

BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III

IN THE MATTER OF:

Spectron Inc. Site  
111 Providence Road  
Elkton, Maryland

Spectron Inc.  
Paul J. Mraz  
Sally K. Mraz

Docket No. III-90-11-DC  
Administrative Order

RESPONDENTS

Proceeding Under Sections 104(e) and 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §§ 9604(e) and 9606(a) as amended by the Superfund Amendments and Re-authorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (1986).

I hereby certify that the  
within is a true and correct copy  
of the original, 40  
filed in this matter.  
Sally K. Mraz  
Attorney for  
Spectron Inc.

FIA III

I. JURISDICTION

1.1 This Administrative Order ("Order") is issued pursuant to the authority vested in the President of the United States by Sections 104(e) and 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 9604(e) and 9606(a) as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (1986) ("CERCLA"), delegated to the Environmental Protection Agency ("EPA") by Executive Order No. 12,580, 52 Fed. Reg. 2923 (1987), and further delegated to the Regional Administrators of EPA. This Order pertains to property located at 111 Providence Road, Elkton, Maryland. The property will hereinafter be referred to as the "Spectron Site" or "Site," and is further described in paragraph 3.3 below.

1.2 This Order is issued to Spectron Inc., Paul J. Mraz and Sally K. Mraz, the above-captioned Respondents ("Respondents"). The actions taken pursuant to this Order shall be consistent with the National Oil and Hazardous Substances Contingency Plan, 40 C.F.R. Part 300 (NCP), and CERCLA.

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## II. STATEMENT OF PURPOSE

2.1 In issuing this Order, the objective of EPA is to ensure that a proper removal action, as defined in Section 101(23) of CERCLA, 42 U.S.C. § 9601(23), is conducted and carried out without interruption, to abate, mitigate and/or eliminate the release or threat of release of hazardous substances at the Site, as hereinafter described, and to properly dispose of the hazardous substances located there.

## III. FINDINGS OF FACT

3.1 Respondent Spectron, Inc. is a corporation organized and existing under the laws of the state of Maryland. Paul J. Mraz, and Sally K. Mraz are individuals residing in the state of Maryland.

3.2 Each Respondent is an owner of the Site and/or an operator of the Site and/or a transporter of hazardous substances sent to the Site, and/or arranged for the transport, treatment and/or disposal of hazardous substances at the Site.

3.3 The Site is approximately eight acres in size and is located at 111 Providence Road, Elkton Maryland, in a semi-rural residential area. Providence Road forms the southern and eastern boundaries of the Site. A wooded area and residential homes form the northern and western boundaries. Nineteen residences are located within one quarter mile of the Site, some of which are no more than fifty feet away. A stream, Little Elk Creek, bisects the Site from northwest to southeast. The Site includes property on both sides of Little Elk Creek. This stream, both on and adjacent to the Site, is used by local residents for fishing. Chemical handling, processing and storage facilities are located on the southwest portion of the Site. The Site office and parking area are located across the creek on the northeast portion of the Site. The Site includes storage containers, buildings, equipment and rolling stock.

3.4 From approximately 1961 to the present, the Site was operated by three companies. From 1961 to approximately 1975, the Site was the location of Galaxy Chemicals, Inc. ("Galaxy"), which went bankrupt in 1975. Galaxy was owned by Paul J. Mraz and possibly others. Galaxy reclaimed, treated, reprocessed, and recycled industrial wastes, primarily waste solvents. Operations

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at the Site started again as early as 1976 under the name of Solvent Distillers, Inc. In February 1978, Solvent Distillers changed its name to Spectron, Inc. ("Spectron"). Spectron ceased operating in August 1988. Spectron, Inc. is owned by both Paul J. Mraz and Sally K. Mraz. Spectron operated as a waste recycling, reclamation and disposal facility. Spectron received a variety of commercial and industrial waste materials generated by sources throughout the eastern United States, primarily the mid-Atlantic region. These wastes included a broad range of industrial solvents, chemicals and flammable wastes.

3.5 When Spectron ceased operating in August 1988 many substances received, generated and used in its operations were left onsite.

3.6 On April 12, 1989 EPA, at the request of the Maryland Department of the Environment ("MDE"), conducted an emergency assessment ("EA") of the conditions at the Site. EPA found approximately 1300 drums and 62 tanks containing substances onsite. Many of these substances were identified by drum markings, hazardous waste labels, placards, hazardous waste manifests and Spectron records as flammable liquids and solids and as hazardous wastes. Some of the drums and tanks were leaking, rusted and/or dented or were otherwise unsuitable for storage or transport of hazardous wastes.

