IN THE MATTER OF:

LCP Chemicals Sulfuric Acid Spill Site: Moundsville, West Virginia

LCP Chemicals-West Virginia, Inc.

RESPONDENT


ADMINISTRATIVE ORDER BY CONSENT

The parties to this Administrative Order by Consent (Consent Order or Order) LCP Chemicals-West Virginia, Inc. (Respondent or LCP Chemical) and EPA, having agreed to the entry of this Consent Order, it is therefore Ordered, that:

I. JURISDICTION

This Consent Order is issued pursuant to the authority vested in the President of the United States by Sections 106(a) and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. §§ 9606(a) and 9622, as amended by the Superfund Amendments and Reauthorization Act of 1986, (SARA) Pub. L. No. 99-499, 100 Stat. 1613 (1986), delegated to the United States Environmental Protection Agency (EPA) by Executive Order No. 12,580, 52 Fed. Reg. 19 (1987), and further delegated to the Regional Administrators of EPA. This Order pertains to property located at State Route 2, Moundsville, West Virginia. The property will hereinafter be referred to as "the Site".

The Respondent agrees to undertake all actions required by the terms and conditions of the Consent Order. The Respondent consents to EPA's jurisdiction to issue this Order and also agrees not to contest EPA's authority to issue this Order in any proceeding to enforce the terms and conditions of this Order.

The actions taken pursuant to this Order shall be consistent with the National Oil and Hazardous Substances Contingency Plan, (NCP), 40 C.F.R. Part 300.
II. STATEMENT OF PURPOSE

In entering into this Consent Order, the mutual objectives of EPA and the Respondent are to conduct a removal action, as defined in Section 101(23) of CERCLA, 42 U.S.C. Section 9601(23), to abate, mitigate and/or eliminate the release or threat of release of hazardous substances at the Site.

III. FINDINGS OF FACT

A. The Respondent, LCP Chemicals-West Virginia, Inc. is a corporation organized and existing under the laws of the State of Delaware since April 1, 1980. The company qualified to conduct business as a corporation in the State of West Virginia on April 28, 1980.

The Respondent is a subsidiary of the Hanlin Group, Inc. of Edison New Jersey. The Hanlin Group is also a Delaware corporation and was incorporated on December 13, 1971.

B. The Respondent owns and operates a chemical manufacturing facility located on State Route 2 in Moundsville, Marshall County, West Virginia. The plant is located within the Ohio River Valley approximately three (3) miles downstream from Moundsville.

C. The primary process of the facility is the production of chlorine and sodium hydroxide from the electrolytic separation of brine in mercury electrolysis cells. This results in waste material containing mercury which is stored on-site until it is shipped off-site for disposal.

A secondary operation produces the following chlorinated methane solvents: methyl chloride, methylene chloride, chloroform and carbon tetrachloride. These compounds are produced by the chlorination of methane and/or methanol. Wastes generated as a result of this operation include sulfuric acid, caustic soda, potassium carbonate and heavy organic residues from the distillation process. Spent sulfuric acid is stored on-site for subsequent shipment off-site for reclaimation. Potassium carbonate and heavy organic residues are shipped off-site for disposal.

D. LCP first observed on June 29, 1989, that a 540,000 gallon storage tank had leaked approximately 250,000 gallons of spent concentrated (70%) sulfuric acid into its earthen containment berm at the LCP Chemical facility. LCP Chemicals reported the spill to the National Response Center on June 29, 1989 at approximately 1900. On June 30, 1989, the EPA On-Scene
Coordinator (OSC) was notified by the Regional Response Center (RRC) of the spill.

The OSC tasked the Technical Assistance Team (TAT) to visually investigate the spill and report the situation to the OSC. Two TAT members arrived on site at 11:20 a.m. June 30, 1989 and observed that approximately 100 gallons of sulfuric acid was visible in puddles on the surface of the 158-foot square earthen containment area. The remaining spent sulfuric acid had leached into the soil.

The TATs visually inspected the perimeter of the containment area and observed no leachate from the soil bank. The TATs also tested downgradient in a small stream that traverses the facility immediately south of the storage tank and found the pH to be approximately 7.

