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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

MAY 19 2000

SPECIAL NOTICE LETTER FOR REMEDIAL DESIGN/REMEDIAL ACTION AND PAYMENT OF COSTS
URGENT LEGAL MATTER – PROMPT REPLY NECESSARY
CERTIFIED MAIL; RETURN RECEIPT REQUESTED

Mr. Louis J. Briskman
Executive Vice President and General Counsel
CBS Corporation
51 West 52nd Street
New York, NY 10019

Re: Westinghouse (Sharon) Superfund Site, Sharon, Mercer County, Pennsylvania

Dear Briskman:

This letter relates to your company's liability as a potentially responsible party ("PRP") in connection with the Westinghouse (Sharon) Superfund Site ("Site").

INTRODUCTION

The United States Environmental Protection Agency ("EPA" or "Agency") has conducted and overseen activities undertaken at the Site in response to the release and/or threat of release of hazardous substances, pollutants, or contaminants into the environment. By letter dated January 27, 1999, EPA notified your company of its potential liability for such response action pursuant to section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. § 9607. EPA has selected a remedial action for implementation at the Site, which remedial action is described in a document called a Record of Decision for Operable Unit One ("ROD") issued by EPA on February 18, 2000 (Enclosure One). EPA is now contacting you in an attempt to resolve your company's liability with respect to the above-captioned matter. Toward that end, this letter contains:

1. A formal demand for reimbursement of costs that have been paid by EPA (including interest thereon) and that are to be paid by EPA (which are subject to interest) in conducting and/or overseeing response actions at the Site (Demand for Payment);

2. Notification that a limited period of formal negotiations for an agreement under which your company will implement the requirements of the ROD begins with your receipt of this letter (Special Notice);

3. General and site-specific information to assist you in these negotiations; and

4. A proposed consent decree, as described below.

DEMAND FOR PAYMENT

As of February 9, 1999, EPA has paid costs in excess of $1,202,266.00 for response actions related to the Site. Although this figure may not include all applicable costs incurred and paid to date, the figure represents EPA's most recent calculation. Furthermore, additional costs, including oversight and related enforcement costs may continue to be incurred.

By this letter, EPA demands that your company reimburse the Agency for past costs of at least $1,202,266.00. Failure to pay, or delay in payment, may subject your company to liability for increased costs associated with these past costs including, but not limited to, interest and enforcement costs. Interest on amounts recoverable begins to accrue as of the date of receipt of this letter as provided by section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

You may contact the following person to arrange for payment of the above-described costs:

Michael A. Hendershot
Senior Assistant Regional Counsel (3RC43)
U.S. Environmental Protection Agency
1650 Arch Street
Philadelphia, PA 19103
(215) 814-2641

SPECIAL NOTICE NEGOTIATIONS MORATORIUM

EPA has determined that use of the "special notice" procedures specified in section 122 of CERCLA, 42 U.S.C. § 9622, will facilitate a settlement between EPA and your company for implementation of this remedial action at the Site. Therefore, pursuant to that section, your receipt of this letter triggers a sixty (60)-day moratorium on certain EPA response actions at the Site. During this sixty (60)-day period, your company is invited to submit a good faith proposal (defined below) to conduct and/or finance such remedial action and negotiate a consent decree (described below) under which your company will perform such work. If EPA determines that such a good faith offer has been timely received, the Agency will provide an additional sixty (60)

days to finalize the consent decree. When approved by EPA and the United States Department of Justice, the consent decree will then be filed in federal court.

EPA encourages your company's participation by submitting a good faith proposal as defined below.

Good Faith Proposal

A good faith proposal to conduct or finance the remedial design/remedial action ("RD/RA") is a written proposal that demonstrates your company's qualifications and willingness to perform such work and includes the following elements:

1. A statement of willingness and financial ability by your company to implement the requirements of the ROD and proposed consent decree;

2. A demonstration of your company's technical capability to conduct the work, including the identification of the firm(s) your company intends to retain to conduct all or portions of such work or a description of the process your company will use to select the firm(s);

3. A statement of your company's willingness and ability to reimburse EPA for costs incurred in overseeing the performance of the work as well as EPA's past costs (as described above);

4. Comments, if any, on the proposed consent decree (see below); and

5. The name, address, telephone, and telefax number (if any) of the person(s) who will represent your company in negotiations for a consent decree.

Insolvent or Defunct PRPs

Pursuant to the Superfund Reforms announced on October 2, 1995, when EPA enters into RD/RA settlements, EPA intends to compensate settlors for a portion of the shares specifically attributable to insolvent and defunct PRPs (orphan share), if any. For purposes of this reform, the term orphan share refers to that share of responsibility specifically attributable to identified parties EPA has determined are: (1) potentially liable; (2) insolvent or defunct; and (3) unaffiliated with any party potentially liable for response costs at the site. You should note that this definition of orphan share does not include shares due to, for example: (1) unallocable waste; (2) the difference between a party's share and its ability to pay, or (3) those parties, such as *de micromis* contributors, municipal solid waste contributors or certain lenders or residential homeowners, that EPA would not ordinarily pursue for cleanup costs. See "Policy on CERCLA Enforcement Against Lenders and Government Entities that Acquire Property Involuntarily" (September 22, 1995); "Policy Toward Owners of Property Containing Contaminated Aquifers" (May 24, 1995); "Guidance on CERCLA Settlements with De Micromis Waste Contributors,"

OSWER Directive No. 9834.17 (July 30, 1993); "Policy Toward Owners of Residential Property" (July 3, 1991); and "Policy for Municipality and Municipal Solid Waste CERCLA Settlements at NPL Co-Disposal Sites" (February 5, 1998).

Since EPA has not identified any PRPs for this Site who are insolvent or defunct, this reform is not applicable at this time. However, if you, either individually or with other PRPs, enter into an RD/RA settlement with EPA and provide sufficient information about the existence, liability, and relative shares of responsibility of insolvent and defunct PRPs, EPA will analyze the information and determine whether to consider the shares of these parties in the amount of EPA's past costs and future oversight costs that it recovers in such a settlement. With respect to any such defunct or insolvent PRPs, you should submit to EPA the names, addresses, evidence of liability and relative shares of responsibility for each such insolvent or defunct PRP, together with detailed information as to the basis for your claim that each such party is insolvent or defunct, as defined by EPA's "Interim Guidance on Orphan Share Compensation for Settlors of Remedial Design/Remedial Action and Non-Time-Critical Removals," June 3, 1996.

Consent Decree

Section 122(d)(1)(A) of CERCLA, 42 U.S.C. § 9622(d)(1)(A), requires that settlements for remedial action be entered in the appropriate federal district court in the form of a consent decree. Enclosure Two to this letter is a Site-specific proposal based upon EPA's model consent decree. This model provides boilerplate language for most provisions in order to standardize CERCLA consent decrees as much as possible and expedite CERCLA settlements. The United States will commence negotiations with a document containing language which, for the most part, is the same language the Government will expect in a final settlement because it reflects legal and procedural terms that have been found acceptable to both EPA and the regulated community in a large number of situations. Your decision to submit a good faith proposal to perform the work should be made with the understanding that the terms appearing in the proposed consent decree are substantially the terms which EPA expects to appear in the final settlement.

PRP Steering Committee

EPA encourages good-faith negotiations between your company and EPA and between your company and other PRPs EPA has identified at the Site. To facilitate these negotiations, Enclosure Three to this letter lists other PRPs to whom this notification has been sent. Inclusion on, or exclusion from, this list does not constitute a final determination by EPA concerning the liability of any party with respect to the Site.

EPA recommends that all PRPs meet to select a steering committee responsible for representing the group's interests. Establishing a manageable group is very important for successful negotiations with EPA.

PRP Response/EPA Contact Person

Your company is encouraged to contact EPA as soon as possible to state its willingness to participate in negotiations relating to the Site. Specifically, your company has sixty (60) calendar days from receipt of this letter to provide EPA with a written proposal as described above. You may respond individually or through a steering committee if such a committee has been formed. If EPA does not receive a timely response, EPA will assume that your company does not wish to negotiate a resolution of its liabilities in this matter and that your company has declined any involvement in performing the response actions described above. In such event, EPA may, among other things, issue an administrative order directing your company to perform the response action; seek to file an action in federal court to obtain a court order directing your company to perform the response action; and/or perform such response action and seek reimbursement from liable parties.

If a proposal is submitted which EPA determines is not a good faith offer, you will be notified in writing of EPA's decision to end the negotiations moratorium and the reasons therefor. Your company may be liable for performing the response action pursuant to a unilateral administrative order or court order and/or reimbursing EPA for the cost of response actions performed by EPA.

Your response to this letter, including written proposals to perform the remedial action selected for the Site, should be sent to:

Victor J. Janosik (3HS22)
Remedial Project Manager
Western Pennsylvania Remedial Section
U.S. Environmental Protection Agency
1650 Arch Street
Philadelphia, Pennsylvania 19103
(215) 814-3217

ADMINISTRATIVE RECORD

Pursuant to section 113(k) of CERCLA, 42 U.S.C. § 9613(k), EPA has established an administrative record which contains documents forming the basis of EPA's selection of response action for the Site. The administrative record file is available to the public for inspection and comment. You may wish to review the administrative record to assist you in responding to this letter, but your review should not delay such response. Copies of the file are located at the following locations:

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Sharon, PA 16146
(724) 981-4360

and

U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103
Attn: Anna Butch
Administrative Record Coordinator
(215) 814-3157

Note that this letter may pertain to one of several operable units requiring response at the Site. Unless otherwise specified herein, this letter does not apply to any other operable unit at the Site or any other site.

SMALL BUSINESS REGULATORY ENFORCEMENT AND FAIRNESS ACT NOTIFICATION

EPA has determined that your company may be a "small business" under the Small Business Regulatory Enforcement and Fairness Act ("SBREFA"). Please see Enclosure Four to this letter. This enclosure provides information on contacting the SBREFA Ombudsman to comment on federal enforcement and compliance activities and also provides information on compliance assistance. As noted in Enclosure Four, any decision to participate in such a program or to seek compliance assistance does not relieve you of your obligation to respond in a timely manner to an EPA request or other enforcement action, create any new rights or defenses under law and will not affect EPA's decision to pursue this enforcement action. To preserve your legal rights, you must comply with all rules governing the administrative enforcement process. The Ombudsman and fairness boards do not participate in the resolution of EPA's enforcement action.

The factual and legal discussions contained in this letter are intended solely for notification and information purposes. They are not intended to be and cannot be relied upon as final EPA positions on any matter set forth herein.

If you or your attorney has any questions pertaining to this matter, please direct them to Michael Hendershot, Office of Regional Counsel, at (215) 814-2641.

Sincerely,

Abraham Ferdas, Director
Hazardous Site Cleanup Division

cc: Mr. Victor J. Janosik (3HS22)
Michael A. Hendershot, Esquire (3RC43)
Mr. Gregg Crystall (3HW22)
Ms. Carlyn Winter Prisk (3HS11)
Robert D. Brook, Esquire (DOJ)
Mr. Charles Tordella (PADEP)
Michael D. Buchwach, Esquire (PADEP)
Anthony R. Conte, Esquire (DOI)
Mr. Robin Burr (DOI)
Sharon Shutler, Esquire (NOAA)
Mr. Peter Knight (NOAA)
William D. Wall, Esquire (CBS Corporation)

Enclosures: Record of Decision for Operable Unit One
Proposed Consent Decree
List of Special Notice Recipients
Small Business Regulatory Enforcement and Fairness Act Notification

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
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URGENT LEGAL MATTER -- PROMPT REPLY NECESSARY
CERTIFIED MAIL; RETURN RECEIPT REQUESTED

Mr. Albert F. Dombrowski
Chief Operating Officer
Winner Development Company, Inc.
32 West State Street
Sharon, PA 16146

Re: Westinghouse (Sharon) Superfund Site, Sharon, Mercer County, Pennsylvania (the Site)

Dear Mr. Dombrowski:

This letter relates to your company's liability as a potentially responsible party ("PRP") in connection with the Westinghouse (Sharon) Superfund Site ("Site").

INTRODUCTION

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Sincerely,

Abraham Ferdas, Director
Hazardous Site Cleanup Division

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Mr. Robin Burr (DOI)
Sharon Shutler, Esquire (NOAA)
Mr. Peter Knight (NOAA)
John F. Hornbostel, Jr., Esquire (Winner Development Corporation)

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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SPECIAL NOTICE LETTER FOR REMEDIAL DESIGN/REMEDIAL ACTION AND PAYMENT OF COSTS
URGENT LEGAL MATTER – PROMPT REPLY NECESSARY
CERTIFIED MAIL; RETURN RECEIPT REQUESTED

Mr. Richard M. Wardrop, Jr.
Chairman and Chief Executive Officer
AK Steel Corporation
703 Curtis Street
Middletown, OH 45053

Re: Westinghouse (Sharon) Superfund Site, Sharon, Mercer County, Pennsylvania (the Site)

Dear Mr. Wardrop:

This letter relates to your company's liability as a potentially responsible party ("PRP") in connection with the Westinghouse (Sharon) Superfund Site ("Site").

INTRODUCTION

The United States Environmental Protection Agency ("EPA" or "Agency") has conducted and overseen activities undertaken at the Site in response to the release and/or threat of release of hazardous substances, pollutants, or contaminants into the environment. By letter dated January 27, 1999, EPA notified your company of its potential liability for such response action pursuant to section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. § 9607. EPA has selected a remedial action for implementation at the Site, which remedial action is described in a document called a Record of Decision for Operable Unit One ("ROD") issued by EPA on February 18, 2000 (Enclosure One). EPA is now contacting you in an attempt to resolve your company's liability with respect to the above-captioned matter. Toward that end, this letter contains:

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Senior Assistant Regional Counsel (3RC43)
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3. A statement of your company's willingness and ability to reimburse EPA for costs incurred in overseeing the performance of the work as well as EPA's past costs (as described above);

4. Comments, if any, on the proposed consent decree (see below); and

5. The name, address, telephone, and telefax number (if any) of the person(s) who will represent your company in negotiations for a consent decree.

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Pursuant to the Superfund Reforms announced on October 2, 1995, when EPA enters into RD/RA settlements, EPA intends to compensate settlors for a portion of the shares specifically attributable to insolvent and defunct PRPs (orphan share), if any. For purposes of this reform, the term orphan share refers to that share of responsibility specifically attributable to identified parties EPA has determined are: (1) potentially liable; (2) insolvent or defunct; and (3) unaffiliated with any party potentially liable for response costs at the site. You should note that this definition of orphan share does not include shares due to, for example: (1) unallocable waste; (2) the difference between a party's share and its ability to pay, or (3) those parties, such as *de micromis* contributors, municipal solid waste contributors or certain lenders or residential homeowners, that EPA would not ordinarily pursue for cleanup costs. See "Policy on CERCLA Enforcement Against Lenders and Government Entities that Acquire Property Involuntarily" (September 22, 1995); "Policy Toward Owners of Property Containing Contaminated Aquifers" (May 24, 1995); "Guidance on CERCLA Settlements with De Micromis Waste Contributors,"

OSWER Directive No. 9834.17 (July 30, 1993); "Policy Toward Owners of Residential Property" (July 3, 1991); and "Policy for Municipality and Municipal Solid Waste CERCLA Settlements at NPL Co-Disposal Sites" (February 5, 1998).

Since EPA has not identified any PRPs for this Site who are insolvent or defunct, this reform is not applicable at this time. However, if you, either individually or with other PRPs, enter into an RD/RA settlement with EPA and provide sufficient information about the existence, liability, and relative shares of responsibility of insolvent and defunct PRPs, EPA will analyze the information and determine whether to consider the shares of these parties in the amount of EPA's past costs and future oversight costs that it recovers in such a settlement. With respect to any such defunct or insolvent PRPs, you should submit to EPA the names, addresses, evidence of liability and relative shares of responsibility for each such insolvent or defunct PRP, together with detailed information as to the basis for your claim that each such party is insolvent or defunct, as defined by EPA's "Interim Guidance on Orphan Share Compensation for Settlors of Remedial Design/Remedial Action and Non-Time-Critical Removals," June 3, 1996.