3.7 Site records and labels on drums indicate that the substances contained in drums and in tanks left onsite include hazardous wastes listed as F001, F002, and F003 under the RCRA implementing regulations, 40 C.F.R. §§ 261.3, 261.30 and 261.31, and characteristic (ignitable) hazardous wastes (D001) under 40 C.F.R. §§ 261.3 and 261.21. Dates on hazardous waste labels and hazardous waste manifests indicate that the materials referred to in 3.6 above have been stored at the Site longer than the ninety day storage period allowable under the implementing regulations of the Resource Conservation and Recovery Act ("RCRA"), 40 C.F.R. § 262.34.

3.8 Field testing and laboratory analyses by EPA showed that liquids in approximately one half of the liquid-containing drums at the Site had flash points of less than 73° F. These substances are designated Class I material (most flammable) by the National Fire Prevention Association.

3.9 One of the tanks onsite is filled with approximately 12,000 gallons of material containing polychlorinated biphenyls (PCBs) at a concentration of 7060 ppm, according to EPA analyses.

3.10 EPA sample analyses show the drums and tanks onsite contain a large volume of numerous hazardous substances, as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), including, but not limited to: methylene chloride, trichloroethylene, 1,1,1-trichloroethane, toluene, methyl ethyl ketone, acetone and PCBs. Virtually all the equipment onsite has been in contact with hazardous substances. These hazardous substances are present at significant levels. These and other hazardous substances have been released from the Site. Levels of these hazardous substances and some of the locations where they have been released, both on and off the Site, are shown in Table A, which is attached hereto and incorporated into this Order by reference. Examples of these releases are as follows:

- a) Containment dikes have been built around drum storage areas and tanks to protect against spills and leaks from those containers. During its EA, EPA observed that hazardous substances appear to have spilled both inside and outside the containment dikes. Analyses of samples taken from some of these containment areas by MDE in 1985 and 1987 showed hazardous substances (see Table A). The EA revealed that water from heavy rains in the spring of 1989 had collected in some of the containment dikes, threatening to overflow. Contaminated water overflowing from these areas could discharge into Little Elk Creek.
- b) Uncontrolled, discolored liquid seeps discharge from the area of the Site where the hazardous substances are stored, including several seeps emanating from the stream bank, flowing directly into Little Elk Creek. Levels of hazardous substances in these seeps are shown in Table A.
- c) Uncontrolled stormwater runoff from the Site, which can carry spilled or leaked hazardous substances, flows directly into the Little Elk Creek. Results of analysis of samples taken from Little Elk Creek at and below the Site are shown in Table A.
- d) A large oily sheen was observed on Little Elk Creek on October 17, 1989. This was caused by one of the seeps on the streambank. This oily sheen extended down the creek, at least 100 feet beyond the Site boundary.
- e) Air monitoring at the Site detects the recurring presence of vapors containing volatile organic chemicals both on and adjacent to the Site. Vapor levels as high as 150 ppm have been detected at one or more of the seeps emanating from the Site.

3.11 The hazardous substances present onsite and released offsite include human and environmental toxins, as well as known or suspected human carcinogens. These substances have numerous other adverse health effects. Exposure to acetone can result in irritation to mucous membranes including conjunctivitis, pharyngitis, inflammatory bronchitis and gastroduodenitis. Methylene chloride is considered a probable human carcinogen and can cause decreased visual and auditory skills and impair psychomotor skills. Methyl ethyl ketone affects the human nervous system and causes irritation of the eyes, mucous membranes and skin. PCBs can cause chloracne, impairment of liver function, birth abnormalities and are considered a probable human carcinogen. 1,1,1 Trichloroethane can depress the central nervous system, alter cardiovascular function and damage the lungs, liver and kidneys. Trichloroethylene is a probable human carcinogen and can affect the bone marrow, central nervous system, liver and kidneys. Toluene exposure depresses the central nervous system and can cause narcosis.

3.12 EPA has received complaints from citizens regarding strong chemical odors in the area of the Site. The citizens state that these odors have been present for many years. EPA personnel also have noted the presence of such odors at the Site. These odors have been detected as far away as 300 yards downwind of the Site. They appear to be strongest along the bank of Little Elk Creek in the area of the seeps described in paragraph 3.10(b) above.

3.13 On May 24, 1989, an EPA On-Scene Coordinator (OSC) began a removal action at the Site, using CERCLA authority delegated to him. The actions taken included commencement of 24-hour site security and fire watch and containment of leaks in drums and tanks onsite. On June 1, 1989 the EPA Region III, Regional Administrator approved the expenditure of funds, pursuant to Section 104 of CERCLA, to address the releases and threat of releases at the Site. EPA's actions at the Site between June 1 until the end of August included overpacking leaking drums, containing and decanting leaking tanks, sampling and analysis of substances onsite, identification and segregation of those substances, treatment and disposal of contaminated water in the containment dikes and continued 24-hour site security and fire watch.