E. Since July 1, 1989 LCP Chemical has installed at least eight (8) monitoring and recovery wells ranging in depth from 34 to 82 feet at the Site. Ground water samples taken from these wells have exhibited pH values ranging between 6 and 7 downgradient of the storage tank. LCP Chemicals has also performed soil boring within the containment area to depths of up to 10 feet. Soil samples taken from the borings showed the highest concentration to be 39.76% sulfuric acid at a pH of approximately 1. At a depth of four feet the soil was found to contain from 0.38% to 29.67% sulfuric acid by weight.

F. Geraghty and Miller, Inc., the remedial consultant hired by LCP Chemical to coordinate cleanup activities at the Site, has stated to a West Virginia Department of Natural Resources inspector that it estimates the movement of groundwater beneath the Site to be fifteen to twenty feet per day downgradient towards the Ohio River and plant Ranney well D. The area's upper aquifer is approximately thirty feet below the Site.

G. The Respondent's facility is located on the east bank of the Ohio River with the discharge point of the tank identified in paragraph D above located approximately 870 feet east of the Ohio River and 356 feet north of an unnamed tributary to the Ohio River. The Ohio River is used as a drinking water source and for barge traffic and recreational purposes. The closest municipal water supply located down stream approximately 25 miles is at Sisterville, WV which serves an estimated 1000 residents.

The facility is adjacent to the Moundsville Country Club which uses ground water for watering its golf course. The Washington Lands Water Well is located approximately 3000 feet south of the facility and supplies drinking water for local residents and industrial facilities. In 1977, Geraghty and Miller, Inc. conducted a hydrogeologic study of the facility for the prior owner. The study concluded that continuous pumping of
the four wells (Ranney wells A, B, C and D) installed for drawing water from the underlying aquifer for use in plant operations, would contain the groundwater contamination within the facility's boundaries. This water is ultimately discharged to the Ohio River. EPA does not have any data which show that the Ranney Wells effectively contain the groundwater contamination within the facility's boundaries. Ranney wells B and C have not been in operation since 1980 and 1981, respectively.

H. Sulfuric acid is listed as a hazardous substance as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14) and is listed as such in 40 C.F.R. § 302.4. Sulfuric acid is also a characteristic hazardous waste because of its corrosivity as defined in 40 C.F.R. § 261.22 and it has been assigned the EPA Hazardous Waste Number D002, in 40 C.F.R. § 261.22(b).

I. Because of the quantity and the potential discharge to ground water and surface water of hazardous substances released to the environment the OSC has determined that a threat to public health, welfare and the environment exists at the Site.

IV. CONCLUSIONS OF LAW

A. The LCP Chemical Plant Site is a facility as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

B. The Respondent is a person as defined by Section 101(21) of CERCLA 42 U.S.C. § 9601(21).

C. Hazardous substances, as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14) have been disposed at the Site and are currently present there.

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

E. The Respondent is liable under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

V. DETERMINATIONS

Based on the Findings of Fact and Conclusions of Law set forth above, EPA has determined that:
A. 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.

B. The actions required by this Consent Order are necessary to protect the public health and welfare and the environment.

VI. PARTIES BOUND

A. This Consent Order shall apply to and be binding upon Respondent, and EPA, their agents, successors, and assigns and upon all persons, contractors and consultants acting under or for either the Respondent, or EPA or any combination thereof. No change in ownership or corporate or partnership status relating to the Site will in any way alter the status of the Respondent or its responsibility under this Consent Order.

B. In the event of any change in ownership or control of the Site, Respondent 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.

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

D. The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms of this Order and to execute and legally bind that Respondent to this Consent Order.

VII. NOTICE TO THE STATE

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

VIII. WORK TO BE PERFORMED

A. The Respondent agrees to undertake all actions required by the terms and conditions of this Consent Order.

B. Pursuant to this Consent Order, Respondent shall commence performance of the following measures within in the time periods
B. Pursuant to this Consent Order, Respondent shall commence performance of the following measures within the time periods specified. All time periods shall be business days unless otherwise specifically noted.