Consent Decree

Section 122(d)(1)(A) of CERCLA, 42 U.S.C. § 9622(d)(1)(A), requires that settlements for remedial action be entered in the appropriate federal district court in the form of a consent decree. Enclosure Two to this letter is a Site-specific proposal based upon EPA's model consent decree. This model provides boilerplate language for most provisions in order to standardize CERCLA consent decrees as much as possible and expedite CERCLA settlements. The United States will commence negotiations with a document containing language which, for the most part, is the same language the Government will expect in a final settlement because it reflects legal and procedural terms that have been found acceptable to both EPA and the regulated community in a large number of situations. Your decision to submit a good faith proposal to perform the work should be made with the understanding that the terms appearing in the proposed consent decree are substantially the terms which EPA expects to appear in the final settlement.

PRP Steering Committee

EPA encourages good-faith negotiations between your company and EPA and between your company and other PRPs EPA has identified at the Site. To facilitate these negotiations, Enclosure Three to this letter lists other PRPs to whom this notification has been sent. Inclusion on, or exclusion from, this list does not constitute a final determination by EPA concerning the liability of any party with respect to the Site.

EPA recommends that all PRPs meet to select a steering committee responsible for representing the group's interests. Establishing a manageable group is very important for successful negotiations with EPA.

PRP Response/EPA Contact Person

Your company is encouraged to contact EPA as soon as possible to state its willingness to participate in negotiations relating to the Site. Specifically, your company has sixty (60) calendar days from receipt of this letter to provide EPA with a written proposal as described above. You may respond individually or through a steering committee if such a committee has been formed. If EPA does not receive a timely response, EPA will assume that your company does not wish to negotiate a resolution of its liabilities in this matter and that your company has declined any involvement in performing the response actions described above. In such event, EPA may, among other things, issue an administrative order directing your company to perform the response action; seek to file an action in federal court to obtain a court order directing your company to perform the response action; and/or perform such response action and seek reimbursement from liable parties.

If a proposal is submitted which EPA determines is not a good faith offer, you will be notified in writing of EPA's decision to end the negotiations moratorium and the reasons therefor. Your company may be liable for performing the response action pursuant to a unilateral administrative order or court order and/or reimbursing EPA for the cost of response actions performed by EPA.

Your response to this letter, including written proposals to perform the remedial action selected for the Site, should be sent to:

Victor J. Janosik (3HS22)
Remedial Project Manager
Western Pennsylvania Remedial Section
U.S. Environmental Protection Agency
1650 Arch Street
Philadelphia, Pennsylvania 19103
(215) 814-3217

ADMINISTRATIVE RECORD

Pursuant to section 113(k) of CERCLA, 42 U.S.C. § 9613(k), EPA has established an administrative record which contains documents forming the basis of EPA's selection of response action for the Site. The administrative record file is available to the public for inspection and comment. You may wish to review the administrative record to assist you in responding to this letter, but your review should not delay such response. Copies of the file are located at the following locations:

Shenango Valley Community Library
11 North Sharpsville Avenue
Sharon, PA 16146
(724) 981-4360

and

U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103
Attn: Anna Butch
Administrative Record Coordinator
(215) 814-3157

Note that this letter may pertain to one of several operable units requiring response at the Site. Unless otherwise specified herein, this letter does not apply to any other operable unit at the Site or any other site.

SMALL BUSINESS REGULATORY ENFORCEMENT AND FAIRNESS ACT NOTIFICATION

EPA has determined that your company may be a "small business" under the Small Business Regulatory Enforcement and Fairness Act ("SBREFA"). Please see Enclosure Four to this letter. This enclosure provides information on contacting the SBREFA Ombudsman to comment on federal enforcement and compliance activities and also provides information on compliance assistance. As noted in Enclosure Four, any decision to participate in such a program or to seek compliance assistance does not relieve you of your obligation to respond in a timely manner to an EPA request or other enforcement action, create any new rights or defenses under law and will not affect EPA's decision to pursue this enforcement action. To preserve your legal rights, you must comply with all rules governing the administrative enforcement process. The Ombudsman and fairness boards do not participate in the resolution of EPA's enforcement action.

The factual and legal discussions contained in this letter are intended solely for notification and information purposes. They are not intended to be and cannot be relied upon as final EPA positions on any matter set forth herein.

If you or your attorney has any questions pertaining to this matter, please direct them to Michael Hendershot, Office of Regional Counsel, at (215) 814-2641.

Sincerely,

Abraham Ferdas, Director
Hazardous Site Cleanup Division

cc: Mr. Victor J. Janosik (3HS22)
Michael A. Hendershot, Esquire (3RC43)
Mr. Gregg Crystall (3HW22)
Ms. Carlyn Winter Prisk (3HS11)
Robert D. Brook, Esquire (DOJ)
Mr. Charles Tordella (PADEP)
Michael D. Buchwach, Esquire (PADEP)
Anthony R. Conte, Esquire (DOI)
Mr. Robin Burr (DOI)
Sharon Shutler, Esquire (NOAA)
Mr. Peter Knight (NOAA)
John J. Kuzman, Esquire (AK Steel Corporation)

Enclosures: Record of Decision for Operable Unit One
Proposed Consent Decree
List of Special Notice Recipients
Small Business Regulatory Enforcement and Fairness Act Notification

ENCLOSURE ONE

1?6053

RECORD OF DECISION
WESTINGHOUSE ELECTRIC (SHARON) SITE
OPERABLE UNIT ONE (SOILS)

DECLARATION

SITE NAME AND LOCATION

Westinghouse Electric (Sharon) Site
City of Sharon, Mercer County, Pennsylvania

STATEMENT OF BASIS AND PURPOSE

This Record of Decision (ROD) presents the selected remedial action for Operable Unit One (OU1) which addresses contaminated soils at the Westinghouse Electric (Sharon) Site, Sharon, Mercer County, Pennsylvania (Site). The remedial action was developed in accordance with the statutory requirements of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. §§ 9601 et seq., and is consistent, to the extent practicable, with the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 C.F.R. Part 300. This remedy selection decision is based upon an Administrative Record compiled for this Site. An index to the Administrative Record is attached.

The Commonwealth of Pennsylvania concurs with this remedial action. A copy of the Commonwealth's concurrence letter is attached.

ASSESSMENT OF THE SITE

Actual or threatened releases of hazardous substances in the Site soils, if not addressed by implementing the response actions selected in this ROD, may present an imminent and substantial endangerment to the public health or welfare or to the environment.

DESCRIPTION OF THE SELECTED REMEDY

The selected remedial actions for the various Site areas are briefly outlined as follows

1. For the Railroad Property:

- Characterization of the soils on the west side of the tracks.

- Excavation of soils having PCBs, lead and arsenic concentrations exceeding risk-based levels.

- Treatment of soils exhibiting the characteristic of toxicity and constituting a Land Disposal Restriction hazardous waste under the Resource Conservation and Recovery Act prior to disposal.

- Offsite disposal of the excavated and/or excavated and treated soils.

- Backfilling of excavated areas.

- Deed restrictions (e.g., easements and covenants, title notices and land use restrictions through orders with or agreements with EPA) to provide for worker safety, to limit soil disturbance, to prevent the installation or use of groundwater wells and to prevent use of the Site for residential purposes.

2. For the Moat Area:

- Excavation of soils exceeding 689 ppm PCBs.

- Treatment of soils exhibiting the characteristic of toxicity and constituting a Land Disposal Restriction hazardous waste under the Resource Conservation and Recovery Act prior to disposal.

- Offsite disposal of excavated and/or excavated and treated soils.

- Covering with at least two feet of soil.

- Deed restrictions (e.g., easements and covenants, title notices and land use restrictions through orders with or agreements with EPA) to provide for worker safety, to limit soil disturbance, to prevent the installation or use of groundwater wells and to prevent use of the Site for residential purposes.

3. For the A/B Slab Area:

- Further characterization of soils in the area immediately north of Winner Steel Services that is used as a truck roadway.

- Excavations of soils if contaminants exceed risk-based levels.

- Treatment of soils exhibiting the characteristic of toxicity and constituting a Land Disposal Restriction hazardous waste under the Resource Conservation and Recovery Act prior to disposal.

- Offsite disposal of excavated and/or excavated and treated soils.

- Backfilling with materials, or paving with materials, which have sufficient strength to support the anticipated truck traffic.

- Deed restrictions (e.g., easements and covenants, title notices and land use restrictions through orders from or agreements with EPA) to provide for worker safety, to limit soil disturbance, to prevent the installation or use of groundwater wells and to prevent use of the Site for residential purposes.

4. For Winner Steel Services Truck Roadway and Railroad Spur:

- Remediation of the surface soils in the area that is expected to be occupied by the railroad spur consistent with the Railroad Property surface soil remediation, as noted above.

- Excavation of subsurface soils that exceed 689 ppm PCBs

- Treatment of soils exhibiting the characteristic of toxicity and constituting a Land Disposal Restriction hazardous waste under the Resource Conservation and Recovery Act prior to disposal.

- Offsite disposal of excavated and/or excavated and treated soil.

- Deed restrictions (e.g., easements and covenants, title notices and land use restrictions through orders from or agreements with EPA) to provide for worker safety, to limit soil disturbance, to prevent the installation or use of groundwater wells and to prevent use of the Site for residential purposes.

5. For the North Sector (AK Steel Corporation property) Area:

- Further characterization of surface and subsurface soils.

- Remediation of surface soils, where required, consistent with the remediation required as noted above for the Winner Steel Services truck roadway portion of the A/B Slab.

- Excavation of any subsurface soils exceeding 689 ppm PCBs.

- Treatment of soils exhibiting the characteristic of toxicity and constituting a Land Disposal Restriction hazardous waste under the Resource Conservation and Recovery Act prior to disposal.

- Offsite disposal of excavated and/or excavated and treated soils.

• Deed restrictions (e.g., easements and covenants, title notices and land use restrictions through orders from or agreements with EPA) to provide for worker safety, to limit soil disturbance, to prevent the installation or use of groundwater wells and to prevent use of the Site for residential purposes.

6. For the "Y" Building (American Industries) Area:

• Further characterization of the surface and subsurface soils.

• Remediation of surface soils on the south, east and north portions of the area in a manner consistent with the remediation required for the Winner Steel Services truck roadway portion of the A/B Slab.

• Excavations of subsurface soils on the south, east and north portions of the area where PCB concentrations exceed 689 ppm.

• Treatment of soils exhibiting the characteristic of toxicity and constituting a Land Disposal Restriction hazardous waste under the Resource Conservation and Recovery Act prior to disposal.

• Remediation of the soils on the west side of the area, if necessary, consistent with the Railroad Property soils remediation noted above.

• Offsite disposal of excavated and/or excavated and treated soils.

• Deed restrictions (e.g., easements and covenants, title notices and land use restrictions through orders from or agreements with EPA) to provide for worker safety, to limit soil disturbance, to prevent the installation or use of groundwater wells and to prevent use of the Site for residential purposes.

7. For the Former Tank Farm Area:

• Further characterization of the surface and subsurface soils.

• Remediation of surface soils in a manner consistent with the remediation required for the Winner Steel Services truck roadway portion of the A/B Slab.

• Excavation of subsurface soils in which PCB concentrations exceed 689 ppm.

• Treatment of soils exhibiting the characteristic of toxicity and constituting a Land Disposal Restriction hazardous waste under the Resource Conservation and Recovery Act prior to disposal.

- Offsite disposal of excavated and/or excavated and treated soils.

- Deed restrictions (e.g., easements and covenants, title notices and land use restrictions through orders from or agreements with EPA) to provide for worker safety, to limit soil disturbance, to prevent the installation or use of groundwater wells and to prevent use of the Site for residential purposes.

STATUTORY DETERMINATIONS

The selected remedy is protective of human health and the environment, complies with Federal and State requirements that are legally applicable or relevant and appropriate to the remedial action, and is cost effective. The remedy does not satisfy the statutory preference for treatment as a principal element of the remedy because treatment would result in extraordinarily high costs with no significant increase in protectiveness and because no source materials constituting principal threats will be addressed within the scope of this action.

Because the selected remedy will result in hazardous substances, pollutants or contaminants above levels that allow for unlimited use and unrestricted exposure remaining at the Site, a review under Section 121(c) of CERCLA, 42 U.S.C. § 9621(c), will be conducted within five years after initiation of the remedy to ensure that the remedy is providing protection of public health and welfare and the environment.

DATA CERTIFICATION CHECKLIST

The following information is included in the ROD and/or the Administrative Record:

- Contaminants of concern and their respective concentrations.
- Baseline risk(s) presented by the hazardous substances of potential concern.
- Cleanup levels established for the hazardous substances and the basis for the levels.
- Current and reasonably anticipated future land use assumptions.
- Land use that will be available at the Site as a result of the Selected Remedy.
- Estimated capital, operation and maintenance (O&M), and net present worth costs; discount rate; and the number of years over which the cost estimates are projected.
- Decisive factors that led to the Selected Remedy.

2/18/00
Date

Abraham Ferdas, Director
Hazardous Site Cleanup Division
EPA, Region III

Remedial Alternative Record of Decision Summary
Operable Unit One (Soils)

Westinghouse Electric (Sharon) Site
Sharon, Mercer County, Pennsylvania

I. SITE DESCRIPTION AND BACKGROUND

The Site includes the former Westinghouse Electric Company Sharon Transformer Plant which is located along the west side of Sharpsville Avenue in Sharon, Pennsylvania (Figure 1). The property upon which the former Westinghouse plant was located occupies nearly 58 acres and is located within the Shenango River Valley. The Shenango River flows in a north-to-south direction and varies from 800 feet to 2000 feet to the west of the former plant. The former plant property is approximately one mile in length along a north-south axis and is between 200 and 800 feet wide. The ground surface of the Site is generally flat with a gentle slope from north to south, and ranges from 860 feet to 900 feet above mean sea level. Currently, most of the former plant surface is under roof or is covered with pavement and/or concrete building foundations, except for a narrow area (called the "moat area") in the southwest portion of the Site. For the purposes of the environmental investigations, the Site was divided into three areas: the South Sector, the Middle Sector, and the North Sector. Various former and existing structures are shown on Figure 2 (the South Sector), Figure 3 (the Middle Sector), and Figure 4 (the North Sector). A Pennsylvania Lines, LLC property (formerly owned by Conrail), which contains contaminated soils, is considered to be part of the Site. This property extends along the western border of the property occupied by the former transformer plant.

The area east of the Site is primarily urban residential, while the area to the west, between the Site and the Shenango River, varies from commercial, institutional, recreational and light to heavy industrial. Today the area is part of an industrial expansion program under the direction of the Shenango Valley Industrial Development Corporation and Penn Northwest Development Corporation. This area, including the former transformer plant, has been the site of commercial, rail, and industrial activities since the mid-1800s.

Westinghouse purchased the plant property from the Savage Arms Corporation in 1922. For a period of over 60 years, the former Sharon Transformer Plant primarily produced distribution transformers, power transformers, and related electrical apparatus until its shutdown in 1984. Some of the transformers produced at the plant were liquid-cooled and approximately 98 percent of those were filled with highly refined mineral oil. Approximately 2 percent were filled with either a silicone fluid or a commercially-produced dielectric fluid called Inerteen. Inerteen was nonflammable and consisted of either undiluted polychlorinated biphenyls (PCBs) or a mixture of PCBs and trichlorobenzene. Inerteen was first used at the former Sharon Transformer Plant in 1936; its use was discontinued in 1976. The Inerteen fluids were typically received and stored in tanks at the former tank farm area located in the Middle Sector. Inerteen

was also stored in an underground tank onsite. Mixtures of PCB compounds which contained differing amounts of chlorine by weight were used in Inerteen. The trade name "Aroclor" was used in conjunction with a four-digit number to identify the various types of PCB mixtures and their percentages of chlorine (e.g., Aroclor 1260 contained 60% chlorine; Aroclor 1242 contained 42% chlorine).