3.14 In early June 1989, the Respondents were notified, by letter, of their potential liability for CERCLA actions at the Site and for costs incurred by EPA at the Site. Respondents were notified that EPA had determined that certain response actions were required at the Site and were given an opportunity to negotiate with EPA regarding the conduct of those actions. Similar letters were sent to a number of other generators and transporters of waste to the Site.

3.15 In July, 1989 Respondent Spectron, Inc. entered into a Stipulation with EPA, allowing EPA, its contractors and any other persons under Administrative Order with EPA to conduct necessary response actions at the Site. That Stipulation was entered into in connection with a bankruptcy action which had been filed by Spectron, Inc. (In re: Spectron, Inc., Case No. 88-5-1891, U.S. Bankruptcy Court for the District of Maryland). The bankruptcy was dismissed in September, 1989.

3.16 On August 21, 1989, EPA entered into an Administrative Order by Consent (AOC) with certain parties who generated wastes transported to the Site. These parties are referred to collectively as the Spectron Site Waste Generator and Transporter Group. The AOC requires the conduct of emergency response actions at the Site. These actions are being undertaken pursuant to CERCLA Section 106 and have been taken in a manner consistent with the NCP. The estimated cost of this response action is four million dollars. Chemical Waste Management, Inc. ("CWM") is a contractor hired by those parties to conduct the required actions at the Site. The Respondents are not party to the AOC. In August 1989, Paul Mraz and Sally Mraz, owners of the Site, agreed to access to the Site for the Spectron Site Waste Generator and Transporter Group and CWM to perform the actions required by the AOC.

3.17 Numerous tanks and drums onsite contain accumulated heavy sludges, resins and residues, in some cases large volumes and/or several layers of resins and/or heavy sludges which had been placed or allowed to accumulate in the tanks and drums by the Respondents. These resins and/or sludges have rendered the tanks unuseable and uncleanable except through costly and time consuming hand work. To clean the tanks as required by the AOC, response personnel must physically enter the tanks. This places response personnel at serious risk of exposure to toxic and carcinogenic hazardous substances which can only be mitigated through use of expensive safety gear and procedures and meticulous adherence to detailed safety protocol. Many of the vessels and much of the equipment left contaminated on the Site by the Respondents must be cut apart and otherwise dismantled or destroyed at significant cost in order to be properly decontaminated and rendered clean and safe.

3.18 The speed and magnitude of response actions at the Site are limited by the size and shape of the Site. The office area on the northeast side of Little Elk Creek is the only safe and suitable area for Site support activities requiring a contamination-free environment including but not limited to: office work, employee lunch and break activities, parking, equipment and personnel staging, and non-entry personnel activities. The foot bridge across Little Elk Creek to this area is a vital emergency exit from the Site.

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3.19 On several occasions, including but not limited to, November 11, 1989 and November 13, 1989, members of the Mraz family who identified themselves as representing Spectron and/or Paul and/or Sally Mraz, appeared at the Site requesting access and/or seeking to remove materials or equipment from the Site. According to CWM personnel, on November 11, Mr. John Mraz, son of Paul and Sally Mraz, threatened to evict CWM from the Site. Members of the Mraz family have attempted to enter the Site on various other occasions. The most recent attempt was on January 6, 1990. In a letter dated November 16, 1989 Paul Mraz wrote EPA demanding that response equipment be removed from portions of the Site or that EPA sign a lease for such usage and demanding payment for past usage.

#### IV. CONCLUSIONS OF LAW

4.1 The Site, including but not limited to, the Site property and the buildings, structures, installations, equipment, pipes or pipelines, storage containers, impoundments, and/or rolling stock at the Site, is a facility as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

4.2 Each of the Respondents is a "person" as defined in Section 101(21) of CERCLA, as amended, 42 U.S.C. § 9601 (21).

4.3. Each of the Respondents either owns the Site, operated the Site, transported hazardous substances to the Site, arranged for treatment or disposal of hazardous substances at the Site or arranged for transport of hazardous substances to the Site for treatment or disposal, and is liable under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

4.4 Hazardous substances, as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), have been disposed of at the Spectron Site and are currently present there. These hazardous substances include, but are not limited to: methylene chloride, methyl ethyl ketone, trichloroethylene, toluene, 1,1,1 trichloroethane and acetone. These hazardous substances are listed as such at 40 C.F.R. § 302.4.