C. Within five (5) days of the effective date of this Order, Respondent shall either retain a qualified contractor or proceed on its own to perform the actions required by this Order, described in the attached Scope of Work (Attachment A) which is hereby incorporated by reference. Prior to the initiation of Site work pursuant to this Order, Respondent shall notify the EPA Project Coordinator (PC) in writing regarding the identity and qualifications of the supervisory personnel, contractor(s) and/or subcontractor(s) carrying out the terms of this Order. All supervisory personnel, contractor(s) and/or subcontractor(s) performing cleanup activities at the Site shall have met the necessary Occupational Safety and Health Administration (OSHA) requirements as defined in 29 C.F.R. § 1910.120. The supervisory personnel, contractor(s) and/or subcontractor(s) are subject to approval by EPA. EPA may disapprove the use of any supervisory personnel, contractor and/or subcontractor if EPA reasonably believes they are not qualified to perform the response work required at the Site. This determination shall not be subject to Dispute Resolution or review. In such event, EPA shall notify the Respondent in writing and explain the basis for disapproval. In the event of disapproval, the Respondent shall notify EPA within fourteen (14) days of the supervisory personnel, contractor and/or subcontractor who will replace those whom EPA disapproved.

D. Within fourteen (14) days of LCP's decision to perform the work on its own pursuant to paragraph C above or within (14) days of the approval of the contractor(s) by EPA, Respondent shall submit to EPA for approval a detailed Work Plan and schedule of operations for the expeditious performance of the work that complies with the requirements of the aforementioned Scope of Work.

E. EPA shall review the Work Plan and notify Respondent of its approval or disapproval of the Work Plan. In the event of disapproval, EPA shall specify the deficiencies in writing. Within seven (7) days of receipt of EPA disapproval, Respondent shall submit a revised Work Plan that responds to the specified deficiencies. Approval by EPA of the subsequent Work Plan submission shall be according to the provisions of paragraph F immediately below.

F. All reports, plans, specifications, schedules and attachments required by this Order are subject to EPA approval, which approval shall not be unreasonably withheld, and shall be incorporated into this Order upon approval by EPA. In the event that EPA disapproves any required submission, EPA shall specify the deficiencies in writing. Within seven (7) days of receipt of
revised submission, EPA retains the right to submit its own modifications to Respondent for implementation, perform the response action and seek reimbursement of its costs from Respondent and/or take any other action authorized by law. Any non-compliance with such EPA-approved reports, plans, specifications, schedules, and attachments or non-compliance with EPA-submitted modifications in the case of subsequent disapprovals in accordance with this paragraph shall be considered a failure to comply with a requirement of this Consent Order. Determination(s) of non-compliance shall be made by EPA.

G. Within two (2) days following receipt of EPA's approval of the Work Plan Respondent shall commence performance of the removal actions required by the Work Plan and shall complete the actions specified in the Work Plan pursuant to and in a manner consistent with, the approved schedule. Beginning thirty (30) days subsequent to the date Respondent receives EPA approval of the Work Plan and continuing until EPA advises Respondent that the work is completed, the Respondent shall provide EPA with a progress report for each preceding 30-day period. The progress report shall include at a minimum: (1) a description of the actions that have been taken toward achieving compliance with this Order; (2) a description of all data anticipated and activities scheduled for the next 30 days; (3) a description of any problems encountered or anticipated; (4) any actions taken or planned to address such problems; (5) a schedule indicating when such actions will be taken; (6) copies of all analytical data received during the reporting period, and (7) all modifications to the Work Plan made in accordance with Section XVIII to this Order, during the reporting period.

H. Respondent shall submit to the EPA Project Coordinator (PC) within five (5) days of the request, all information resulting from, and/or pertaining to, actions taken by the Respondent pursuant to this Order. This information shall include, but is not limited to hydrogeologic information, sample analysis results, removal feasibility study alternatives and hazardous waste determinations.

I. Within thirty (30) of the completion of the activities called for by the EPA approved Work Plan, the Respondent shall provide the EPA PC with a written report describing in detail the actions they took to comply with this Order.

J. Upon receipt of the report described in paragraph I of this Section VIII, EPA shall perform a final review of the materials submitted and arrange with the Respondent a final inspection of the Site following completion of the measures called for by this section to verify compliance with this Order.

K. In the event that the Respondent fails or refuses to comply with any requirements of this Order, EPA may undertake such
measures in lieu of the Respondent, and may take any other measures authorized by law which EPA determines may be necessary to protect public health, welfare or the environment and seek reimbursement from Respondent and/or other parties for its costs.