In addition to Inerteen and transformer oil, several other chemicals are known to have been used at the Site. These include six volatile organic compounds (VOCs): ethyl acetate; methyl ethyl ketone; toluene; xylene; trichloroethylene; and 1,1,1-trichloroethane. The latter two materials were used in metal cleaning and degreasing operations at several locations onsite. Metal cleaning was also accomplished by acid or phosphatizing-bath processes. Leftover material from these processes was piped to a neutralization facility where it was treated. Other materials which were used at the Site included paints, varnishes, and small amounts of flammable liquids and cyanide. Over the decades of operations at the plant, leakages and spills of the various materials resulted in contamination of the Site soils, the ground water, and the sediments in the Shenango River.

Since the use of Inerteen was discontinued in 1976, Westinghouse decontaminated, removed and/or scrapped the entire Inerteen storage and distribution system. Also, from 1976 through 1986, several cleanup actions were undertaken by Westinghouse including:

- The excavation and offsite disposal of more than 7,800 tons of soil contaminated with PCBs, including soil from the removal of five underground storage tanks and from the cleanup of a spill of approximately 6,750 gallons of a PCB-contaminated mixture of transformer oil and a petroleum distillate in the moat area;

- The removal and landfill disposal of 60 cubic yards of PCB-contaminated fly ash from two settling tanks and a hot well;

- The recovery and incineration of 104 gallons of a PCB liquid that were discovered in a concrete sump; and

- The removal, shredding and incineration of more than 4,500 PCB-containing capacitors.

In addition, Westinghouse completed a number of cleanups that involved various surface areas including basements, floors, cisterns, hot wells, cold wells, varnish tanks, underground storage tanks and pits. These cleanups were undertaken to reduce or, in some specific instances, to eliminate concentrations of residual PCBs and other potential contaminants. However, on a Site-wide basis, sufficient concentrations of contaminants remain which continue to pose a significant threat to the public health and welfare and the environment.

II. REGULATORY HISTORY

In November 1980, the Westinghouse facility qualified for Interim Status under Subtitle C of the federal Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6901 et seq. because Westinghouse had filed a notification of Hazardous Waste Activity as well as Part A of a RCRA permit to treat, store or dispose of hazardous waste. Westinghouse withdrew Part A of its RCRA Permit in July 1983 when the facility was converted to RCRA generator-only status.

In July 1983, EPA conducted an inspection of the facility pursuant to the Toxic Substances Control Act. In April 1985, the Pennsylvania Department of Environmental Resources (now PADEP) issued Westinghouse an Administrative Order to undertake a subsurface investigation to determine the horizontal and vertical extent of impacted ground water and soil (the final report was submitted by Westinghouse in September 1986), and to submit a plan and a schedule for the cleanup and containment of impacted soils and ground water (these were submitted by Westinghouse in October 1986).

EPA proposed the Site for inclusion on the National Priorities List (NPL) in June 1988 and added the Site to the NPL in August 1990.

In September 1988, Westinghouse entered into a Consent Order and Agreement with PADER to conduct a Remedial Investigation and Feasibility Study (RI/FS) to determine the nature and extent of contamination at the Site, to characterize the risks to human health and the environment, and to evaluate alternatives to clean up the contamination at the Site. In February 1994, EPA issued a Unilateral Administrative Order to Westinghouse pursuant to Section 106(a) of CERCLA for the development and implementation of a Response Action Plan for the removal of light non-aqueous phase liquids (LNAPL) from ground water underneath the tankfarm in the Middle Sector in order to reduce the threat of offsite migration of the LNAPL. EPA approved a Pilot Study report and a subsequent modification letter in August 1995 and approved a subsequent work plan for an LNAPL Removal Response Action. The LNAPL response action at the Site is ongoing. On March 20, 1996, Westinghouse submitted the final Remedial Investigation Report which was approved by PADEP on May 24, 1996. On June 6, 1997, Westinghouse submitted a final Screening-Level Ecological Risk Assessment (approved by PADEP on August 7, 1997), and on April 7, 1998, Westinghouse submitted the final Baseline Human Health Risk Assessment (approved by PADEP on April 22, 1998). Additionally Westinghouse (now CBS Corporation) agreed to pursue the cleanup of the massive Middle Sector Buildings complex under the September 1988 PADER Consent Order and Agreement. Those buildings are contaminated with lead from lead-based paints, and with PCBs. CBS is currently conducting the cleanup of the Middle Sector Buildings, primarily under the regulatory authorities of PADEP, and that cleanup is expected to be completed by the end of the year 2000.

III. SCOPE AND ROLE OF THE OPERABLE UNIT

This Operable Unit, Operable Unit One, addresses soils at the Site. Exposed and potentially contaminated soils are currently found in the moat area in the southwestern portion of the Site, and in the area on the western edge of the Site along the railroad tracks. Limited amounts of exposed soils are also found along and between the buildings of the AK Steel Corporation warehouse in the North Sector, and along the west side of, and immediately north of, the Winner Steel Services building in the South Sector. Most of the soils at the Site are covered by buildings and/or concrete or asphalt pavings. Operable Unit One, the remediation of certain portions of the Site soils, is intended to be the first of at least two operable unit remediation scenarios. At this time, EPA anticipates that there will be a second operable unit which will address remediation of contaminated sediments in the Shenango River and ground water.

IV. SITE SOILS CHARACTERISTICS

Most of the Site is covered by buildings or is paved with asphalt or concrete leaving a minor portion of the Site as exposed soil. A number of sampling events of the various soil areas of the Site were conducted by several entities since the 1980s. Soils in several areas were inadequately sampled for the purposes of the remedial investigation, including the soils in the North Sector (Figure 4). However, the limited samplings of the surface soils in the North Sector found those soils to contain concentrations of PCBs up to 590 parts per million (ppm). Soils in the Middle Sector (Figure 3) were sampled immediately west of the large Middle Sector Buildings complex where 431 ppm PCBs was found in the surface soil.

The A/B Slab portion of the South Sector (Figure 2) is, for the most part, paved with asphalt or concrete. It was sampled using soil boring techniques. Manganese (Mn), a metal contaminant, was found in relatively high concentrations (up to 23,600 ppm) in subsurface soils below a depth of five (5) feet in one soil boring location. The southern portion of the A/B Slab area is subjected to intensive traffic by heavy trucks, and the paving in that southern portion appears to have been fractured by the truck traffic. Adequate sampling of the soils immediately below the paving in that area was not conducted, so the degree of contamination of those near-surface soils, if any, is not known.

The southern end of the South Sector is largely covered by the Winner Steel Services building (Figure 2), but contains a portion of the so-called "moat" area and a relatively small amount of unpaved roadway along the western side of the Winner building. PCB contamination appears to be concentrated in the northern portion of that unpaved roadway and has been detected by Winner at concentrations up to 41 ppm in the surface soils and up to 9900 ppm in the subsoils. The Winner-owned southern portion of moat area contains only incidental PCB concentrations and it has been filled in by Winner and covered with a 10-inch top layer of crushed stone. The remaining portion of the moat area, which essentially runs along the west side of the A/B Slab area (Figure 2), has been found to be contaminated with PCB concentrations generally in the 10's to 100's of parts per million, with one sample reported to have a PCB

concentration of 16,000 ppm. Additionally, arsenic (As) concentrations up to 102 ppm were determined to be present in the moat soils.

The former "Y" Building, now owned by the Shenango Valley Development Corporation and occupied by American Industries, is located in the South Sector west of the moat area. Only one soil boring was done on that property and the soil samples from that boring showed no PCB contamination. However, that one soil boring was not adequate to properly characterize the "Y" Building area.

A Pennsylvania Lines, LLC railroad extends along the full length of the western side of the former Westinghouse plant property (see Figures 2, 3 and 4). Surface soils were sampled in the portion of the railroad property from approximately where the railroad crosses over the moat area to the northern end of the North Sector. That sampling was conducted on the east side of the railroad tracks. No soil sampling of the railroad property was conducted on the west side of the tracks or south of the moat crossing. Soil samples obtained along the east side of the tracks just west of the Middle Sector Buildings contained PCB concentrations up to 580 ppm and lead (Pb) concentrations up to 3200 ppm. Surface soil samples obtained on the east side of the tracks just west of the North Sector contained PCB concentrations as high as 141 ppm.

Analyses of soil samples from the residential properties near the Site revealed no contamination with Site-related hazardous substances. However, some of the residential properties were contaminated with arsenic in concentrations up to approximately 40 ppm and with polynuculear aromatic hydrocarbons (PAHs); neither of these could be attributed to the Site. PAHs are common residential and urban contaminants and the arsenic concentrations in the soils might be naturally-occuring concentrations for the geographic area.

V. CURRENT AND POTENTIAL FUTURE LAND USES

The current use of the Site includes a steel galvanizing operation on the Winner property, an industrial steel warehousing operation on the AK Steel Corporation (formerly Armco, Inc.) property, ongoing operation of the railroad tracks owned by Pennsylvania Lines, LLC. The Middle Sector Buildings are currently undergoing interior remediation for PCB contamination as a removal action under State authority. EPA anticipates that the property will likely be subject to redevelopment for industrial use.

VI. SUMMARY OF RISKS DUE TO SOILS

As part of the Remedial Investigation process, Westinghouse conducted a complete Human Health Risk Assessment which is documented in the "Baseline Human Health Risk Assessment Of The Former Westinghouse Transformer Plant, Sharon, Pennsylvania" (the HHRA) dated April 7, 1998. The HHRA evaluated hypothetical upper-bound carcinogenic and non-carcinogenic risks to various potential human receptors of contaminants of concern, including PCBs, lead and arsenic, which are in impacted media at the Site. Because the

Assessment relied upon conservative assumptions and because conservative input parameter values were used throughout the Assessment. EPA believes that the Assessment conservatively estimates the maximum exposures. As such, the numeric values summarized in the HHRA should be considered conservative upper-bound estimates of risks to human health.

For carcinogenic risk estimates, the principal concern is for potential child trespassers who may be exposed to surficial soils within the railroad property that runs along the western border of the Site. This excess risk is largely the result of elevated PCB concentrations in that portion of the railroad property that lies immediately west of the Middle Sector and the North Sector. Future employee exposure to indoor air in the Middle Sector Buildings also resulted in excess risk. However, this risk might not realistically represent chronic exposure to the indoor air and will be addressed prior to future use of the buildings. Further, the compound that drives the excess risk resulting from exposure to indoor air in the Middle Sector Buildings, 1,2-dichloroethane, has not been detected in soils near the buildings at concentrations that would be expected to create significant vapor concentrations. In addition to these potential carcinogenic risks, EPA's calculations of unrestricted worker access to the moat area in the southwestern portion of the Site resulted in carcinogenic risk estimates that are greater than the acceptable risk range set forth in the NCP.

Excess non-carcinogenic risks resulted for the child trespasser and the adolescent trespasser within the railroad right-of-way, the future employee within the Middle Sector Buildings, the indoor and outdoor construction worker, and the unrestricted worker in the moat area. As noted earlier, PCBs play a significant role in contributing to total non-cancer risks for the child and adolescent trespassers on the railroad property. Manganese is the only substance significantly contributing to the total non-cancer risk for both the indoor and the outdoor construction worker scenarios. 1,2-dichloroethane is the predominant substance impacting estimates of cancer to the future employees in the Middle Sector Buildings, but may be related to ground water rather than soil.

Soil contaminants of concern at the Site include arsenic, manganese, polychlorinated biphenyls (PCBs), and lead. Arsenic is classified by EPA as a Group A carcinogen, a human carcinogen. This classification is based upon evidence of lung cancer in human populations exposed via inhalation, and increased incidence of skin cancer in populations exposed to arsenic in drinking water. Sublethal doses cause stomach and intestinal irritation, decreased production of red and white blood cells, abnormal heart rhythm, blood vessel damage, and impaired nerve function. The highest level of arsenic detected during the Remedial Investigations was 102 parts per million (ppm) in the surface soils of the moat area. That concentration of arsenic represents a carcinogenic risk of 3.5×10^{-3}. An arsenic level of only 10.4 ppm was calculated to represent the 1×10^{-4} carcinogenic risk in the railroad area surface soil. However, background soil samples obtained offsite contained arsenic concentrations of approximately 40 ppm indicating that the area has naturally high arsenic concentrations in the soil.

Manganese is classified by EPA in Group D, and is therefore not classifiable as a human

carcinogen. The primary target for manganese toxicity by all exposure routes in humans appears to be the central nervous system. Humans with very high occupational inhalation exposures have developed a neurological syndrome resembling Parkinson's disease. Similar symptoms have been reported in a few cases of high oral exposure. The highest concentrations of manganese detected during the Remedial Investigations was in subsurface soils under the concrete-covered A/B Slab area. No carcinogenic risk was associated with these levels of manganese; however, under the very conservative exposure scenario for onsite workers presented in the Human Health Risk Assessment, the manganese in this area presented a non-carcinogenic Hazard Index of 9.0.

Polychlorinated biphenyls (PCBs) are a class of compounds comprising 209 individual congeners. In its weight-of-evidence determination of PCB carcinogenicity, EPA categorizes all PCB mixtures in Group B2 (probable human carcinogen) based upon sufficient evidence of carcinogenicity in rodents. Epidemiological studies of occupational exposures to PCBs show a variety of impacts including chromosomal aberrations, developmental effects, immunological effects, and neurotoxicity. PCB contamination is widespread over the Site. Aroclors 1254, 1248, and 1260 were detected in the soils of the railroad property in concentrations of 270 ppm, 210 ppm, and 170 ppm, respectively. The 270 ppm concentration for Aroclor 1254 alone constitutes a Hazard Index of 11.1. A concentration of approximately 21 ppm for total PCBs in the railroad area presents a carcinogenic risk of 3×10^{-4}; a 71 ppm concentration of PCBs in the railroad area presents a carcinogenic risk of approximately 1×10^{-3}. Aroclor 1260 was detected in a concentration of 840 ppm in the moat subsurface soils presenting a carcinogenic risk of 1.2×10^{-4}. PCBs in the moat surface soils presented a Hazard Index of 3.2. A concentration of 689 ppm in subsurface soils was determined to present a carcinogenic risk of 1×10^{-4}. The 1990 EPA document, "Guidance on Remedial Actions for Superfund Sites with PCB Contamination," suggests that a PCB concentration of 500 ppm in industrial soils might constitute a "principal threat." However, the 689 ppm level for PCBs in subsoils which was calculated utilizing Site-specific risk-based calculations pursuant to 40 C.F.R. § 761.61 and promulgated in 1998, is protective of human health and the environment.

Lead is classified by EPA as a Group B2 carcinogen based upon inadequate carcinogenic evidence in humans and sufficient animal carcinogenic evidence. Renal tumors are the most common carcinogenic effect. The major adverse effects in humans caused by lead include alterations in the blood and nervous systems. Toxic blood concentrations in children and in sensitive adults may cause severe irreversible brain damage, encephalopathy, and possibly death. Physiological and biochemical effects that occur even at low levels include enzyme inhibition, interference with vitamin D metabolism, cognitive dysfunction in infants, electrophysiological dysfunction, and reduced childhood growth. The highest validated concentration of lead in the railroad area was 624 ppm although the Remedial Investigations produced one unvalidated sample with a concentration of 3,200 ppm. A lead concentration of 451 ppm was detected in the moat area subsurface soils. No concentrations of lead have been specifically designated by EPA as presenting specific carcinogenic risks. However, EPA currently uses its December 1996 document, "Recommendations of the Technical Review Workgroup for Lead for an Interim Approach to Assessing Risks Associated with Adult Exposures to Lead in Soil" as a guidance in

determining cleanup levels. According to that guidance document, a lead concentration of approximately 1000 ppm is midway within the acceptable cleanup range for adult exposures under industrial conditions.