4.5 The presence of hazardous substances at the Site and the past, present, and/or potential migration of hazardous substances from the Site constitutes an actual and/or threatened "release" as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

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4.6 Section 104(e) of CERCLA, 42 U.S.C. § 9604(e) authorizes EPA and its representatives to have access to the Site to take response actions, to require the Respondents to furnish information to EPA and authorizes EPA to issue an Order requiring access and submission of the requested information, when such access is not granted or such information is not submitted. A demand for rent constitutes denial of consent to access.

#### V. DETERMINATIONS

Based on the Findings of Fact and Conclusions of Law set forth above, the Regional Administrator has determined that:

5.1 The actual and/or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the public health or welfare or the environment.

5.2 Due to the threat to public health or welfare or the environment, it is appropriate to abate, minimize, stabilize, mitigate, or eliminate the release or threat of release.

5.3 The actions required by this Order are necessary to protect the public health, public welfare and/or the environment.

5.4 Based upon the foregoing and the Administrative Record supporting this Order, it is hereby Ordered that Respondents comply with the requirements set forth below.

#### VI. PARTIES BOUND

6.1 This Order shall apply to and be binding upon Respondents, their agents, successors, and assigns and upon all persons, contractors and consultants acting under or for the Respondents. No change in ownership or corporate or partnership status will in any way alter the status of the Respondents or their responsibilities under this Order.

6.2 In the event of any change in ownership or control of the Site, Respondents shall notify the EPA in writing at least thirty (30) days in advance of such change and shall provide a copy of this Order to the transferee in interest of the Site, prior to any agreement for transfer.

6.3 The Respondents to this Order are jointly and severally liable for compliance with the provisions of this Order.

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6.4 The Respondents shall provide a copy of this Order to all consultants, contractors, sub-contractors and laboratories retained to conduct any portion of the work performed pursuant to this Order, and shall condition such contracts on compliance with the terms and conditions of this Order.

6.5 The Respondents shall provide a copy of this Order to any person other than EPA or EPA's authorized representative who attempts to enter the Site or advises the Respondents that it intends to enter the Site for any purpose.

#### VII. NOTICE TO THE STATE

7.1 Notice of issuance of this Order has been given to the State of Maryland, pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

#### VIII. SITE ACCESS

8.1 Except in accordance with the provisions of 8.2 below, Respondents shall not enter the Site nor shall they otherwise interfere with response actions being conducted at the Site under EPA's direction and which are being conducted with EPA's approval pursuant to Sections 104 and 106 of CERCLA, 42 U.S.C. § 9604 and 9606.

8.2 Entry into the Site by the Respondents, their officers or employees, or anyone acting in concert with them (all of whom are hereafter collectively referred to as the Respondents' representatives) may be authorized by EPA. Requests for entry shall be directed to the EPA Project Coordinator as set forth in Section IX below. The EPA Project Coordinator shall have the authority to approve or deny requests for entry. Any such entry shall be subject to the following conditions, and any other requirements deemed appropriate by EPA to protect health and safety:

a. Respondents and their representatives shall assume, prior to entry, any risks to themselves arising from their presence on the premises, and shall indemnify and hold harmless EPA, its employees, agents or representatives from any bodily injury, property damage, or other harm to Respondents, EPA or third parties arising from such entry, and agree to waive any claims against EPA, its employees and agents they might have arising from any entry;

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b. Respondents and their representatives will wear appropriate protective clothing as set forth in the approved EPA Site Safety Plan;

c. Respondents and their representatives shall not touch, disturb or otherwise come into physical contact in any way with any drum, tank, container, equipment, pipes, vessels, or rolling stock other than those subject to the approved WP pursuant to paragraph 8.7 below;

d. Respondents and their representatives will provide EPA with at least 72 hours written notice of the time, date and anticipated length of their visit to the Site and the names of those persons who will enter the facility. Said entry shall be subject to EPA's approval. Respondents and their representatives shall only enter the Site after receipt of written approval from EPA of such entry."

e. Respondents and their representatives agree to be escorted at all times by EPA or its representative. Further, Respondents agree to abide by the directions of EPA or its representative while on the Site;

f. In the event of a sudden release of hazardous substances or other change of conditions on the Site prior to or during any Site entry, such entry may be postponed or cancelled at the discretion of EPA or its representative; and

g. Respondents and their representatives will at all times conduct themselves in a reasonable and safe manner while on the Site.