L. Respondent shall not remove any waste materials subject to this Order from the Site except in conformance with the terms of this Order and any applicable federal, state or local law or regulation.

IX. DESIGNATED PROJECT COORDINATORS

A. On or before the effective date of this Consent Order, EPA and the Respondent shall each designate a Project Coordinator. Each Project Coordinator and/or EPA's On-Scene Coordinator (OSC) shall be responsible for overseeing the implementation of this Consent Order. To the maximum extent possible, communications between the Respondent and EPA, and all documents, including reports, approvals, and other correspondence, concerning the activities performed pursuant to the terms and conditions of this Consent Order, shall be directed to the Project Coordinators by certified mail or overnight express delivery.

B. EPA and the Respondent shall each have the right to change their respective Project Coordinator(s). Such a change shall be accomplished by notifying the other party in writing at least three (3) days prior to the change.

C. The EPA-designated Project Coordinator and EPA's On-Scene Coordinator (OSC) shall have the authority to, inter alia, halt, modify, conduct, or direct any tasks required by this Consent Order and/or 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 in 40 C.F.R. Section 300.65(b). The absence of the EPA Project Coordinator or the EPA OSC from the area under study pursuant to this Consent Order shall not be cause for the stoppage of work.
X. QUALITY ASSURANCE

The Respondent 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 330/9-78-001-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 Respondent shall consult with EPA in planning for, and prior to, all sampling and analysis required by the approved Work Plan. The Respondent shall use a laboratory(s) which has a documented Quality Assurance program that complies with EPA guidance document QAMS-005/80.

XI. SITE ACCESS

EPA and/or its authorized representatives shall have the authority to enter and freely move about all property of the Respondent subject to this Consent Order at all reasonable times for the purpose of, inter alia: inspecting records, operating logs, and contracts related to the Site; reviewing the progress of the Respondent in carrying out the terms of this Consent Order; conducting such tests as EPA deems necessary; using a camera, sound recording or other documentary type equipment, and verifying the data submitted to EPA by the Respondent. The Respondent shall permit such persons to inspect and copy all records, files, photographs, documents and other writing, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Consent Order. Nothing herein shall be interpreted as limiting the inspection authority of EPA under Federal law.

XII. DISPUTE RESOLUTION

If the Respondent objects to any EPA notification of deficiency, disapproval or other EPA action taken pursuant to this Consent Order, the Respondent shall notify EPA in writing of their objection(s) within fourteen (14) days of receipt of such notification or action. EPA and the Respondent shall have an additional fourteen (14) days from the receipt by EPA of the notification of objection to reach agreement. If agreement cannot be reached on any issue within this fourteen (14) day period, EPA shall provide a written statement of its decision to the Respondent. Respondent's obligations under this Consent Order

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XIII. DELAY IN PERFORMANCE AND STIPULATED PENALTIES

A. For each day that the Respondent fails to comply with the requirements of this Consent Order at the time and in the manner set forth herein, the Respondent shall be liable upon demand to EPA for the sums set forth below as stipulated penalties. Checks shall be made payable to the Hazardous Substance Superfund. Checks should be addressed to:

U.S. Environmental Protection Agency
Attention Superfund Accounting
P.O. Box 360515M
Pittsburgh, PA 15251

Payment shall be made within five calendar days of demand by EPA. A copy of the transmittal letter shall be sent to the EPA Project Coordinator, and a copy of the transmittal letter and the check shall be sent to:

U.S. Environmental Protection Agency, Region III
Attention: Hearing Clerk (3RC00)
841 Chestnut Building
Philadelphia, PA 19107

B. Stipulated penalties shall accrue in the amount of $1000 per day per violation for the first week, and $5000 per day per violation for each day thereafter. The stipulated penalties set forth in this Section XIII do not preclude EPA from pursuing other penalties or sanctions available to EPA for failure to comply with the requirements of this Consent Order.

XIV. FORCE MAJEURE

A. The Respondent shall notify EPA of any delay or anticipated delay in achieving compliance with any requirement of this Consent Order. 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 becoming aware of such delay or anticipated delay. The written notification shall describe fully the nature of the delay, if applicable, the reasons the delay is beyond the control of Respondent, 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 Respondent shall adopt all reasonable measures to avoid or minimize any such delay.