Numerically, total excess carcinogenic risks for each of the areas of soil at the Site range between 2×10^{-4} and 1×10^{-6}. A risk of 2×10^{-4} means that, if no cleanup action is taken, two additional people per 10,000 exposed have a chance of contracting cancer as a result of exposure to the contaminated soil. (This assumes hypothetical exposure as estimated in the risk assessment.) A risk of 1×10^{-6} means that one additional person per 1,000,000 is assumed to have a chance of contracting cancer. Additionally, the total non-cancer Hazard Indices for each of the contaminated soil areas at the Site range from well below one to approximately 12. Any hypothetical risk scenario demonstrating a Hazard Index of greater than 1.0 might be of potential concern since potential non-cancer effects cannot be ruled out. For subsurface soils at the Site, the total carcinogenic risk relating to all chemicals is 2×10^{-4} and the total non-carcinogenic Hazard Index, relating almost exclusively to manganese, is approximately 8 to 10. (*The lower subsurface soil numbers are for indoor construction workers; the higher numbers are for outdoor construction workers, both of whom could potentially be involved in intrusive activities that would bring the workers into contact with the subsurface soil. In addition, the potential exists for the hypothetical construction worker to inhale chemical vapors and soil particles originating from the subsurface soil during construction activities.*)

For the railroad right-of-way surface soils, the total carcinogenic risk is attributable mainly to PCBs and has been estimated at 1×10^{-4} for a child trespasser. The total non-carcinogenic risk for the railroad right-of-way is also attributable to PCBs and is estimated to have a Hazard Index of 12 for child trespassers and five for adolescent trespassers. Surface soils in the moat area were estimated to result in a total carcinogenic risk of 2×10^{-4} and this risk was attributed mainly to PCBs and arsenic. EPA calculations for a worker having unrestricted access to the moat area resulted in a non-cancer hazard greater than one. It was primarily the PCBs in the moat area surface soils that contributed to the Hazard Index of 3.5 for those soils. These risk estimates are summarized on Table 1. Table 2 is a comparison of health-based and Pennsylvania Act 2 cleanup levels with levels of contaminants detected in surface and subsurface soils. The risk estimates were developed taking into consideration various conservative assumptions regarding the toxicity of the contaminants and regarding the likelihood of a person being exposed to the soil or other media. (*Note that individual chemical concentrations at the 1×10^{-4} carcinogenic level are not shown on Table 2 because the combined cancer risk from all chemicals at this level would exceed 1×10^{-4}, which is the upper end of the acceptable risk range. Note also that the abbreviation,* "EPC," *found at the top of one of the vertical columns in Table 2, stands for "exposure point concentration."*)

Although the alluvial aquifer at the Site is significantly contaminated with Site-related compounds, notably PCBs, chlorinated aliphatic hydrocarbons, and chlorinated benzenes, it is not evident that the contaminants in the Site soils, even at the present concentrations, are significantly impacting the ground water. There appear to be no impacts from the Site to the

bedrock aquifer, and the Site-related ground water contamination appears to be confined to the alluvial aquifer. It also appears that the alluvial aquifer is not impacting the nearby Shenango River. Analyses of ground water in wells at the Site have not indicated that ground water contaminant concentrations are increasing or that the area of contaminated ground water is increasing.

Westinghouse evaluated risk to the environment at the Site in a document entitled "Screening-Level Ecological Risk Assessment For The Former Sharon Transformer Plant, Sharon, Pennsylvania." That document primarily evaluated ecological risks relating to sediments, surface water, and biota in the vicinity of the Shenango River. Onsite and near-Site areas, including the railroad and moat areas, were determined to be unlikely to provide adequate habitat for a self-sustaining wildlife community due to their small size, their fragmented and isolated nature, their lack of running water, and the presence of a fence securing the moat area. Therefore, these onsite and near-Site areas were not quantitatively nor qualitatively evaluated in the screening-level ecological risk assessment.

The response action selected in this Record of Decision is necessary to protect public health or welfare or the environment from actual or threatened releases of hazardous substances into the environment.

VII. REMEDIAL ACTION OBJECTIVES

The remedial action objective for Operable Unit One at this Site is to reduce to acceptable levels for industrial use the risk posed by contaminated Site soils. This remedial action will be accomplished by excavation and off-site disposal or covering of contaminated soils exceeding risk-based concentrations, along with appropriate deed restrictions to limit use of remediated soils areas. Treatment of some portions of the soil might be required to meet Land Disposal Restrictions in order for those portions to be acceptable for offsite disposal.

VIII. SUMMARY OF ALTERNATIVES

The Superfund law (CERCLA) requires that any remedy selected to address contamination at a Superfund site must be protective of human health and the environment, cost-effective, comply with substantive regulatory and statutory provisions that are applicable or relevant and appropriate requirements (ARARs), and consistent with the NCP to the extent practicable. The Superfund law also expresses a preference for permanent solutions, for treating hazardous substances onsite, and for applying alternative or innovative technologies. During the development of the soils FS, a number of methodologies for addressing the remediation of the Site soils were considered. For the purposes of the soils FS, five (5) remedial action alternatives were ultimately evaluated for the railroad property and/or the moat surface soils; three remedial action alternatives were ultimately evaluated for subsurface soils at the Site. All of these alternatives were developed assuming that the Site would continue to be industrial property into the foreseeable future. Cost estimates encompass the capital, construction, and operation and

maintenance costs, including long-term monitoring costs, incurred over the life of the project (assumed to be 30 years), expressed as the net present worth of these costs. A discount rate of five percent is used for costs incurred in the future. The FS attempted to evaluate costs to within +50 percent and -30 percent of the actual costs. The following is a summary of the alternatives that were evaluated for the railroad property surface soils and/or the moat surface soils in the FS report:

• Railroad and Moat Soil Alternative 1--No Action

The NCP, at 40 C.F.R. § 300.430(e)(6), requires the development of the No Action alternative for remedial actions. Under the No Action alternative, no remedial actions would be taken to remove, control migration from, or minimize exposure to, contaminated soil. No effort would be made to control the future use of the contaminated areas. Existing contaminated soil would remain in place in both the moat and the railroad property areas. No capital costs would be incurred, and no ARARs would be considered under this alternative. Annual operation and maintenance (O&M) cost, due to the annualized cost estimate for five-year reviews, is $3,750. The net present worth of the No Action alternative is estimated to be $57,647.

• Moat Soil Alternative 2--Fencing and Deed Restrictions

This alternative applies only to the onsite moat area and not to the railroad property. (*The railroad property is owned and used by Pennsylvania Lines, LLC. Fencing of the railroad property would reduce its usefulness for active rail commerce.*) Under this alternative, the fence currently in place to restrict access to the moat area would be maintained and deed restrictions (e.g., easements and covenants, title notices and land use restrictions through orders from or agreements with EPA) would be established in order to limit the potential for human exposures to unacceptable risks. Specifically, the deed restrictions would provide for worker safety, limit soil disturbance, prevent the installation or use of groundwater wells and prevent use of the Site for residential purposes. No attempt would be made to treat, cover, or remove contaminated soils currently existing in the moat. The ARAR is the Toxic Substances Control Act and its implementing regulations found at 40 C.F.R. § 761.61.

The estimated capital cost of the alternative is $19,313, and the estimated annual O&M cost is $6,875. The estimated net present worth of this remedy is approximately $125,000.

• Railroad and Moat Alternative 3--Cover Systems

This alternative would consist of the placement of either a soil cover, low-permeability cap, asphalt cap, or soil/ballast cover over the surface soils on the railroad property and the moat. The deed restrictions of Alternative 2 would also be included for the moat area cover system. The soil cover would consist of at least 12 inches of clean soil placed atop the contaminated area with appropriate erosion and surface drainage controls. The low-permeability cap system would consist of erosion and drainage controls, at least six inches of clean soil placed on a high-density

polyethylene geomembrane, a geonet, a geotextile, 24 inches of clean soil and appropriate final cover (vegetation or stone). The asphalt cap, which is being considered for the railroad property only, would consist of a six-inch subbase layer and six inches of asphalt, with appropriate drainage controls. The soil/ballast cover alternative, also being considered for the railroad property only, would include 12 inches of clean soil and 12 inches of railroad ballast, or the equivalent. The applicable or relevant and appropriate requirements (ARARs) are the following: the Toxic Substances Control Act and its implementing regulations found at 40 C.F.R. § 761.61; the federally-approved State Implementation Plan for the Commonwealth of Pennsylvania, 25 Pa. Code §§ 123.1 -123.2; and the National Ambient Air Quality Standards for Particulate Matter in 40 C.F.R. § 50.6 and Pa. Code §§ 131.2 and 131.3. Also, 40 C.F.R. § 6.302(b) addressing floodplains is a "to be considered" (TBC) requirement with regard to the excavation of contaminated soil. (*A "to be considered" requirement is one which is not an ARAR but which might provide useful information or recommended procedures. Examples of TBCs include guidance documents, policies, advisories and proposed standards.*) Estimated capital costs for this alternative range from $272,177 to $917,983. Estimated annual O&M costs range from $14,375 to $29,375. Net present worth estimates for this alternative range from $493,000 for the soil cover alternative to $1,369,000 for the asphalt cap over the railroad areas and a low-permeability cap over the moat area. Implementation time for design and onsite construction is estimated to be approximately 9 to 12 months.

• Railroad and Moat Alternative 4--Excavation and Offsite Disposal of Soil

Under this alternative, the affected surface soil would be excavated and taken offsite for appropriate treatment or disposal. Post-excavation sampling and analysis would be used to verify that contaminant concentrations in the remaining surface soils would be less than the required cleanup levels. The excavations would be backfilled with clean soil to current grades and revegetated or re-surfaced. The FS examined two variations of this alternative: (1) soils in the areas having PCB concentrations greater than 25 milligrams per kilogram of soil (25 mg/kg) would be excavated for offsite treatment/disposal; or (2) soils with PCB concentrations of greater than 100 mg/kg would be excavated, with the remaining soils being capped as described in Alternative 3. Any excavated soils that would fail the Toxic Contaminant Leaching Procedure (TCLP) for lead or arsenic would require treatment prior to land disposal. The ARARs associated with this alternative are the following: the Toxic Substances Control Act and its implementing regulations found at 40 C.F.R. § 761.61; the federally-approved State Implementation Plan for the Commonwealth of Pennsylvania, 25 Pa. Code §§ 123.1 -123.2; and the National Ambient Air Quality Standards for Particulate Matter in 40 C.F.R. § 50.6 and Pa. Code §§ 131.2 and 131.3; the Resource Conservation and Recovery Act's Land Disposal Restrictions, 40 C.F.R. § 268.48-49; Pennsylvania's Residual Waste Management regulations concerning analysis of waste, 25 Pa. Code § 287.54; Pennsylvania's Residual Waste requirements, 35 P.S. § 6016.301-302; and the more stringent provisions of either 25 Pa. Code §§ 262a, 264a (Subchapters G, I and L) or 25 Pa. Code §§ 75.262 and 75.264(o), (q) and (t). Also, 40 C.F.R. § 6.302(b) addressing floodplains a "to be considered" requirement with regard to the excavation of contaminated soil. Capital estimates for this alternative range from $3,104,645 to $5,869,155. The annual O&M estimate

$14,375. Net present worth estimates for this alternative range from $3,600,112 for partial excavation with soil cover to $6,090,135 for full excavation with backfilling. Time required for implementation of these alternative variations is expected to range from 10 to 13 months.

- Railroad and Moat Soil Alternative 5--Insitu Treatment

For this alternative, the affected surface soil in the railroad and moat areas would be tilled to a depth of 18 to 24 inches, and one of two treatment methods, either a dechlorination process that uses a water-based liquid which strips chlorine atoms from PCB molecules, or an enhanced biodegradation process using specific microorganisms and soil nutrients, would be applied to the tilled soils. Post-treatment sampling and analysis would be used to verify that contaminant concentrations in the treated soils would be below the required cleanup levels. After successful treatment, the surface would be revegetated or resurfaced. Here, again, the FS examined two variations based upon contaminant concentrations: (1) soils in the areas having PCB concentrations greater than 25 mg/kg would be treated; or (2) soils in the areas having PCB concentrations greater than 100 mg/kg would be treated, with the remaining soils being capped as described for Alternative 3. The ARARs associated with this alternative are the following: the Toxic Substances Control Act and its implementing regulations found at 40 C.F.R. § 761.61; the federally-approved State Implementation Plan for the Commonwealth of Pennsylvania, 25 Pa. Code §§ 123.1 - 123.2. and the National Ambient Air Quality Standards for Particulate Matter in 40 C.F.R. § 50.6 and Pa. Code §§ 131.2 and 131.3; Pennsylvania's Residual Waste Management regulations concerning analysis of waste, 25 Pa. Code § 287.54; Pennsylvania's Residual Waste requirements, 35 P.S. § 6016.301-302; and the more stringent provisions of either 25 Pa. Code §§ 262a, 264a (Subchapters M and O) or 25 Pa. Code §§ 75.262 and 75.264(o) and (u). Also, 40 C.F.R. § 6.302(b) addressing floodplains is a "to be considered" requirement with regard to the excavation of contaminated soil. Estimated capital costs range from $2,725,016 to $5,092,942. The estimated annual O&M cost for all variations of the alternative is $14,375. Net present worth estimates range from $2,946,000 for the partial dechlorination with soil cover option, to $5,314,000 for the full biodegradation option. It is estimated by EPA that this alternative can be designed and implemented within a 12-month period.

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As part of the FS, Westinghouse evaluated remediation alternatives for contaminated subsurface soils which are present under the existing Site buildings and under the large concrete-paved area between the Winner Steel Services building and the Middle Sector Buildings. (This area is called the "A/B slab.") The primary contaminant of concern, based upon potential direct contact exposures with the subsurface soils, is manganese. CBS Corporation (formerly Westinghouse) developed the following three remediation alternatives in the FS to reduce the likelihood of unacceptable human exposures, mitigate potential cross-media effects, and obtain compliance with ARARs relative to the subsurface soils:

• Subsurface Soil Alternative 1--No Action

As noted above under Railroad and Moat Soil Alternative 1, the NCP requires the consideration of the No Action alternative. Under this alternative, no remedial actions would be conducted relating to the subsurface soils under the A/B slab. The existing concrete covering the soils, both inside the buildings and outdoors, would be left in its current condition. No costs would be incurred to implement this alternative.

• Subsurface Soil Alternative 2--Deed Restrictions

Under this alternative, deed restrictions (e.g., easements and covenants, title notices and land use restrictions through orders from or agreements with EPA) would be implemented to provide for worker safety, limit soil disturbance, prevent the installation or use of groundwater wells and prevent use of the Site for residential purposes. While such future construction would not be prohibited, the restrictions would prescribe specific procedures and notifications which would be required to be followed if any construction were to take place. The estimated capital cost is $45,063. The estimated annual O&M cost is $1,875. The estimated net present worth of this alternative--primarily associated with long-term inspections--is $73,900.