8.3 Notwithstanding the provisions of paragraph 8.1 and 8.2 above, if the Respondents or the Respondents representatives want access to the Site to handle, place, move, remove, transport or operate any substances, materials, pipes, vessels, storage containers, rolling stock, equipment and/or buildings from or at the Site they may do so, but only with the express permission of EPA. Such permission shall be obtained by submission of a Work Plan (WP) to the EPA Project Coordinator (PC) designated in Section IX of this Order and receipt of written approval of such WP and proposed action in accordance with paragraphs 8.7 through 8.15 below. Any such entry shall be subject to the following conditions and any other requirements deemed appropriate by EPA to protect health and safety:

a. Respondents and their representatives shall assume, prior to entry, any risks to themselves arising from their presence on the premises, and shall indemnify and hold

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harmless EPA, its employees, agents or representatives from any bodily injury, property damage, or other harm to Respondents, EPA or third parties arising from such entry, and agree to waive any claims against EPA, its employees and agents they might have arising from any entry;

b. Respondents and their representatives will wear appropriate protective clothing as set forth in the approved EPA Site Safety Plan;

c. Respondents and their representatives shall not touch, disturb or otherwise come into physical contact in any way with any drum, tank, container, equipment, pipes, vessels, or rolling stock other than those subject to the approved WP pursuant to paragraph 8.7 below;

d. Respondents and their representatives agree to be escorted at all times by EPA or its representative. The requirement for an escort may be waived by the EPA Project Coordinator. Further, Respondents agree to abide by the directions of EPA or its representative while on the Site;

e. In the event of a sudden release of hazardous substances or other change of conditions on the Site prior to or during any Site entry, such entry may be postponed or cancelled at the discretion of EPA or its representative; and

f. Respondents and their representatives will at all times conduct themselves in a reasonable and safe manner while on the Site.

8.4 Other than approved actions taken pursuant to 8.3 above, the Respondents shall not move, remove, place, transport or operate or handle substances, materials, pipes, vessels, storage containers, rolling stock, equipment and/or buildings at the Site in any way, and they shall not take any other actions which might in any way interfere with EPA-approved response actions at the Site. Respondents shall refrain from doing any of the above unless and until EPA expressly authorizes Respondents, in writing, to do otherwise.

8.5 If the Respondents have knowledge that any substances, materials, pipes, equipment, vessels, storage containers, rolling stock or buildings at the Site belong to someone other than the Respondents, the Respondents shall notify EPA of such materials, equipment, vessels or buildings and the names and address(es) of the owner(s) of said materials, equipment, vessels, storage containers, rolling stock or buildings within fourteen (14) days of the effective date of this Order. This requirement does not include materials, equipment, vessels or buildings brought to the Site since May 24, 1989.

8.6 Respondents shall provide site access to EPA and/or its authorized representatives for the conduct and/or oversight of removal response activities and investigations pursuant to CERCLA and the NCP. Such access shall include entry upon the entire Spectron Site, including property on both sides of Little Elk Creek. Access shall be provided twenty four hours per day, seven days per week for the conduct and oversight of EPA-approved activities pursuant to CERCLA Section 106. Nothing herein shall be interpreted as limiting the inspection authority of EPA under Federal law. This provision shall apply to Respondents and all their employees, agents, successors and assigns. Any actions taken by Respondents to deny access to EPA and/or its authorized representatives shall be deemed a violation of this Order.

8.7 Any WP submitted pursuant to 8.3 above shall be consistent with the NCP, 40 C.F.R. Part 300, shall be subject to approval by EPA and shall be implemented according to the provisions of paragraphs 8.9 through 8.13 below. The following are the minimum specific provisions that are to be provided for in the WP:

a. A Site Health and Safety Plan (Safety Plan) to protect the health of workers, other personnel and the public from the hazardous substances and work-related health and safety hazards during performance of the work to be conducted;

b. The name of the qualified contractor or person to conduct the proposed work and the identity and qualifications of the person or persons who will be primarily responsible for carrying out said work. All supervisory personnel, contractors and/or subcontractors performing work at the Site shall meet the necessary Occupational Safety and Health Administration (OSHA) requirements as defined in 29 C.F.R. § 1910.120. The supervisory personnel, contractors, and subcontractors are subject to approval by EPA. EPA may disapprove the use of any supervisory personnel, contractor and/or subcontractor if EPA believes they are not qualified to perform the work;

c. a plan to provide fire protection;

d. a plan to handle, move, reuse and/or dispose of materials, substances or equipment;

e. a plan to decontaminate materials, substances and equipment containing or contaminated with hazardous substances particularly any equipment which is to be removed from the Site;

f. a plan to transport and properly dispose of all hazardous substances taken offsite;

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- g. a plan to sample all materials, substances and equipment to be taken offsite;
- h. a plan to properly treat or dispose of any hazardous substances or wastes generated; and
- i. an expeditious schedule for implementation of the WP.

