement. If EPA approves a portion of the Work Plan but finds the remainder deficient, then EPA, at its discretion, may direct the Respondents to proceed with implementation of the approved portion of the Work Plan. The Respondents shall not commence any Work except in conformance with the terms of this Settlement Agreement.
7. The Respondents shall notify EPA of the names and addresses of all off-Site waste treatment, storage, or disposal facilities selected by Respondents to receive wastes from the Site at least five (5) days prior to off-Site shipment of such wastes. Shipment of waste off-Site shall be undertaken in accordance applicable regulations and as described in the approved Work Plan and this Settlement Agreement.
8. At the time of completion of all activities required by this Settlement Agreement, demobilization shall include sampling (where necessary) and proper disposal or decontamination of protective clothing, remaining laboratory samples taken under this Settlement Agreement, and any equipment or temporary structures constructed to facilitate the work under this Settlement Agreement.

APPENDIX C



LEGEND

- LIGHTMAN PROPERTY BOUNDARY
- EXISTING MONITORING WELL
- TREE LINE
- SATURATED SOIL BORING LOCATION
- SOURCE AREA

REFERENCES

- 1.) BASE MAP TAKEN FROM FILE 2702-01.DWG, TITLED "PLAN OF SURVEY", PROVIDED BY JAMES M. STEWART, INC.
- 2.) SOIL BORING AND MONITORING WELL LOCATIONS SHOWN BASED ON SURVEY INFORMATION SUPPLIED BY JAMES M. STEWART, INC.

 Golder Associates Philadelphia, USA	SCALE	AS SHOWN	FORMER WASTE STORAGE TANKS SOURCE AREA
	DATE	05/28/07	
	DESIGN	HAL	
	CHECK	AM	
FILE NO.	01380540006		LIGHTMAN DRUM SITE
PROJECT NO.	013-6054 REV. 0		
			APPENDIX C