• Subsurface Soil Alternative 3--Asphalt Cap

This alternative would consist of supplementing the existing concrete A/B slab with an asphalt cap of sufficient thickness and strength to support the anticipated heavy industrial traffic on the surface. Areas adjacent to the former Y-Building would be included in the asphalt paving. Improvements to surface water drainage and collection would be made. The deed restrictions noted in Subsurface Soil Alternative 2, above, would be included in this alternative. ARARs associated with this alternative are the following: the Toxic Substances Control Act and its implementing regulations found at 40 C.F.R. § 761.61; the federally-approved State Implementation Plan for the Commonwealth of Pennsylvania, 25 Pa. Code §§ 123.1 -123.2; and the National Ambient Air Quality Standards for Particulate Matter in 40 C.F.R. § 50.6 and Pa. Code §§ 131.2 and 131.3. Also, 40 C.F.R. § 6.302(b) addressing floodplains is a "to be considered" requirement with regard to the excavation of contaminated soil. The estimated capital cost is $644,670. The estimated annual O&M cost is $31,250. The estimated net present worth of this alternative is $1,125,000. Design and construction of this alternative is estimated to require 8 to 12 months.

In addition to the alternatives delineated in the soils FS, EPA has the option to combine selected portions of various alternatives to form "hybrid" alternatives, or to develop additional alternatives as part of the decision-making process.

IX. COMPARATIVE ANALYSIS OF ALTERNATIVES

This section provides a description of the nine criteria EPA uses to evaluate alternatives.

as set forth at 40 C.F.R. § 300.430(f)(5)(i), and an analysis of the alternatives considered in the soils FS for the Site. The evaluation criteria are as follows:

- o Overall Protection of Human Health and the Environment - addresses whether a remedy provides adequate protection and describes how risks are eliminated, reduced, or controlled.
- o Compliance with ARARs - addresses whether a remedy will meet all of the applicable or relevant and appropriate requirements of environmental statutes.
- o Long-Term Effectiveness and Permanence - refers to the ability of a remedy to maintain reliable protection of human health and the environment over time once cleanup goals are achieved.
- o Reduction of Toxicity, Mobility, or Volume - is the anticipated performance of the treatment technologies that a remedy might employ.
- o Short-Term Effectiveness - addresses the period of time needed to achieve protection and any adverse impacts on human health and the environment that may be posed during the construction and implementation period until cleanup goals are achieved.
- o Implementability - the technical and administrative feasibility of a remedy, including the availability of materials and services needed to implement a particular option.
- o Cost - includes estimated capital and operation and maintenance costs, generally expressed as net present worth.
- o State Acceptance - indicates whether, based on its review of the FS and Proposed Plan, the State concurs with, opposes, or has no comment on the preferred alternative(s).
- o Community Acceptance - will be assessed in the Record of Decision following a review of public comments received on the RI and FS reports and the Proposed Plan.

• Surface Soil Alternative 1: No Action

The No Action Alternative is required for consideration by the NCP and this alternative was, accordingly, considered for all Site areas having contaminated soils. Under the No Action Alternative, no remedial actions would be taken to remove, control migration from, or minimize exposure to, contaminated soils at the Site. Because it has been determined that significant risks

exist due to the contamination in the soils at the Site, the No Action alternative would not be protective of human health. The No Action alternative would not reduce the mobility, toxicity or volume of the soil contaminants, and also would not comply with TSCA, fugitive dust, RCRA Land Disposal Restriction, Pennsylvania Residual Waste requirements and hazardous waste ARARs or floodplain requirements.

• Surface Soil Alternative 2 (Moat area only): Fencing and Deed Restrictions:

TSCA regulations promulgated in 1998 permit the use of a site-specific risk assessment in determining whether cleanup action is required in a particular situation and in determining the remediation required. The baseline risk assessment for the Site has determined that moat surface soils would be protective at the 1×10^{-4} carcinogenic level if approximately two parts per million (ppm) of PCBs remain in the surface soil of the moat with no further controls or restrictions. However the surface soils contain moderate concentrations of PCBs. For example, PCB Aroclor 1248 is found at concentrations up to 120 ppm. Fencing and deed restrictions are controls which do not reduce the mobility, toxicity or volume of the soil contaminants. The permanence of fencing, in particular, is questionable since fences are subject to vandalism and other physical damage and must be constantly maintained. The moderate cost of this alternative is one of its more attractive aspects. It is questionable whether this alternative would comply with ARARs since the alternative would essentially require constant oversight.

• Railroad Property and Moat Surface Soil Alternative 3: Cover Systems

Appropriately designed cover systems as described for Alternative 3 could result in protectiveness in the moat area but are less practical and/or less implementable for the railroad property. Cover systems on the railroad would present unusual design challenges because of the narrowness of the property and because of the presence and operation of the railroad itself. Also, cover systems would require frequent inspection and maintenance and could present a hindrance to track operation and maintenance since such systems would raise the elevation(s) of portions of the railroad property and could possibly be damaged by railroad maintenance vehicles and other forms of traffic. The aspect of permanence for such cover systems relative to the railroad property is, therefore, questionable. However, assuming that such cover systems could be constantly maintained in an undamaged state, they would comply with ARARs. The costs associated with such systems are moderate.

• Railroad and Moat Surface Soil Alternative 4: Excavation and Offsite Disposal of Soil

This alternative is quite implementable using ordinary excavation equipment, and offsite disposal facilities are readily available. The alternative would comply with ARARs and would result in a high degree of protectiveness for areas in which it is implemented. The estimated implementation time is relatively short. The cost of the alternative ranges from moderate for the partial excavation scenario to moderately expensive for the complete excavation scenario.

• Railroad and Moat Surface Soil Alternative 5: Insitu Treatment

No site-specific treatability studies were conducted to determine whether any insitu treatment using microorganisms or any insitu treatment using any dechlorination process would function satisfactorily for the soil varieties, moisture conditions, temperature variations, etc., that occur at the Site. Judgments regarding implementability would have to be based upon a research review of individual biological and dechlorination processes that have been performed in similar situations at other sites. The implementability of this alternative is, therefore, speculative. Assuming that the alternative is implementable and would reduce PCB concentrations to protective levels, the alternative would comply with ARARs and would meet the statutory preference for cleanup actions that reduce the toxicity, mobility or volume of contaminants. Insitu treatment would not require the offsite transportation and disposal of contaminated soils. The estimated time for design and implementation is relatively short. The costs for the alternative range from moderate for the partial dechlorination scenario to moderately expensive for the full biodegradation option.

• Subsurface Soil Alternative 1: No Action

Subsurface PCB concentrations which exceed levels that would be protective of human health have been determined in the moat area, and in the truck roadway at the northwestern corner of the Winner Steel Services building. Additionally, elevated manganese levels were determined at one subsurface soil boring location (boring TB-8) under the concrete-covered open area (the "A/B slab") between the Winner Steel Services building and the Middle Sector Buildings. The No Action alternative would provide an insufficient degree of protectiveness relative to the contaminants of concern.

• Subsurface Soil Alternative 2: Deed Restrictions

The implementation of deed restrictions would provide a reasonable degree of protectiveness assuming that those restrictions would remain in effect and would be enforced. Deed restrictions would not reduce the toxicity, volume or mobility of the contaminants of concern. It is questionable whether this alternative would comply with ARARs since the alternative would essentially require constant oversight.

• Subsurface Soil Alternative 3: Asphalt Cap

This alternative is intended to address conditions at the former "Y" building and in the area of the A/B slab (between the Winner Steel Services building and the Middle Sector Buildings) but not to address subsurface conditions in other areas of the Site (e.g., the moat). The alternative would provide a reasonable degree of protectiveness assuming that the deed restrictions, which are part of the alternative, would remain in effect and would be enforced. Asphalt is subject to aging and deterioration and unless the asphalt cap is periodically inspected and repaired, its permanence and long-term effectiveness would be of concern. The asphalt cap

would not reduce the toxicity, mobility or volume of the contaminants in the areas that would be addressed by the alternative. The alternative would likely comply with the ARARs. TSCA and its implementing regulations found at 40 C.F.R. § 761.61. The cost to implement the asphalt cap alternative is moderate.

With respect to the community and State acceptance criteria, EPA received no comments on any but the proposed remedial action alternative for soils. For a summary of the community's comments and EPA's response to those comments, see the Responsiveness Summary section of this Record of Decision. The Commonwealth of Pennsylvania has concurred on this Record of Decision.

X. PRINCIPAL THREAT WASTES

EPA does not believe that soil contamination at the Site constitutes a principal threat requiring treatment because there are no liquid wastes, sludges, or highly mobile materials in the soil that cannot be reliably controlled in place. In addition, implementation of the remedial action will eliminate unacceptable exposure to any contamination left in place. Finally, the PCB concentrations found in Site soils during the Remedial Investigations do not pose a potential risk several orders of magnitude greater than the risk level that is acceptable for the current or reasonably anticipated future industrial land use, given realistic exposure scenarios.

XI. EPA'S SELECTED REMEDY

For the purposes of soils remediation at the Site, EPA will define the term "surface soil" to include all soils from the ground surface to a depth of two (2) feet. "Subsurface soils" will be defined as soils below a depth of two feet. To address the contamination present in these soils, EPA's selected remedy combines portions of the various alternatives discussed previously with additional alternatives developed by EPA. The following remediation scenarios are EPA's selected remedy for the various areas of soil onsite:

Railroad Property Surface Soils and Adjoining Soil Areas West of the Middle Sector Buildings

All areas of the railroad property having total PCB concentrations of 25 ppm or greater (to approximately correspond with a 3×10^{-4} carcinogenic risk level), arsenic concentrations greater than 104 ppm (to correspond with the 1×10^{-5} carcinogenic risk level), or lead (Pb) concentrations greater than 1,000 ppm in the upper 10 inches of the surface soils will have the contaminated soil removed to the full depth of 10 inches. *(The 10-inch depth is derived from EPA's 1987 Polychlorinated Biphenyls Spill Cleanup Policy, 40 C.F.R. § 761.125, which is used as a "To Be Considered" reference for the purposes of this aspect of the cleanup. EPA assumes that the greatest potential for exposures to soil contaminants by human receptors, and the greatest potential for disturbance of surface soils by vehicles involves the top ten inches of the surface soil.)* In the soil interval from ten inches to 24 inches, all soil will be excavated where the concentrations of PCBs exceed 71 ppm (to correspond with the 1×10^{-5} carcinogenic risk

level); and arsenic exceeds 104 ppm; and/or lead (Pb) exceeds 1000 ppm. It is assumed that benzo[a]pyrene and dioxin, which were also detected on the railroad property in low concentrations, will be remediated as a result of the remediation of the soils for the other contaminants. *(It should be noted that the maximum detected concentrations of both benzo[a]pyrene and dioxin are within acceptable risk-based levels.)* These cleanup actions will reduce the current carcinogenic risk (1.1×10^{-4}) posed by all contaminants of concern to acceptable levels. The current non-carcinogenic Hazard Index (11.5) will be reduced to less than one (1.0).

The excavated materials will be disposed of offsite, and the excavations will be backfilled with clean fill material. In order to meet the requirements of the Land Disposal Restrictions promulgated under the Resource Conservation and Recovery Act, 40 C.F.R. § 268.48-49, treatment of any soil that fails the TCLP for lead or arsenic will be required prior to land disposal of that soil. Areas of soil currently overlain with serviceable railroad track on top of stone ballast will not be excavated because it is assumed that the stone ballast provides a protective cover between the potentially-contaminated soil underlying the ballast and potential receptors. Rail lines on contaminated soil without an intervening ballast layer will have the contaminated soil excavated as noted above.

Deed restrictions (e.g., easements and covenants, title notices and land use restrictions through orders from or agreements with EPA) will be implemented in order to provide for worker safety, limit soil disturbance, prevent the installation or use of groundwater wells and prevent use of the Site for residential purposes.

Because the railroad property soils were sampled only on the east side of the tracks for the Remedial Investigation, sampling to characterize the soils on the west side of the tracks will be done as a Pre-Design or Design activity. Remediation scenarios for those soils will be the same as for the railroad property soils on the east side of the tracks.

Moat Surface and Subsurface Soils

Existing moat surface and subsurface soils exceeding 689 ppm PCBs will be excavated and disposed of offsite. Because of the presence of a storm water sewer line which runs the length of the moat, and because soil excavations might have the potential to damage that line, the actual depth of excavations will be determined as part of the Remedial Design. In order to meet the requirements of the Land Disposal Restrictions promulgated under the Resource Conservation and Recovery Act, 40 C.F.R. § 268.48-49, treatment of any soil that fails the TCLP for lead or arsenic will be required prior to land disposal of that soil. The moat will be covered with at least two (2) feet of clean fill materials (containing less than 1 ppm PCBs), or with at least 14 inches of fill materials, excavated from other areas onsite, if the total PCB concentration of that fill soil does not exceed 25 ppm, followed by a minimum of ten inches of clean fill material (containing less that 1 ppm PCBs), adding up to a total of at least 24 inches of cover material. Under this remediation scenario, the soils remaining after excavation of soils

containing greater that 689 ppm PCBs will become "subsurface soils" because at least two feet of fill material will have been placed over those soils. These actions will effectively reduce the risk attributable to PCBs in the subsoils from the current level of 1.2×10^{-4}. All subsoils containing up to 689 ppm PCBs will then meet the 1×10^{-4} carcinogenic risk level. Additionally, through implementation of these cleanup actions, the carcinogenic risk currently calculated at 1.8×10^{-4} for existing levels of contaminants in surface soils will be reduced to less than 1×10^{-4}, and the Hazard Index for surface soils, currently calculated to be 3.5, will be reduced to less than 1.0. Deed restrictions, as described above for the railroad property, will be established for the moat area.

Area Between Winner Steel Services Building and the Middle Sector Buildings (the A/B Slab Area)

The risk calculations for this area were based upon the scenario of an unprotected worker being exposed primarily to manganese (Mn). EPA proposes no specific physical remediation for the soils in the major portion of this area since the major portion of the area is paved and the likelihood that the given exposure scenario will occur is minimal. However, the pavement in the area of the A/B slab immediately north of the Winner Steel Services (WSS) building is used as a truck roadway by WSS and is highly fractured because of heavy truck traffic. This area has been observed to generate considerable amounts of dust as a result of the truck traffic. Soils samplings below two feet in that area did not reveal a significant human health risk resulting from Site-related contaminants. However, only minimal sampling and analysis of the soils immediately beneath the pavement in the A/B slab area was conducted during the Remedial Investigation. Therefore, the concentrations of contaminants, if any, in the surface soils in the A/B slab area immediately north of the WSS building, where the pavement has been fractured by truck traffic, are unknown. As such, the surface soils (from ground level to a depth of two feet) in this area of fractured pavement will be adequately sampled and analyzed for Site-related contaminants, including, but not limited to, PCBs, lead and arsenic, as part of a Pre-Design or Design activity. If found to be contaminated, this area, or the contaminated portions thereof, will be remediated according to the following remediation senarios:

1. One of the concerns is that contaminated dust generated by vehicular traffic might adversely impact nearby residents. If the truck roadway area is to remain unpaved, i.e., gravel-covered soil or fractured pavement, then surface soils (to a depth of 10 inches) containing greater than 1 ppm PCBs, 1,000 ppm lead, or 104 ppm arsenic will be excavated and disposed of at permitted offsite disposal facilities, or may be used as fill material in other areas onsite (if PCB concentrations are less that 25 ppm, lead is less than 1,000 ppm, and arsenic is less than 104 ppm). Soils from a depth of 10 inches to 24 inches which exceed 25 ppm PCBs, 1,000 ppm lead, or 104 ppm arsenic will be excavated and disposed of offsite. In order to meet the requirements of the Land Disposal Restrictions promulgated under the Resource Conservation and Recovery Act, 40 C.F.R. § 268.48-49, treatment of any soil that fails the TCLP for lead or arsenic will be required prior to land disposal of that soil. The excavations will then be backfilled with clean fill material suitable for supporting truck traffic. It is expected that exposed surface soil remediated

to the 1 ppm level for PCBs would not exceed a 4×10^{-4} risk to the nearby residents. (*The cleanup level under this scenario assumes that truck traffic will result in dust generation and constant degradation of the roadway surface. The cleanup is intended to minimize the direct contact, ingestion, and inhalation of dusts by potential human receptors, and to minimize the possibility of the contamination and tracking of the ponded rain water associated with an unpaved roadway.*)

2. If the truck roadway area is to be paved with concrete or with asphalt of sufficient strength to support the anticipated vehicular traffic, then the surface soils will be excavated so that no PCBs at concentrations greater than 25 ppm, lead concentrations greater than 1,000 ppm, or arsenic concentrations greater than 104 ppm remain in the soil to a depth of 24 inches for the entire area of the roadway. Contaminated soils will be disposed of offsite. In order to meet the requirements of the Land Disposal Restrictions promulgated under the Resource Conservation and Recovery Act, 40 C.F.R. § 268.48-49, treatment of any soil that fails the TCLP for lead or arsenic will be required prior to land disposal of that soil. The excavations will then be backfilled with fill materials which are suitable to bear the weight of the expected truck traffic, and which do not exceed the required concentrations for PCBs, lead and arsenic if the fill materials are excavated from other areas onsite, or which do not exceed 1 ppm PCBs if the fill materials are imported from offsite. The roadway will then receive road bed material, as appropriate, followed by the asphalt or concrete paving.