8.8 The WP shall outline the proposed work and shall include, but not be limited to the following: the protocols, practices and procedures to be used; the equipment and personnel to be used; the specific items to be addressed in each action; the potential exposures to hazardous substances and potential further releases which may occur and the actions to be taken to mitigate them; the safety procedures necessary for each activity; and an explanation of how these actions are consistent with CERCLA, the NCP, public and worker safety and overall site cleanup objectives. If some materials, substances and equipment are to be used for similar operations and therefore will not be disposed of or fully decontaminated, the Respondent must specify this and demonstrate that the actions taken are consistent with future uses, stabilization, public and worker safety, and general work practice; and consistent with OSHA regulations and other laws including the Resource Conservation and Recovery Act, as amended ("RCRA"). All actions shall be taken in such a manner as to mitigate or to eliminate any present or future releases of hazardous substances at or from the Site.

8.9 The EPA will review the WP and notify the Respondent of its approval or disapproval of the WP. In the event of disapproval, the EPA will specify the deficiencies in writing. The Respondent shall respond to and correct the deficiencies identified by EPA and resubmit the WP to EPA. Approval or disapproval by EPA of the subsequent WP submissions will be as stated above.

8.10 Upon receipt from EPA of written approval of the WP, the Respondent may begin implementation of the WP in accordance with the WP, the schedule therein, and in conformance with paragraph 8.3 above. Such actions shall be conducted and completed in accordance with the approved WP and schedules therein.

8.11 Beginning (7) seven calendar days subsequent to the date of receipt of EPA approval of the WP and continuing until the work is complete according to the schedules in the WP, the Respondents shall provide EPA with a progress report for each preceding 7 day period. The progress reports shall include, at a minimum: 1) a description of the actions that have been taken toward completing the approved work; 2) a description of all data anticipated and activities scheduled for the next 7 days; 3) a description of any

problems encountered or anticipated; 4) any actions taken to prevent or mitigate such problems; 5) a schedule for when such actions will be completed; and 6) copies of all analytical data received during the reporting period.

8.12 Any communications to EPA under this Order, including requests for entry, documents, work plans, reports, sampling results and other correspondence shall be sent certified or express mail to the EPA Project Coordinator, designated pursuant to Paragraph 9.1.

8.13 All WP reports, plans, specifications, schedules and attachments required by this Order are subject to EPA approval and shall be incorporated into this Order upon approval by EPA. Any non-compliance with such EPA approved WP, reports, plans, specifications, schedules, and attachments shall be considered a failure to comply with a requirement of this Order. Determination(s) of non-compliance shall be made by EPA. Notwithstanding any other provision of this Order, Respondents need not submit or comply with any WP under paragraphs 8.3 and 8.7 through 8.11 unless Respondents plan to enter the Site to handle materials, or if they in fact enter the Site to handle materials.

8.14 Respondents shall provide to EPA upon request any and all information resulting from and/or pertaining to action taken by Respondents pursuant to this Order including, but not limited to, analytical data, Site safety data, Site monitoring data, operational logs, copies of all hazardous waste manifests (including copies of all hazardous waste manifests signed upon receipt of the hazardous wastes by a licensed treatment or disposal facility), shipping manifests, bills of sale, bills of lading, identities of treatment, storage and/or disposal facilities used, identities of transporters used, identities of any contractors and subcontractors used, identities of the persons who receive materials, substances or equipment from the Site, and the location where materials, substance or equipment from the Site were sent. Nothing herein shall be interpreted as limiting the inspection authority of EPA under Federal law.

8.15 Within ten (10) calendar days of the completion of all of the actions in the approved WP, Respondents shall submit a written report to EPA detailing the actions taken, and notifying EPA of such completion. EPA shall inspect the Site for adequacy of Respondents' performance of such actions. EPA shall notify Respondents, in writing, of any deficiencies and the actions required to correct these deficiencies at the Site. Such required actions shall be consistent with the NCP and all applicable Federal laws or regulations. Respondents shall take the necessary corrective measures to address any deficiencies identified by EPA.

8.16 Respondents shall not remove any hazardous substances, materials or equipment from the Site after the effective date of this Order, except in conformance with the terms of this Order and any applicable Federal, state or local laws or regulations.

8.17 Failure to comply with the requirements of paragraphs 8.1 through 8.6 above shall be considered to be a violation of this Order. Notwithstanding any other provision of this Order, Respondents need not submit or comply with any WP under paragraphs 8.7 through 8.11 unless Respondents plan to enter the Site to handle materials, or if they in fact enter the Site to handle materials.