B. Any such delay that results from circumstances beyond the control of the Respondent and that cannot be overcome by due diligence on the Respondent's part, shall not be deemed to be a violation of its obligation under this Consent Order, and shall not make the Respondent liable for the stipulated penalties contained in Section XIII, "Delay in Performance and Stipulated Penalties", above. To the extent a delay is caused by circumstances beyond the control of the Respondent that cannot be overcome by due diligence, the schedule affected by the delay shall be extended for a period equal to the delay directly resulting from such circumstances. Increased costs of performance of the terms of this Consent Order or changed economic circumstances shall not be considered circumstances beyond the control of the Respondent.

C. Failure of the Respondent to comply with the notice requirements of this Section XIV shall constitute a waiver of the Respondent's right to invoke the benefits of this Section XIV with respect to that event.

D. In the event that EPA and the Respondent cannot agree that any delay in compliance with the requirements of this Consent Order has been or will be caused by circumstances beyond the reasonable control of the Respondent that cannot be overcome by due diligence, the dispute shall be resolved in accordance with Section XII, "Dispute Resolution," of this Consent Order. The Respondent shall have the burden of proving that the delay was caused by circumstances beyond its control which could not have been overcome by the exercise of due diligence, the necessity of the proposed length of the delay, and that the Respondent took all reasonable measures to avoid to minimize delay.

XV. RESERVATION OF RIGHTS

A. Except as expressly provided in this Consent Order, (1) each party reserves all rights and defenses it may have, and (2) 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 imposition of statutory penalties.

B. As provided by this Consent Order, EPA expressly reserves its right to disapprove of work performed by the Respondent and reserves its right to request that Respondent perform response actions in addition to those required by this Order, if it determines that such actions are necessary.
C. In the event that the Respondent declines to perform such additional actions, EPA reserves the right to undertake such actions and seek reimbursement of its costs. 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 seek reimbursement for any costs incurred.

D. By entering into this Consent Order the Respondent consents only to the work to be performed and does not concede to the accuracy of the Findings of Fact, and/or Conclusions of Law contained herein.
XVI. OTHER CLAIMS

A. Nothing in this Consent 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 Consent 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.

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

C. By consenting to the issuance of this Consent Order the Respondent waives any claim to reimbursement it may have under Section 106(b) of CERCLA, 42 U.S.C. § 9606(b).

XVII. OTHER APPLICABLE LAWS

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

XVIII. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

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

B. This Consent Order may be amended by mutual agreement of EPA, and the Respondent. Such amendments shall be in writing and shall have as their effective date, the date on which such amendments are signed by EPA. Minor modifications to the Work Plan and schedule approved pursuant to this Order may be made by mutual agreement of the Project Coordinators. Such modifications shall be memorialized in writing by the Project Coordinators.

C. Any reports, plans, specifications, schedules, or other submissions required by this Consent Order are, upon approval by EPA, incorporated into this Consent 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 Consent Order and will subject the
Respondent to the requirements of Section XIII, "Delay in Performance/and Stipulated Penalties", above.

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

XIX. REIMBURSEMENT OF COSTS

A. At the termination of removal activities at the Site, EPA shall submit to the Respondent an accounting of all response and oversight costs incurred by the U.S. Government with respect to this site. Response costs shall consist of all costs incurred by EPA, its agents or contractors for the actions taken to protect the public health welfare and the environment from removal and/or stabilization of hazardous substances at the site. Oversight costs shall consist of all costs incurred by EPA, its agents or contractors in connection with EPA's oversight of work performed by the Respondent pursuant to the terms of this Consent Order. The Respondent can object to any portion of the costs as being calculated incorrectly and/or having been incurred in a manner inconsistent with the NCP. Any such objection shall be subject to the Dispute Resolution procedures set forth in Section XII. Respondent shall have the burden of proving inconsistency with the NCP.

B. Within ninety (90) days of receipt of EPA's accounting, the Respondent shall remit a check for the costs made payable to the EPA Hazardous Substances Superfund. Checks should specifically reference the Site and should be addressed as specified in Section XIII of this Order.