3. Deed restrictions, as noted above for the railroad property, will be instituted for the area.

South Sector (Winner Steel Services) Truck Roadway and Railroad Spur

Post RI sampling and analysis by Winner Steel Services (WSS) has demonstrated that portions of the existing truck roadway on the west side of the WSS building are contaminated with PCBs. WSS has voluntarily removed more than 1000 cubic yards of PCB-contaminated soil from the truck roadway and has sent that contaminated soil to offsite disposal facilities. However, PCBs in concentrations up to 9900 ppm remain in the subsoils. WSS anticipates that it will construct a railroad spur which will run parallel with the west side of the building and which will cover the entire existing truck roadway on that side of the WSS building. As such, for surface soils, the portion of the current truck roadway that will be used solely for the railroad spur and its required drainageways, etc., will be remediated consistent with the railroad property remediation described above. (EPA believes that the remediation would be most efficient and cost-effective if that remediation were to take place prior to the construction of the railroad spur.) EPA anticipates that these cleanup actions for surface soil will reduce risks to the levels similar to the levels brought by the cleanup delineated for the railroad property described above.

All subsurface soils, in the current the truck roadway on the west side of the WSS building, having PCB concentrations exceeding 689 ppm (to be consistent with subsurface soil cleanup levels proposed for the adjacent moat area) will be excavated for offsite disposal to a

depth of 10 feet. *[Subsurface soils adjacent to or underlying building walls or foundations, which, if excavated, would likely, as determined by engineering evaluation, compromise the structural integrity of the building(s), will be left in place, but only in the smallest quantities required to maintain structural integrity of the buildings. Areas and amounts of contaminated soil left in place under these circumstances will be noted and recorded in the remedial action report as having been left undisturbed.]* In order to meet the requirements of the Land Disposal Restrictions promulgated under the Resource Conservation and Recovery Act, 40 C.F.R. § 268.48-49, treatment of any soil that fails the TCLP for lead or arsenic will be required prior to land disposal of that soil. It is expected that these cleanup actions for subsoils will result in risk reductions similar to the levels brought by the cleanup delineated for the moat area subsoils.

Deed restrictions, as noted above for the railroad property, will be instituted for the WSS property.

North Sector (AK Steel Corporation property) Soils

Soil samples obtained in 1985 and in 1988 indicate that low to moderate concentrations of PCBs exist in the surface soils in the North Sector. Those soil samplings were not included in the risk assessment for the Site because they were not subjected to validation procedures. Most of the North Sector is covered by buildings and the few exposed soil areas that remain are predominantly parking areas and roadways for trucks and heavy hauling equipment. To determine the extent of remediation required, the soil areas of the North Sector will be adequately characterized for Site-related contaminants, including but not limited to PCBs, lead and arsenic, as part of Pre-Design or Design activities. Since these are roadways for heavy machinery, the surface soil (to a depth of 24 inches) remediation procedures for the North Sector soils will be the same as the remediation procedures delineated above for the Winner Steel Services truck roadway portion of the A/B Slab Area since one of the concerns is that contaminated dust generated by vehicular traffic might adversely impact nearby residential properties. (It is expected that, as with the A/B Slab area, surface soil remediated to the 1 ppm level for PCB's would not exceed a 4×10^{-6} risk to the nearby residents.) Additionally, subsurface soils (below 24 inches) having PCB concentrations in excess of 689 ppm will be excavated to a depth of 10 feet. It is anticipated that, following the cleanup of the subsurface soils, the risks due to the remaining soils will be similar to the risks posed by remaining subsoils in the moat area as described above. *[Subsurface soils adjacent to or underlying building walls or foundations, which, if excavated, would likely, as determined by engineering evaluation, compromise the structural integrity of the building(s), will be left in place, but only in the smallest quantities required to maintain structural integrity. Areas and amounts of contaminated soil left in place under these circumstances will be noted and recorded in the remedial action report as having been left undisturbed.]* Deed restrictions, as noted above for the railroad property, will be instituted for the North Sector.

"Y" Building (American Industries) Soils

The soils of the former "Y" building area, located in the southwestern portion of the Site, were inadequately characterized during the Remedial Investigation. The major portion of the parcel is covered by the former "Y" building. Soil samples were obtained from only one soil boring location on the property; the analyses of those samples showed no PCB contamination. However, minor PCB-related activities took place in this area for a limited period of time. As such, the soils adjacent the "Y" building will be adequately characterized for Site-related contaminants as part of Pre-Design or Design activities. Since this property is outside of the major portion of the industrial complex which formed the former Westinghouse facility, and is more publicly accessible, the soil cleanup requirements for the south, east, and north portions of this area will be consistent with the cleanup requirements for the WSS truck roadway portion of the A/B Slab Area, as noted above. Because these are roadways for heavy machinery, remediation procedures for the "Y" Building surface soil (to a depth of 24 inches) will be the same as the remediation procedures delineated above for the Winner Steel Services truck roadway portion of the A/B Slab Area surface soil since one of the concerns is that contaminated dust generated by vehicular traffic might adversely impact nearby residents. (It is expected that, as with the A/B Slab area, exposed surface soil remediated to the 1 ppm level for PCBs would not exceed a 4×10^{-6} risk to the nearby residents.) Additionally, subsurface soils (below 24 inches) having PCB concentrations in excess of 689 ppm will be excavated to a depth of 10 feet. EPA believes that, following the cleanup of the subsurface soils, the risks due to the remaining soils will be similar to the risks posed by remaining subsoils in the moat area, as described above. *[Subsurface soils adjacent to or underlying building walls or foundations, which, if excavated, would likely, as determined by engineering evaluation, compromise the structural integrity of the building(s), will be left in place, but only in the smallest quantities required to maintain structural integrity. Areas and amounts of contaminated soil left in place under these circumstances will be noted and recorded in the remedial action report as having been left undisturbed.]* The soil cleanup requirements for soils on the west side of the building will be consistent with the requirements for cleanup of the railroad property, as noted above. Deed restrictions, as noted above for the railroad property, will be instituted for the "Y" building.

The Soil Area of the Former Tank Farm Immediately West of the Middle Sector Buildings

In October 1999, CBS dismantled several large vertical tanks located immediately west of the Middle Sector Buildings that had formerly been used to store liquids. The removal of the tanks left a small area of soil exposed that had not previously been exposed. A sample of oily water on the surface of the soil that remained following the removal of the tanks was analyzed. That analysis revealed a total PCB concentration of 680 milligrams per liter (mg/l). The analytical results of this sampling indicate that the soils within the former tank area are potentially contaminated with PCBs. The small area of exposed soil is approximately 35 feet by 150 feet on the surface. The soils of this area were not sampled during the Remedial Investigation activities.

To determine the extent of remediation required, the exposed soil of the Tank Farm Area will be adequately sampled and analyzed for Site-related contaminants, including but not limited to PCBs, lead and arsenic as part of Pre-Design or Design activities. Because the Tank Farm Area has the potential to be used by trucks and heavy machinery, the surface soil (to a depth of 24 inches) remediation procedures for the area will be the same as the remediation procedures delineated above for the Winner Steel Services truck roadway portion of the A/B Slab Area since one of the concerns is that contaminated dust generated by vehicular traffic might adversely impact nearby residents. (It is expected that, as with the A/B Slab area, exposed surface soil remediated to the 1 ppm level for PCBs would not exceed a 4×10^{-6} risk to the nearby residents.) Additionally, any subsurface soils (below 24 inches) having PCB concentrations in excess of 689 ppm will be excavated to a depth of 10 feet. EPA believes that, following the cleanup of the subsurface soils, the risks due to the remaining soils will be similar to the risks posed by remaining subsoils in the moat area, as described above. *[Subsurface soils adjacent to or underlying building walls or foundations, which, if excavated, would likely, as determined by engineering evaluation, compromise the structural integrity of the building(s), will be left in place, but only in the smallest quantities required to maintain structural integrity. Areas and amounts of contaminated soil left in place under these circumstances will be noted and recorded in the remedial action report as having been left undisturbed.]* Deed restrictions, as noted above for the railroad property, will be instituted for the Middle Sector including the Tank Farm Area.

The Selected Remedial Alternatives will meet the objective of reducing the risk to human health currently posed by the Site soils to acceptable levels assuming that the Site properties will remain under industrial uses into the foreseeable future. EPA believes that the Selected Remedial Alternatives described in this ROD will have a net present worth of between $4 million and $6 million. This cost estimate is based on the best available information obtained from several sources regarding the anticipated scope of the remedial alternative. EPA currently estimates that between 20,000 and 30,000 tons of soil will require remediation. EPA's present worth remedy estimate is based on a $179/ton estimate for excavation at, and off-site disposal of, contaminated Site soil. The estimated cost per ton of soil increases to approximately $200 to account for possible treatment to meet Land Disposal Restriction requirements and for additional characterization studies to be conducted during the remedial design. Changes in this cost estimate may occur as a result of new information and data collected during the engineering design and further Site soils characterization of the remedial alternative.

EPA believes that the Selected Remedial Alternatives delineated above will be protective, will comply with TSCA and its regulations, 40 C.F.R. § 761.61; the requirements of the federally-approved State Implementation Plan for the Commonwealth of Pennsylvania, 25 Pa. Code §§ 123.1 - 123.2; the National Ambient Air Quality Standards for Particulate Matter in 40 C.F.R. § 50.6; Pa. Code §§ 131.2 and 131.3 to control fugitive dust emissions generated during remedial activities; the Resource Conservation and Recovery Act's Land Disposal Restrictions, 40 C.F.R. § 268.48-49; Pennsylvania's Residual Waste Management regulations concerning analysis of waste, 25 Pa. Code § 287.54; Pennsylvania's Residual Waste requirements, 35 P.S. § 6016.301-302; and the more stringent provisions of either 25 Pa. Code §§ 262a, 264a

(SubchaptersG, I and L) or 25 Pa. Code §§ 75.262 and 75.264(o), (q) and (t). The Selected Remedial Alternatives also take into consideration 40 C.F.R. § 6.302(b), which addresses floodplains; EPA's "Management of Remediation Waste Under RCRA," EPA530-F-98-026, October 14, 1998, which addresses Areas of Contamination in which contaminated soils are to be consolidated; and EPA's 1987 Polychlorinated Biphenyls Spill Cleanup Policy, 40 C.F.R. § 761.125, as "To Be Considered" guidances. EPA believes that the Selected Remedial Alternatives are cost effective. EPA also believes that the Selected Remedial Alternatives will reduce the volume of the contaminants currently in the Site soils, and will reduce the mobility of the contaminants remaining in the soils. The overall risk to human health and the environment resulting from the Site soils will be reduced following remediation because the concentrations of the contaminants will be reduced by the remedial actions.

XII. PERFORMANCE STANDARDS

Samples will be obtained of soils remaining following excavations of contaminated soils to confirm that the remaining soils meet the cleanup criteria set forth for the various Site soil areas, as noted above. Satisfactory soil cleanup may be determined by using the following methods:

1. Soil excavations and removal of contaminated soils will be considered to be satisfactory when the confirmatory soil samples demonstrate that the contaminant levels remaining in the soil provide a statistical confidence level of at least 95 percent that the required cleanup levels have been attained for any particular area, or, alternatively,

2. Soil excavations and removal of contaminated soils will be considered to be satisfactory for a particular area when the confirmatory soil samples demonstrate that no contaminants remain in any sample of the soil above the allowable concentrations.

The Remedial Design for the soil cleanup will delineate which of the two methods noted above will be utilized for each of the Site soil areas. The Remedial Design will also provide the details of the sampling frequencies, the sampling methods, the analytical methods, and the statistical methods that will be used to assure that the required soil cleanup concentrations are achieved.

XIII. COMMUNITY PARTICIPATION

Pursuant to 40 C.F.R. § 300.430(c), a Community Relations Plan was developed for the Site. In compliance with Sections 113(k)(2)(B)(I-v) and 117 of CERCLA, the Administrative Record, including the Proposed Remedial Action Plan, was placed for public consideration at the Shenango Valley Community Library in the City of Sharon, Pennsylvania. An announcement of the availability of the Administrative Record was published in the Youngstown Vindicator and

the Sharon Herald on June 11, 1999. The Administrative Record included the FS Report which listed the alternatives considered for the contaminated soils at the Site. A period of public review and comment on the Proposed Remedial Action Plan was held from June 11 through July 10, 1999. A meeting regarding the Proposed Remedial Action Plan was scheduled with local officials on June 24, 1999. A Mercer County Commissioner attended that meeting. A public meeting regarding the Proposed Remedial Action Plan was also held on June 24, 1999 at the City of Sharon Municipal Building. A transcript of that meeting is included in the Administrative Record. All documents relevant to the development of the Remedial Investigation, the Feasibility Study for soils, and this Record of Decision were produced under the auspices of, or in cooperation with, the Pennsylvania Department of Environmental Protection (PADEP).

XIV. STATUTORY DETERMINATIONS

The selected remedial alternatives satisfy the requirements of CERCLA and the NCP. The remedy is expected to be protective of public health and welfare and the environment, complies with ARARs, is cost-effective, and utilizes permanent solutions to the maximum extent practicable. The remedy does not satisfy the statutory preference for treatment as a principal element of the remedy because treatment would result in extraordinarily high costs with no significant increase in protectiveness and because no source materials constituting principal threats will be addressed within the scope of this action. Because the selected remedy will result in hazardous substances, pollutants or contaminants above levels that allow for unlimited use and unrestricted exposure, remaining at the Site, a review under Section 121(c) of CERCLA, 42 U.S.C. § 9621(c), will be conducted within five years after initiation of the remedy to ensure that the remedy is providing protection of public health and welfare and the environment. The following sections discuss how the selected remedy for Operable Unit One meets the statutory requirements of CERCLA:

A. Protection of Human Health and the Environment

EPA has determined, based upon the baseline Human Health Risk Assessment for the Site, that measures should be undertaken to reduce potential risk from soil contaminants, including PCBs, lead and arsenic. These contaminants in onsite soils were selected because potential health risks for some exposure scenarios exceed EPA's target range of 1.0×10^{-4} and 1.0×10^{-6} for lifetime cancer risk or a non-cancer Hazard Index of one (1.0). EPA has determined that the soil contaminants do not pose an unacceptable risk to ecological receptors.

The soil excavation and covering, and the deed restrictions called for in the selected remedy will reduce human exposures to the soil contaminants currently posing a potential risk at the Site based upon the assumption that the Site properties will remain under industrial usages into the foreseeable future.

Implementation of the selected remedy will not pose any unacceptable short term risks or

cross media impacts to the Site, or to the community.