#### IX. EPA PROJECT COORDINATOR

9.1 The EPA Project Coordinator shall be responsible for overseeing the implementation of this Order and shall be responsible for EPA determinations, notifications, approvals and disapprovals required pursuant to this Order. To the maximum extent possible, communications between the Respondents and EPA, and all documents, including requests for entry, work plans, reports, approvals, and other correspondence, concerning the activities requested to be performed and/or performed pursuant to the terms and conditions of this Order, shall be directed to the EPA Project Coordinator by certified mail or express mail. The Project Coordinator for EPA is:

William D. Steuteville, Environmental Scientist  
Enforcement and Title III Section (3HW33)  
841 Chestnut Building  
Philadelphia, Pennsylvania 19107  
(215) 597-6678

9.2 The EPA-designated Project Coordinator shall have the authority to, *inter alia*, halt, modify, conduct, or direct any tasks which fail to comply with the Order or when conditions present or may present a threat to public health or welfare or the environment as set forth in 40 C.F.R. § 300.65(b), and/or to undertake any response actions or portions thereof when conditions present or may present a threat to public health or welfare or the environment as set forth in 40 C.F.R. § 300.65(b). The absence of the EPA Project Coordinator or On-Scene Coordinator from the Site shall not be cause for the stoppage or delay of work.

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X. QUALITY ASSURANCE

10.1 The Respondents shall use quality assurance, quality control, and chain of custody procedures in accordance with the "EPA NEIC Policies and Procedures Manual" dated May 1978, revised November 1984, EPA Document 330/9-76-001-R and "Interim Guidelines and Specifications for Preparing Quality Assurance Project Plans," December 1980, QAMS-005/80, while conducting all sample collection and analysis activities required by this Consent Order. The Respondents shall consult with EPA in planning for, and prior to, all sampling and analysis required by this Order and the approved Work Plan. The Respondents shall use a laboratory(s) which has a documented Quality Assurance Program that complies with EPA guidance document QAMS-005/80.

XI. EPA RESERVATION OF RIGHTS

11.1 EPA reserves all rights and defenses it may have, and nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order, including the right to seek injunctive relief, and the imposition of statutory penalties. Failure to comply with the terms of this Order without sufficient cause or unreasonable failure to comply with the terms of this Order may subject the Respondents to civil penalties of up to \$25,000 a day and/or punitive damages in an amount up to three times the amount of any costs incurred by the United States as a result of such failure, pursuant to Sections 106(b), 104(e)(5) and 107(c) of CERCLA, 42 U.S.C. §§ 9606(b), 9604(e)(5) and 9607(c).

11.2 As provided by this Order, EPA expressly reserves its right to disapprove of work performed by the Respondents and to perform response actions in addition to those required by this Order. In the event that the Respondents decline to perform such additional actions, EPA reserves the right to undertake such actions and seek reimbursement of the costs incurred. In addition, EPA reserves the right to undertake removal and/or remedial actions at any time that such actions are appropriate under the NCP and to seek reimbursement for any costs incurred.

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### XII. NOTIFICATION OF DELAY

12.1 The Respondents shall notify EPA of any delay or anticipated delay in achieving compliance with any requirement of this Order or approved WPs. Such notification shall be made verbally as soon as possible but not later than two (2) business days after any such delay or anticipated delay and in writing no later than seven (7) days after any Respondent becomes aware of such delay or anticipated delay. The written notification shall describe fully the nature of the delay, the reasons the delay is beyond the control of Respondents if appropriate, the actions that will be taken to mitigate, prevent and/or minimize further delay, the anticipated length of the delay and the timetable according to which the actions to mitigate, prevent and/or minimize the delay will be taken. The Respondents shall adopt all reasonable measures to avoid or minimize any such delay.

### XIII. OTHER CLAIMS

13.1 Nothing in this Order shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership, or corporation not bound by this Order for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from the Site.

13.2 This Order does not constitute any decision on preauthorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. Section 9611(a)(2).

### XIV. OTHER APPLICABLE LAWS

14.1 All actions required to be taken pursuant to this Order shall be undertaken and/or permitted in accordance with the requirements of all applicable local, state, and Federal laws and regulations.

XV. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

15.1 The effective date of this Order shall be the date on which it is signed by EPA.

15.2 Any reports, plans, specifications, schedules, or other submissions required by this Order are, upon approval by EPA, incorporated into this Order. Any non-compliance with such EPA approved reports, plans, specifications, schedules, or other submissions shall be considered non-compliance with the requirements of this Order. Determinations of non-compliance shall be made by EPA.