C. After dispute resolution, if EPA determines that costs are owed by Respondent, Respondent shall remit a check for such costs, including interest, within thirty (30) days of notification of EPA's determination. Interest for unpaid costs shall be calculated from the date payment for any costs were due, as set forth in paragraph B immediately above. Interest shall be assessed at the rate established by the Department of the Treasury as set forth at 4 C.F.R. § 102.13. Payment shall be made as specified in Section XIII of this Order.

D. Respondent retains the right it may have to invoke the Freedom of Information Act (FOIA), 40 C.F.R. Part 2. However, any request under FOIA shall in no way relieve Respondent of its obligation to otherwise comply with the payment requirements of this Section XIX.
XX. CERTIFICATION OF COMPLIANCE

A. Any notice, report, certification, data presentation, or other document submitted by Respondent under or pursuant to this Consent Order, which discusses, describes, demonstrates, supports any finding or makes any representation concerning respondent's compliance or non-compliance with any requirement(s) of this Consent Order shall be certified by a responsible official of the Respondent.

B. The certification of the responsible official required by this section shall be in the following form:

"I certify that the information contained in or accompanying this (specified type of submission) is true, accurate and complete".

Signature
Title

XXI. TERMINATION AND SATISFACTION

The Respondent's obligation to EPA under this Consent Order shall terminate and be deemed satisfied upon the Respondent's receipt of written notice from EPA that the Respondent has demonstrated, to the satisfaction of EPA, that all the terms of this Consent Order have been completed.

BY: A. Walker Boyd
Date: 10/2/89
Director of Manufacturing Operations
Site Manager, Moundsville
LCP Chemicals-West Virginia, Inc.

BY: Edwin B. Erickson
Date: DEC 6 1989
Regional Administrator
Region III
U.S. Environmental Protection Agency
ATTACHMENT A

LCP CHEMICALS SULFURIC ACID SPILL SITE
MOUNDSVILLE, MARSHALL COUNTY, WEST VIRGINIA

The objectives of the sampling and removal actions required by this Order are to identify the extent of contamination as a result of the June 29, 1989 spill at the LCP Chemicals Moundsville plant and to remediate the Site to pre-spill conditions. The spill introduced into the environment an estimated 250,000 gallons of spent sulfuric acid and other contaminants from a hazardous waste storage tank.

In compliance with this Order, LCP Chemicals shall:

1. Provide EPA with all information regarding the hydrogeologic nature of the containment area and site in general. The Respondent may modify submittals made to EPA in compliance with the RCRA Corrective Action Administrative Order of September 2, 1987 to satisfy this requirement. This information should include but not be limited to the location of all relevant aquifers, direction and rate of ground water flow and types of geologic formations present in the Site's sub-surface.

2. Demonstrate to EPA's satisfaction that the eight (8) monitoring wells currently installed at the Site will sufficiently detect migration of the contaminant plume(s) in all relevant aquifers as a result of the June 29, 1989 spill.

3. Install any additional monitoring or recovery well(s) and boreholes as necessary to determine the extent of contamination or recovery of contamination for remediation purposes.

4. Provide all current sampling data to EPA and perform additional sampling at EPA's direction. Samples will be required to determine the extent of contamination and the effectiveness of cleanup selection.

5. Control the transport of spent sulfuric acid contaminated materials from tank containment area 002. Implementation of appropriate contaminant control measures should have demonstrable effectiveness in preventing further migration of contaminants off site.

6. Perform removal actions as necessary to eliminate any endangerment to human health and the environment resulting from the spill. Cleanup levels shall be those that are consistent with all Applicable or Relevant and Appropriate Regulations (ARARs).
7. Institute site security measures around the tank containment area to prevent access by unauthorized personnel. Site security shall be approved by the EPA PC.

8. Submit for EPA approval a written site specific safety plan describing occupational safety measures to be utilized at the Site during all response actions.

9. Grant the EPA PC, and West Virginia environmental regulatory official, and any other EPA official, contractor(s), agent(s), or authorized representatives access to the Site at all times to monitor response activities at the site, to take samples, to inspect the site, and to take other actions, which are necessary to ensure compliance with the Order or to protect the public health, welfare or the environment, as authorized by Section 106(a) of CERCLA 42 U.S.C. § 9606(a), and of the NCP, 40 C.F.R. § 300.65.