B. Compliance with and Attainment of Applicable or Relevant and Appropriate Requirements (ARARs)

The selected remedy will comply with all applicable or relevant and appropriate chemical-specific and action-specific ARARs. There are no location-specific ARARs for the selected remedy. In addition, the selected remedy will meet all To Be Considered Standards (TBCs). Those ARARs and TBCs are the following:

15. Chemical-Specific ARAR

The Toxic Substances Control Act (TSCA), 15 U.S.C. § 2605, and its implementing regulations, 40 C.F.R. § 761.61, with respect to standards for the cleanup of PCB remediation waste.

PADEP has identified the Land Recycling and Environmental Remediation Standards Act, 95 Pa. Laws 2 (Act II), as an ARAR for this remedy; however, EPA has determined that Act II does not, on the facts and circumstances of the selected remedy, impose any requirements more stringent than the federal standards. Accordingly, soil cleanup standards under TSCA and 40 C.F.R. § 761.61 are applicable to the selected remedy.

16. Action-Specific ARARs

The requirements of the federally-approved State Implementation Plan for the Commonwealth of Pennsylvania, 25 Pa. Code §§ 123.1 - 123.2; the National Ambient Air Quality Standards for Particulate Matter in 40 C.F.R. § 50.6; Pa. Code §§ 131.2 and 131.3 to control fugitive dust emissions generated during remedial activities.

The requirements of Pennsylvania's Residual Waste Management regulations concerning analysis of waste, 25 Pa. Code § 287.54 and Pennsylvania's Residual Waste requirements, 35 P.S. § 6016.301-302.

The Land Disposal Restrictions of the Resource Conservation and Recovery Act, 40 C.F.R. § 268.48-49, to address treatment of lead- and arsenic-contaminated soil failing TCLP

The more stringent provisions of either 25 Pa. Code §§ 262a, 264a (Subchapters G, I and L) or 25 Pa. Code §§ 75.262 and 75.264(o), (q) and (t).

17. To Be Considered Standards (TBC)

40 C.F.R. § 6.302(b) addressing EPA activities in floodplains.

EPA's "Management of Remediation Waste Under RCRA," EPA530-F-98-026, October 14, 1998, addressing Areas of Contamination in which contaminated soils are to be consolidated.

EPA's 1987 Polychlorinated Biphenyls Spill Cleanup Policy, 40 C.F.R. § 761.125, addressing guidelines for defining surface soil.

C. *Cost-Effectiveness*

The selected remedy is cost-effective in providing overall protection in proportion to cost and meets all other requirements of CERCLA. Section 300.430(f)(1)(ii)(D) of the NCP requires EPA to evaluate cost-effectiveness by comparing all the alternatives which meet the threshold criteria--protection of human health and the environment and compliance with ARARs--against three additional balancing criteria: long-term effectiveness and permanence; reduction of toxicity, mobility, or volume through treatment; and short-term effectiveness. EPA has considered these criteria and has determined that the selected remedy provides the best balance for overall effectiveness in proportion to its cost. EPA estimates the present worth of the selected remedy to be as high as $6 million. This estimate results from several sources' worst-case cost estimates, given the uncertainty about the actual volume of soil that will require remediation in order to meet the risk-based human health criteria presented in the selected remedy is unknown at this time.

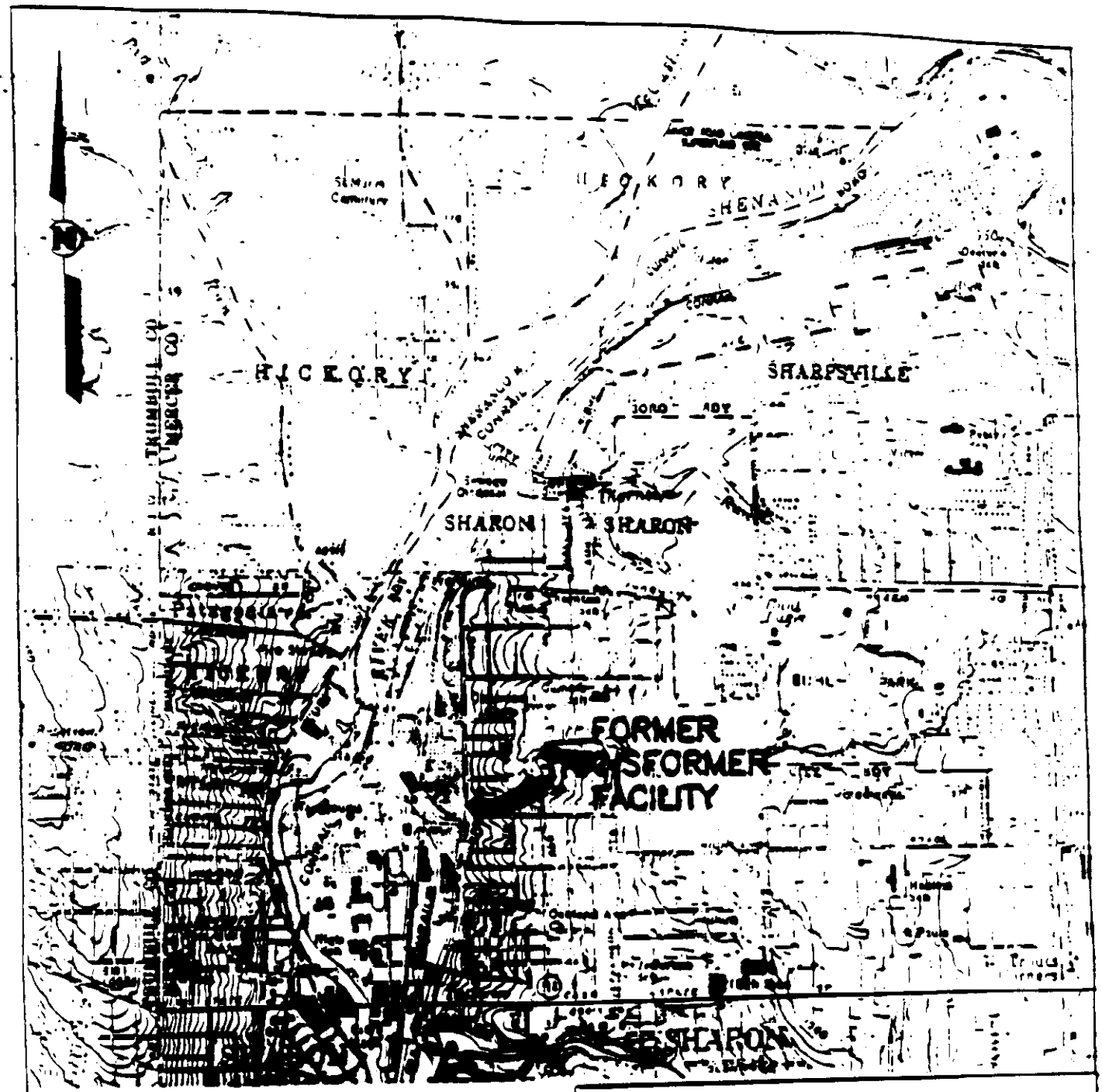
D. *Utilization of Permanent Solutions and Alternative Treatment Technologies to the* Maximum Extent Practicable

None of the remedial alternatives considered would provide a permanent remedy for all soils at the Site. All alternatives, when considering the entire Site, would rely on contaminant containment and deed restrictions and the long-term maintenance that would necessarily accompany these measures to provide the necessary level(s) of protection of human health and the environment. EPA has determined that the selected remedy represents the maximum extent to which permanent solutions and treatment technologies can be utilized while providing the best balance among the other evaluation criteria.

E. Preference for Treatment as a Principal Element

The selected remedy addressed the potential risks due to dermal contact, ingestion and inhalation of Site-related contaminants in soils. Treatment as a principal element of the remedy was not selected based upon an evaluation of the alternative selection criteria as these relate to Site-specific conditions. In particular, EPA determined that treatment as a principal element of the selected remedy would very significantly increase the cost of the remedy, would increase the time frame of the remedy, and would increase the complexity of the remedy without increasing the protectiveness of the remedy.

Figures



REFERENCE:
7 5-MIN. TOPOGRAPHIC QUADRANGLE: ORANGEVILLE, OH-PA, 1961 PHOTOREVISED 1979; SHARON EAST, PA, 1958 PHOTOREVISED 1981; SHARON WEST, OH-PA, 1962 PHOTOREVISED 1979; AND SHARPSVILLE, PA, 1958 PHOTOREVISED 1981, SCALE 1:24000.

SCALE
0 2000 4000 FT.

