Consent Agreement and Order

The following Consent Agreement and Order agreed to by the United States Environmental Protection Agency ("EPA") and Scovill Inc. ("Scovill"), is issued pursuant to Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), 42 U.S.C. Section 9606(a), by authority delegated to the undersigned Regional Administrator by the Administrator of the EPA. This Consent Agreement and Order pertains to a property on Virginia Route 3, east of Montross, Westmoreland County, Virginia. This property was also formerly occupied by Arrowhead Associates, a company that conducted metal plating operations on this site. The property will hereinafter be referred to as the former plating site.

The actions authorized by this Consent Agreement and Order are consistent with the National Oil and Hazardous Substance Contingency Plan, 40 C.F.R. Section 300.65. Notice of issuance of this Consent Agreement and Order has been given to the Commonwealth of Virginia.
Findings of Fact and Conclusions of Law

1. The former plating site is located immediately adjacent to and west of the Chandler Chevrolet dealership, and is on the north side of VA Route 3, approximately one mile east of Montross, in Westmoreland County, Virginia (hereinafter referred to as "the site" or "the facility"). A portion of the building onsite is presently occupied by AR Winarick, Inc., a New Jersey Corporation which is engaged in the assembly of cosmetics on the site.

2. Scovill Manufacturing Company leased the facility from the Westmoreland County Industrial Development Corporation by lease dated July 1, 1966.


5. Scovill Manufacturing Company assigned its interest in the lease to Scovill, a Delaware corporation, on October 28, 1985.

6. Scovill is headquartered at 500 Chase Parkway, Waterbury, Connecticut, 06708, and has as its Chief Executive Officer, Richard E. Fennett.

7. By Deed of Release and Termination Agreement dated December 13, 1985, between Sovran Bank, N.A., Scovill, and the Westmoreland County Industrial Development Corporation, Scovill is required to "... cause toxic substances and contaminated machinery, structures, impoundments, drainage pits, and all other contaminated material upon the premises to be removed or detoxified in compliance with
existing procedures approved by the Federal Environmental Protec-
tion Agency and the Virginia Department of Health ...."

8. Scovill contracted with Law Environmental Services ("Law") to prepare an assessment and remediation report.

9. Law began field work for site assessment on July 23, 1985. A report issued by Law on October 1, 1985, indicated the presence of cyanide, heavy metals and corrosives in tanks and drums on the site.

10. Scovill contacted the Virginia Department of Health ("VADOH") and met with the VADOH to discuss the site and possible remedial action on November 1, 1985.

11. The site was inspected by the VADOH on February 7, 1986, and was found to be an abandoned metal plating operation.

12. Results of samples collected and analyzed by Scovill and submitted to EPA by VADOH by memorandum dated February 11, 1986, show that cyanide is present in the containers, plating system tanks, and soils onsite.

13. The site was investigated by EPA on February 12, 1986. During that investigation, EPA observed approximately 300 drums, some of which contained wastes. Some of these drums were observed to be rusted, crushed, and/or bulging so as to compromise their integrity.

14. Substances observed by EPA to be present in the drums include benzene, 1,1,1-trichloroethane, paints, lacquers, thinners, and metal plating wastes.

15. EPA observed tanks containing abandoned wastes which were corroded and structurally unsound.
16. Substances observed by EPA to be in the tanks onsite include trichloroethylene ("TCE"), nitric acid, cyanide solutions, caustic strippers, and salts of heavy metals.

17. Scovill furnished EPA with representative data from sampling of the drums and tanks for cyanide on February 12, 1986. The following tabulated data is a summary of the analytical results from the sampling:

From Drums: Total Cyanide (CN) Levels:

<table>
<thead>
<tr>
<th>Drum</th>
<th>Levels</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drum 9</td>
<td>97 mg/kg</td>
</tr>
<tr>
<td>Drum 43</td>
<td>92 mg/kg</td>
</tr>
<tr>
<td>Drum 82</td>
<td>92 mg/kg</td>
</tr>
<tr>
<td>Drum 169</td>
<td>290 mg/kg</td>
</tr>
</tbody>
</table>

From Process Tanks:

<table>
<thead>
<tr>
<th>Tank</th>
<th>Levels</th>
</tr>
</thead>
<tbody>
<tr>
<td>BR 7</td>
<td>2000 mg/kg</td>
</tr>
<tr>
<td>BR 10</td>
<td>540 mg/kg</td>
</tr>
</tbody>
</table>

18. EPA observed six lagoons containing electroplating wastes and sludges located behind the building onsite.

19. EPA has concluded from observations and from laboratory analyses that the substances found in containers, tanks, and soils at the site are hazardous wastes as defined by Section 1004(5)(B) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §6903(5)(B), and therefore are hazardous substances as defined by Section 101(14) of CERCLA, 42 U.S.C. §9601(14). Among the substances found at the site are substances which are corrosive as defined by 40 C.F.R. §261.22, "EP Toxic" as defined by 40 C.F.R. §261.24, ignitable as defined by 40 C.F.R. §261.21, and/or reactive as defined by 40 C.F.R. §261.23.
20. Approximately 200 people are currently engaged in manufacturing in the building referred to in paragraph 1 hereof, in an area adjacent to the abandoned plating process area. This former plating area is not physically separated from the present manufacturing operation.