15.3 No informal advice, guidance, suggestions or comments by EPA regarding access, reports, plans, specifications, schedules, or other submissions by the Respondents or the requirements of this Order will be construed as relieving the Respondents of their obligation to obtain formal approval when required by this Order.

XVI. CALCULATION OF TIME

16.1 Any reference to "days" in this Order shall mean calendar days, unless otherwise specifically provided herein.

XVII. LIABILITY OF THE UNITED STATES GOVERNMENT

17.1 Neither the United States Government nor any agency thereof shall be liable for any injuries or damages to persons or property resulting from acts or omissions of Respondents, or of their employees, agents, servants, receivers, successors, or assigns, or of any persons, including, but not limited to firms, corporations, subsidiaries, contractors, or consultants, in carrying out activities pursuant to this Order, nor shall the United States Government or any agency thereof be held as a party to any contract entered into by Respondents in carrying out activities pursuant to this Order.

XVIII. ADMINISTRATIVE RECORD

18.1 The Administrative Record upon which this Order is issued is available for review by the Respondents at their request. Requests to review the record shall be submitted to the EPA Project Coordinator designated in Section IX above.

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IX. OPPORTUNITY TO CONFER WITH EPA

19.1 Not later than three (3) business days from the effective date of this Order, Respondents may confer with EPA to discuss this Order. Such conference is not an adversarial hearing or part of a proceeding to challenge this Order, and no official stenographic record of such conference shall be kept.

By:

*James W. Nease*  
Edwin B. Erickson  
Regional Administrator  
U.S. Environmental Protection Agency  
Region III

*Acting for*

Date: FEB - 1 1990

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Table A

A. 1985 and 1987 MDE sample results showing levels of contaminated liquids within containment dikes onsite:

a) Methylene chloride (MCL)	-	19,200 and 1760 ppm
b) Trichloroethylene (TCE)	-	299,400 and 63 ppm
c) 1,1,1-Trichloroethane (111-TCA)	-	227,800 and 638 ppm
d) Toluene (TOL)	-	4,200 and 35 ppm
e) Methyl ethyl ketone (MEK)	-	1,700 and 79 ppm
f) Acetone (ACE)	-	203 and 363 ppm

(ppm=parts per million)

B. 1985 MDE sample results showing levels of contamination in seepage along the streambank onsite.

a) MCL	-	4630 ppm	d) TOL	-	27 ppm
b) TCE	-	22 ppm	e) MEK	-	363 ppm
c) 111-TCA	-	596 ppm	f) ACE	-	2,260 ppm

C. 1985 through 1988 MDE sample results showing levels of MCL in Little Elk Creek at and below the Site.

Date	Upstream	Midstream 1	Midstream 2	Downstream
02/23/88	<1ppb	678ppb	1165ppb	146ppb
10/07/87	<1ppb	2000ppb	2100ppb	71ppb
08/01/86	<1ppb	13000ppb	12000ppb	9ppb
11/01/85	<1ppb	2900ppb	2650ppb	100ppb

(ppb=parts per billion)

D. 1989 CWM sample results showing levels of contamination in Little Elk Creek at and below the Site.

Upstream	Midstream			Downstream
	Stream Samples in PPB (parts per billion)			
MCL	U	548 ppb	537 ppb	59.2ppb
TCE	U	7.8ppb	8.4ppb	U
TOL	U	15.0ppb	18.3ppb	U
111-TCA	U	92.6ppb	17 ppb	8.1ppb
PCE	U	18.8ppb	19.8ppb	1.6ppb

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E. 1989 CWM sample results showing levels of contamination in seepage along the streambank on-site.

	<u>Seep 1</u> Seeps 1,2 and 3 onsite.	<u>Seep 2</u>	<u>Seep 3</u>	<u>Seep 4*</u>
MCL	10800 ppm	296 ppm	20 ppm	U
TCE	U	0.6ppm	8.1ppm	U
TOL	15 ppm	8.4ppm	12 ppm	U
111-TCA	605 ppm	73 ppm	92 ppm	109 ppm
PCE	U	5.8ppm	11 ppm	12.4ppm

[PCE=Tetrachloroethylene      U=not detected]

(Although no MCE, TCE or TOL was detected in Seep 4, sample analyses showed significant levels of other hazardous substances).

F. 1989 CWM sample results showing levels of specific contaminants in some wastes on-site.

MCL	500,000ppm (50%)	111-TCA	250,000ppm (25%)
PCE	710,000ppm (71%)	ACE	26,000ppm (2.6%)
TCE	230,000ppm (23%)	MEK	51,000ppm (5.1%)
TOL	355,000ppm (35.5%)		

(concentrations are from different wastes)

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