21. The lagoons containing electroplating wastes and sludges are unlined and may present a threat to the ground water supplies of local residents.

22. A possibility of direct human contact with the hazardous substances described herein exists, through inadvertent contact between the hazardous substances and the workers employed by AR Winarick.

23. There is a threat of release of the hazardous substances referred to in paragraphs 14 through 19 from the site within the meaning of Sections 101(22) and 106(a) of CERCLA, 42 U.S.C. §§ 9601(22) and 9606(a). There has been an actual release of hazardous substances onto soils in the drum storage area.

24. The former plating site is a "facility" within the meaning of Section 101(9) of CERCLA, 42 U.S.C. §9601(9).

25. Respondent, Scovill Inc., is a "person" within the meaning of Section 101(21) of CERCLA, 42 U.S.C. §9601(21).

Determination

26. Based on the above Findings of Fact and Conclusions of Law, the Regional Administrator, Region III, has determined that there may be an imminent and substantial endangerment to the public health or welfare, or the environment because of an actual or threatened release of hazardous substances from the site. The Regional
Administrator has determined that the actions ordered below are necessary to insure that the public health, welfare, and the environment are protected.

Disclaimer

27. In consenting to the following Order and not contesting any of the Environmental Protection Agency's findings or determinations, Scovill does not admit the accuracy of such findings or determinations or any liability for transporting, storing and disposing of the substances found at the former plating site. Also, Scovill retains the right to recover costs of removal from other parties liable for activities at this site under CERCLA, or bring in third parties during remedial activities conducted pursuant to this Order.

Order

28. Therefore, pursuant to Section 106(a) and Sections 104(a), (b), and (e) of CERCLA, 42 U.S.C. §§ 9606(a), 9604(a), 9604(b), and 9604(e), Scovill and EPA agree:

29. Within thirty (30) days of the effective date of this Order, Scovill shall complete the site assessment needed to plan required immediate removal activities (Phase I) which shall include the waste characterization as described in Section 1.2 of the Draft Remedial Action Plan, prepared for Scovill by Law, dated March 1986.
30. Within seventy-two (72) hours of the completion of the site assessment required by paragraph 29 of this Order, Scovill shall submit a Phase I plan to the EPA On-Scene Coordinator ("OSC") for approval by the OSC, which shall detail the actions which Scovill shall take to immediately remove all the hazardous substances creating the hazardous conditions in and around the building. The actions to be addressed in that plan shall include:

(A) Overpacking of leaking and deteriorated containers prior to staging.

(B) Staging, and sampling of containers for compatibility and disposal.

(C) Sampling of the contents of the tanks.

(D) Decontamination or removal of the tanks.

(E) Proper disposal of containers, tanks, or the contents thereof.

(F) Excavation, containerization, and disposal of visibly contaminated soils and surface materials.

(G) Site security measures to be implemented during and after abatement activities sufficient to inhibit access by unauthorized persons.

(H) Occupational health and safety measures to be implemented at the site during abatement activities.

(I) A time schedule for initiation and implementation of the various Phase I immediate removal measures, including those referenced in paragraph 30, (A) through (H), to be taken at the site.

31. The Phase I plan shall be consistent with CERCLA and the National Contingency Plan ("NCP").

32. Scovill shall begin to implement the Phase I plan outlined in paragraph 30 above within forty-eight (48) hours of approval of the
33. In addition to the immediate removal activities conducted pursuant to the Phase I plan outlined in paragraph 30 above, Scovill shall prepare a Phase II Plan, to abate any contamination of subsurface soils and surface water remaining at the site. The plan will be consistent with the NCP. This plan will be submitted to VADOH and EPA within sixty (60) days of the effective date of this Order. The plan shall address:

(A) Sampling of soil cores, surface water, and sediments to define the depth and lateral extent of contamination, and to identify the spread of contamination by surface water runoff routes.

1. The extent of contamination survey shall include a complete sampling protocol which describes sample locations, collection methods, size of samples, analytical procedures and chain-of-custody procedures. The name and telephone number of the analytical laboratory to which samples will be sent shall also be included with the survey.

2. Scovill shall advise the OSC of the sample analysis results within 24 hours of receiving the results.

(B) Evaluation and selection of disposal and/or other alternatives proposed in the plan, in a manner consistent with 40 C.F.R. §300.68.

(C) Site security measures to be implemented during and after abatement activities.

(D) Occupational health and safety measures to be implemented at the site during abatement activities.

(E) A time schedule for initiation and implementation of the
various abatement measures required in the Phase II plan.

34. Scovill shall begin to implement the plan required in paragraph 33 within forty-eight (48) hours of approval of the plan, or approval with modifications, by the OSC. Implementation shall begin by initiation of mobilization activity.

35. Within twenty-four (24) hours of the completion of each phase of the activities required by paragraphs 30 and 33 hereof, Scovill shall notify the OSC of such completion.

36. The time periods allowed for compliance with this Order may be modified with the consent of all parties to this Order.

37. In this Order, reference is made to either EPA approval or the OSC's approval. Whenever such approval is necessary, it shall be given to Respondent by the OSC or his designee, in writing. If approval is not granted, the OSC shall specify the necessary corrections, additions or amendments. Respondent shall then be given 48 hours within which to correct or amend its submission to the OSC. If after such correction or amendment, the OSC continues to deny approval, Respondent shall incorporate the OSC's specific suggestions into the particular submission.

38. All activities conducted pursuant to Phase I and Phase II abatement of the conditions existing at the site shall be performed in accordance with all applicable Federal, State, and local government statutes, regulations, and ordinances.

39. Scovill shall make available to the OSC, upon request and/or as necessary, any and all information resultant from and/or pertaining to the actions approved under the plans required in paragraphs 30
and 33 above, including, but not limited to, sampling results, names of disposal facilities, identification of haulers, names of contractors, copies of manifests, and unforeseen conditions which might become known as activities progress.

40. During the course of the abatement action, the OSC, his designee, and any EPA employee, contractor, or other authorized representative may take samples or split samples with Scovill.

41. During the course of the abatement action, the OSC can halt site activity if there is imminent and substantial endangerment to public health, welfare or the environment due to unsafe working conditions or improper work practices.

42. In the event that Scovill fails or refuses to comply with the requirements in the above paragraphs and within the time limits specified, Scovill shall grant the OSC, his designee, and any EPA employee, contractor, or other authorized representative access to the site, at all reasonable times, to undertake such measures in lieu of Scovill, and to take any other measures which the OSC determines may be necessary to protect public health, welfare or the environment.

43. Within 14 days of the completion of each phase of removal of the hazardous substances, Scoville shall mail to the U.S. Environmental Protection Agency, Region III, photocopies of the completed manifests used in the removal of the subject hazardous substances.
This mailing shall be directed to:

Victor J. Janosik (3HW14)
U.S. Environmental Protection Agency
CERCLA Removal Enforcement Section
841 Chestnut Building, 6th Floor
Philadelphia, Pa. 19107
Tel: 215/597-6686

44. Notwithstanding any other provisions set forth herein, EPA reserves the right to take appropriate action, including the right to seek monetary penalties for any violation of law or this Order, including, but not limited to, undertaking a response action pursuant to Section 104(a) of CERCLA, 42 U.S.C. §9604(a), the issuance of additional Orders under Section 106(a) of CERCLA, 42 U.S.C. §9606(a) and/or the bringing of a civil action under Section 106(a) of CERCLA, 42 U.S.C. §9606(a), or Section 107 of CERCLA, 42 U.S.C. §9607.

45. This Order shall be effective upon signature by the Regional Administrator, Region III, EPA.

Penalties for Non-Compliance

Scovill is advised that willful violation or failure or refusal to comply with this Order, or any provisions thereof, may subject Scovill, pursuant to Section 106(b) of CERCLA, 42 U.S.C. §9606(b), to a civil penalty of not more than $5,000 for each day in which such violation occurs or such failure to comply continues. Failure to comply with this Order, or any portion thereof, without sufficient cause, may subject Scovill, pursuant to Section 107(c)(3) of CERCLA,
42 U.S.C. §9607(c)(3), to liability for punitive damages in an amount up to three times the amount of any costs incurred by the Federal Government as a result of failure by Scovill to take proper action.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

DATED: July 3, 1986

BY: 

James M. Self
Regional Administrator
EPA Region III

Scovill Inc.

DATED: June 27, 1986

By: Stewart Freeman

Title: Vice President

AR200012