Figure 1

Westinghouse Sharon Site

Location Map

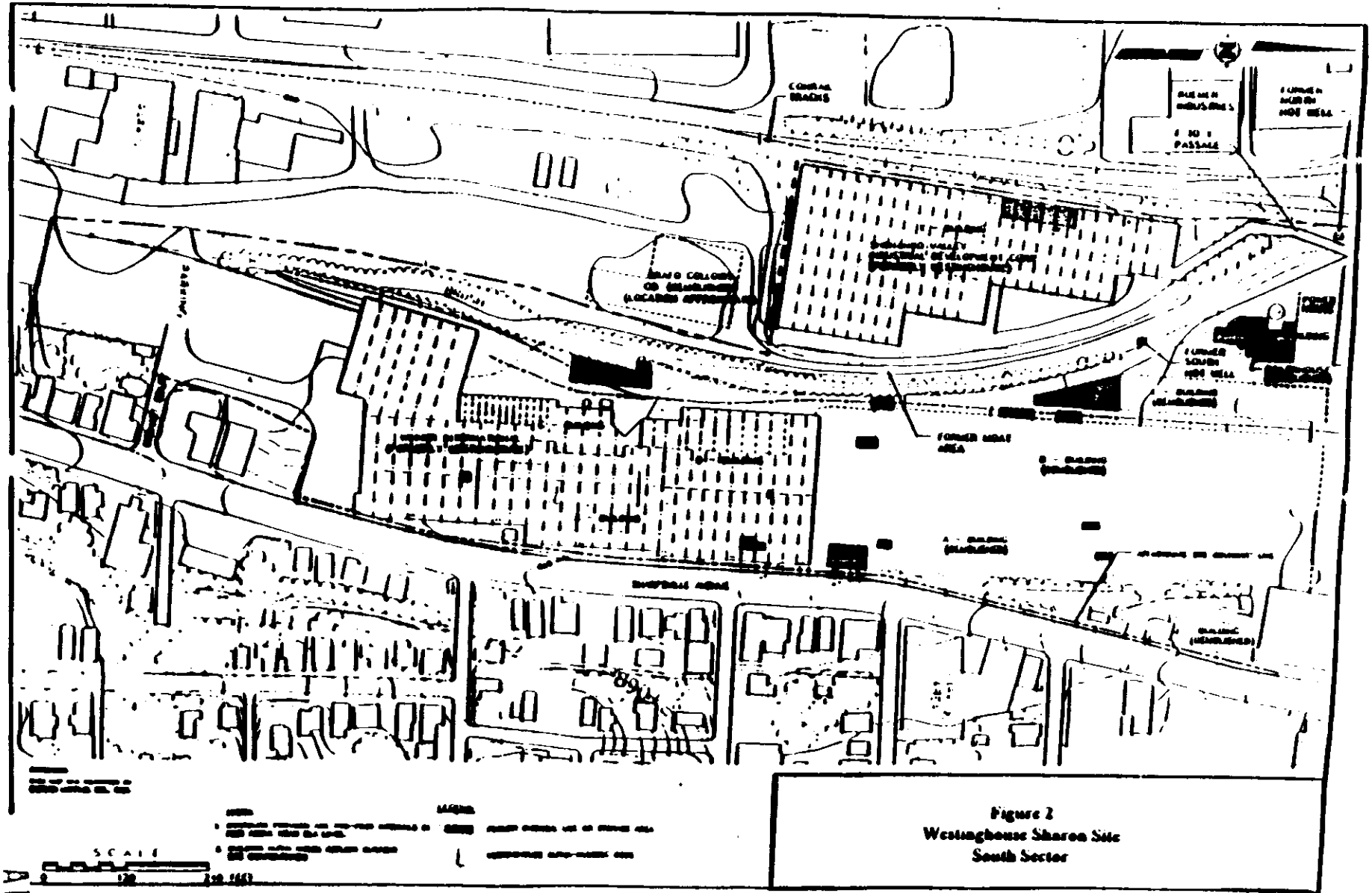


Figure 2
Westinghouse Sharon Site
South Sector

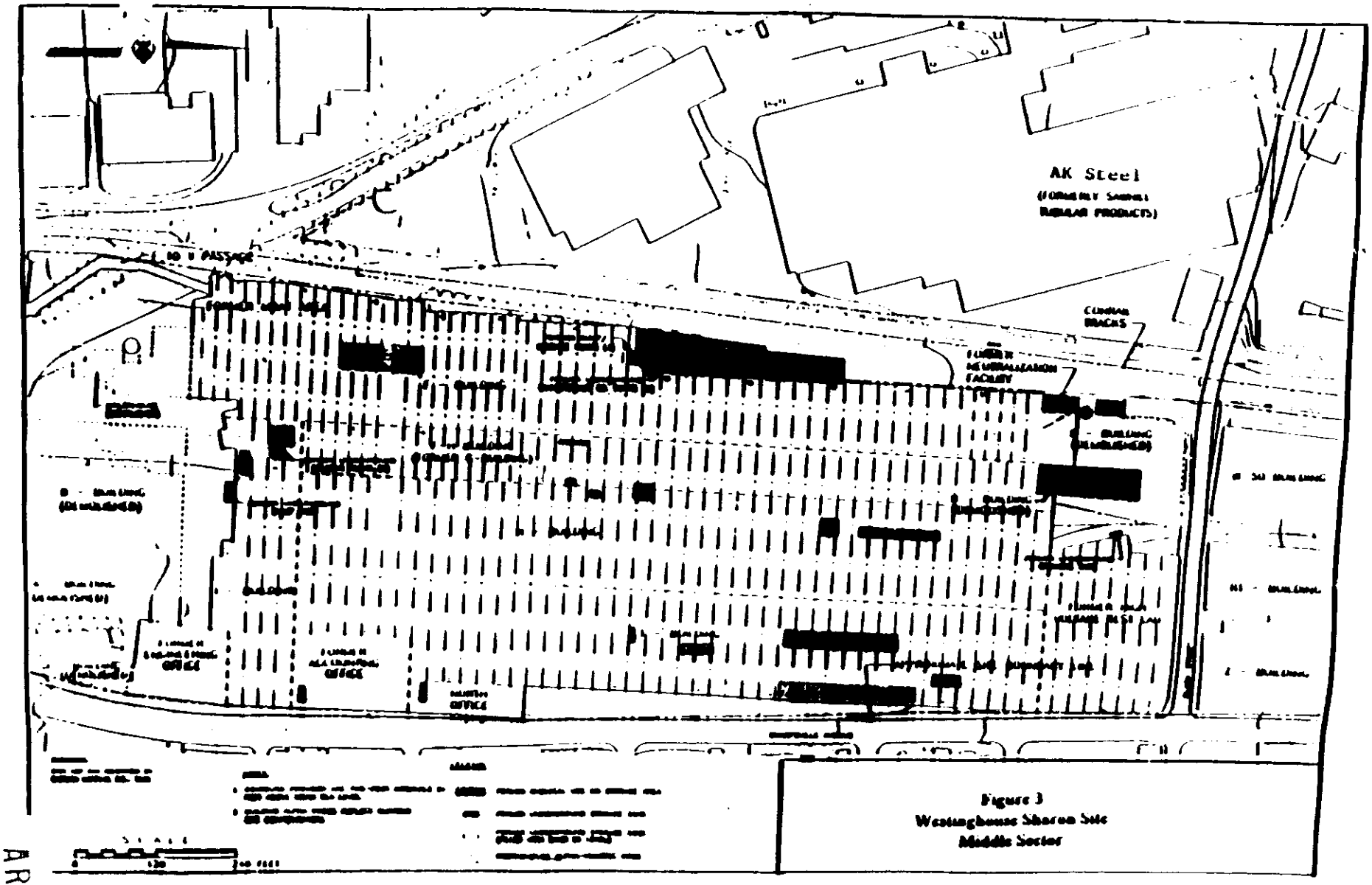


Figure 3
Westinghouse Sharon Site
Middle Sector

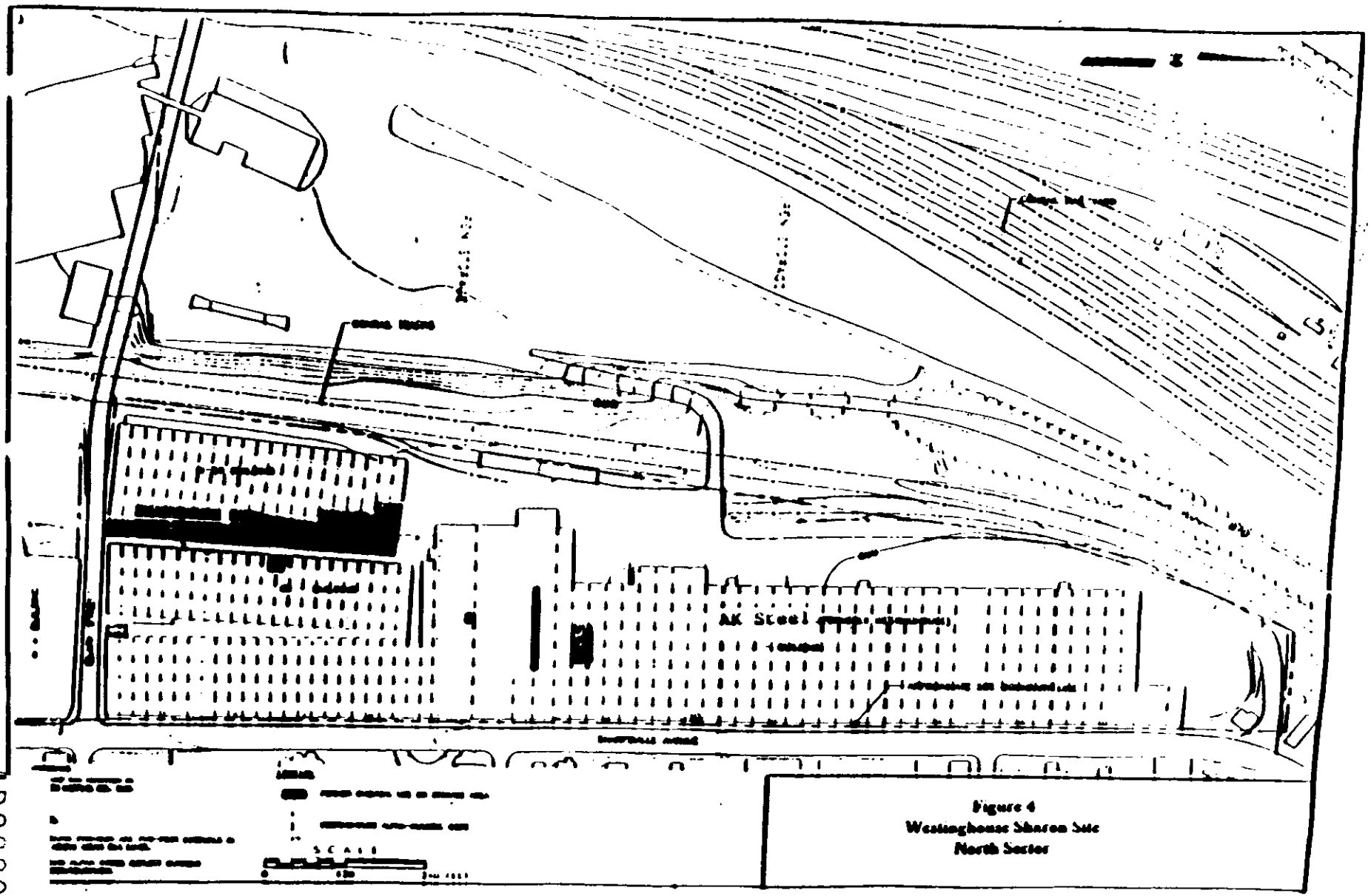


Figure 4
Westinghouse Sharon Site
North Sector

Tables

TABLE 1
SUMMARY OF BASELINE HUMAN-HEALTH RISK ASSESSMENT

Medium[a]	Hypothetical Exposure Scenario(s)[a]	Relevant Exposure Pathway(s)	Significantly Contributing Chemicals[b]	Total Carcinogenic Risk[c]	Total Non-Canc. Hazard Index[c]
Mobile Buildings[d]	Employee	Inhalation	1,2-Dichloroethane	1.4E-04[e]	1.5
			1,1-Dichloroethene	2.6E-05	--
			Aroclor-1242	1.5E-05	--
			Benzene	4.4E-06	0.25
			Trichloroethene	1.6E-06	--
			Total of All Chemicals[f]	1.9E-04	1.8
Subsurface Soils	Outdoor Construction Worker[d] Indoor Construction Worker	Ingestion Dermal Contact Inhalation	Manganese	--	9
			Arsenic	6.6E-07	0.07
			Aroclor-1260	1E-6	
			Aroclor-1254	2E-6	0.55
			Total of All Chemicals[f]	1E-5	10
Railroad ROW Surface Soils	Child Trespasser[d] Adolescent Trespasser	Ingestion Dermal Contact	Aroclor-1254	3.8E-05	11.1
			Aroclor-1248	3.0E-05	--
			Aroclor-1260	2.4E-05	--
			2378-TCDD (eq)	1.5E-05	--
			Arsenic	4.6E-06	0.12
			Benzo(a)pyrene	2.8E-06	--
			Iron	--	0.13
			Total of All Chemicals[f]	1.1E-04	11.5
Alton Surface Soils	Worker (Unrestricted Access)	Inhalation Ingestion Dermal Contact	Aroclor-1248	6.7E-05	--
			Aroclor-1254	4.5E-05	3.2
			Aroclor-1260	3.3E-05	--
			Arsenic	3.5E-05	0.22
			Total of All Chemicals[f]	1.8E-04	3.5

TABLE 1
SUMMARY OF BASELINE HUMAN-HEALTH RISK ASSESSMENT

Notes:

a. Only those media and exposure scenarios for which the calculated carcinogenic risk or non-carcinogenic hazard index exceeds the target range (10^{-4} and 1.0, respectively) are shown.

b. Only those chemicals which have a total carcinogenic risk of greater than 10^{-6} or a hazard index of greater than 0.1 are shown.

c. Total risks and hazard indices are the approximate values calculated by USEPA, and include each relevant exposure pathway.

d. The calculated risk for this scenario is based on indoor air samples, and are not believed to be related to impacted soils. Relevant health-based cleanup levels for soil will not be calculated based on this exposure scenario.

e. Highlighted values indicate results for which health-based cleanup levels will be calculated, as shown on Table 2

f. Totals include results for compounds not shown on this table (see note b).

g. Where two exposure scenarios are listed for a given medium, the corresponding risks are provided for the first listed scenario, for which calculated risks were higher.

TABLE 2
COMPARISON OF HEALTH-BASED AND ACT 2 CLEANUP LEVELS
WITH DETECTED LEVELS IN SURFACE/SUBSURFACE SOILS

Media/Constituent of Potential Concern	Human Health Risk Assessment Calculations			Site-Specific Human Health-Based Cleanup Levels (mg/kg)				PA Act 2 Statewide Human Health Standard Non-Res. Soils - Direct Contact/Soil-GW[a,b] (mg/kg)	Maximum Detected RI Concentration (mg/kg)	Sample ID/ RI Phase
	EPC (mg/kg)	Carcin. Risk	Non-Carc. HI	Carc. 10^{-4}	Carc. 10^{-5}	Carc. 10^{-6}	Non-Carc.			
Railroad Right-of-Way Surface Soils										
Aroclor-1254	270	3.8E-05	11.1	NA	71.1[c,d]	7.1	24	44 / 280	270	SS-7/IB
Aroclor-1248	210	3.0E-05	--	NA	70.0	7.0	NA	44 / 67	210	SS-8/IB
Aroclor-1260	170	2.4E-05	--	NA	70.8	7.1	NA	130 / 500	170	SS-7/IB
2378-TCDD (teq)	0.0016	1.5E-05	--	NA	0.0011	0.00011	NA	0.00053 / 0.032	0.0016	SS-11/II
Arsenic	48	4.6E-06	0.12	NA	NA	10.4	400	53 / 150	48	SS-12/II
Benzo(a)pyrene	4.8	2.8E-06	--	NA	NA	1.7	NA	11 / 46	5.6	SS-10/II
Lead	624	--	--	NA	NA	NA	NA	1,000 / 450	3,200[c,d]	SS-02/IA
Subsurface Soils										
Manganese	3,447	--	9	NA	NA	NA	375	190,000 / NA	23,600	IBB-S3/II
Arsenic	18	6.6E-07	0.07	NA	NA	NA	257	190,000 / 150	95	IB1-S4/II
Aroclor-1260	11	1E-6	--	NA	NA	NA	NA	190,000 / 500	11	IB5-S2/II
Aroclor-1254	8.3	2E-6	0.55	NA	NA	NA	42	10,000 / 280	25	IB1-S4/II
Lead	NA	--	--	NA	NA	NA	NA	190,000 / 450	205	IB4-S2/II
Road Surface Soils										
Aroclor-1248	120	6.7E-05	--	NA	17.9	1.8	NA	44 / 67	120	SS-3/IB
Aroclor-1254	81	4.5E-05	3.2	NA	18.0	1.8	25	44 / 280	81	SS-3/IB
Aroclor-1260	58	3.3E-05	--	NA	17.6	1.8	NA	130 / 500	58	SS-4/IB
Arsenic	102	3.5E-05	0.22	NA	29.1	2.9	460	53 / 150	102	SS-5/IB
Lead	NA	--	--	NA	NA	NA	NA	1,000 / 450	900[c,d]	SS-01/IA
Road Subsurface Soils										
Aroclor-1260	840	1.2E-06	--	NA	NA	689	NA	190,000 / 500	840	TS-4L/IB
Arsenic	49	6.7E-08	--	NA	NA	NA	NA	190,000 / 150	49	TS-6L/IB
Lead	451	--	--	NA	NA	NA	NA	190,000 / 450	451	TS-6L/IB

a Act 2 Soil-to-Groundwater standards shown assume a non-residential, used aquifer scenario. Using the non-residential, non-use aquifer standards, the only [illegible] and to groundwater standards would be for Aroclor-1248 in the most surface and railroad surface, and for Aroclor-1260 in the most subsurface [illegible] highlighted health-based cleanup levels Act 2 standards are exceeded by the maximum detected soil concentration.

[illegible] The maximum validated result was 624 mg/kg, from Phase II sample SS-11.

[illegible] The maximum validated result was 322 mg/kg, from Phase III sample SS-3.

RESPONSIVENESS SUMMARY

RESPONSIVENESS SUMMARY
WESTINGHOUSE SHARON SITE
OPERABLE UNIT ONE (SOILS)

Newspaper ads announcing the availability of the Proposed Remedial Action Plan (PRAP) for Operable Unit One (soils) and inviting public comment on that PRAP were published in the Sharon Herald and the Youngstown Vindicator on June 11, 1999. A public comment period was held from June 11, 1999 through July 10, 1999. On June 24, 1999, a public meeting was held at the City of Sharon Municipal Building. As a result of the public comment period, EPA received letters of comments from Cummings Riter Consultants, Inc., on behalf of CBS Corporation (CBS); from ARMCO; and from the U.S. Department of the Interior (DOI). Those comments, along with EPA's responses to the comments, are summarized below.

Comments by CBS:

1. Comment: CBS expressed its belief that the 1 ppm cleanup level proposed in the PRAP for PCBs that might exist in the truck roadway portion of the A/B Slab area and for other traffic areas might be unnecessarily conservative. CBS developed risk assessment calculations pertaining to possible dust generated by onsite traffic and submitted those calculations to EPA for review as part of its letter of comments. CBS expressed that it believes that a cleanup level of 10 ppm PCBs in the traffic areas would be sufficiently protective.

Response: EPA has carefully reviewed and considered CBS's suggestion that a cleanup level of 10 ppm for total PCBs would be protective and has decided to retain in the ROD the more protective cleanup level of 1 ppm PCBs for traffic areas that produce dust. Although EPA (and CBS) considered the risks of excess cancers to both onsite workers and to nearby residents, it is the potential (and involuntary) risk to the residents that invokes a greater conservatism by EPA. EPA estimates that excess cancer risks to residents if 10 ppm PCBs are allowed to remain in the soils would be equal to or less than 4×10^{-5} (four excess cancers per 100,000 people). If only 1 ppm PCBs is allowed to remain in the soils, then the excess cancer risk, as estimated by EPA, would be equal to or less than 4×10^{-6} (four excess cancers per 1 million). This is particularly pertinent considering that the nearby residents, whose yards were sampled by EPA several years ago, are already exposed to non-Site-related chemicals including arsenic and polynuclear aromatic hydrocarbons (PAHs) such that their baseline cancer risk is estimated to be approximately 1×10^{-4}.

2. Comment: CBS noted that the ground on the west side of the railroad tracks slopes steeply away from the tracks and that this could complicate remediation and that the remediation would require the cooperation of the railroad's owner. CBS also expressed its belief that contamination of the west side of the tracks might not be Site-related.

Response: EPA understands that the surface soil remediation, if needed, will require that the remediation be properly engineered, but that the remediation would be physically quite

feasible. EPA also knows that the cooperation of the owner of the railroad property is required. It has been shown that PCB contamination exists on the east side of the tracks, particularly in the area just west of the Middle Sector where considerable PCB rail transport activities occurred, and that the contamination diminishes in concentration toward the northern end of the Site. Soil on the west side of the tracks was not sampled during the Remedial Investigation. Regarding the relationship to the Site of any contamination that might be found on the west side of the tracks, EPA believes that all substantial contiguous PCB contamination is Site-related and that the east and west sides of the tracks are contiguous areas.

3. Comment: CBS noted that the institution of deed restrictions for those areas that CBS does not own will require the cooperation of the owners of those areas.

Response: EPA acknowledges that the cooperation of the owners is necessary not only with CBS but also with EPA. Restrictions would take the form of easements and covenants, title notices and other land use restrictions through orders from or agreements with EPA.

4. Comment: CBS recommends that the 95 percent upper confidence limit (UCL) of each compound of interest be calculated for each of the areas that is slated for pre-design soil sampling in order to determine whether and to what degree the various areas are contaminated.

Response: The 95 percent UCL might be an appropriate method to evaluate whether these areas are contaminated. However, the ROD does not specify the physical or the statistical methodologies that might be required to ascertain the degree of contamination. The ROD sets forth only the requirement that the areas be sampled to determine whether and to what degree the areas might be contaminated. The determination of the methodologies needed to meet this requirement will be made during the planning stages for the pre-design or the design, not in the ROD.

5. Comment: CBS noted that the northernmost extent of the Moat subject to backfilling is not specified in the PRAP. CBS recommended that the area of the Moat to be backfilled should be to the overhead F-to-Y passageway. CBS also recommended that the southern extent of the backfilling should be the area of the Moat that has already been backfilled by Winner Steel Services.

Response: Because of past cleanup activities, the Winner Steel Services-owned portion of the Moat will not require remediation. EPA agrees that the maximum southern extent of the Moat backfill required by the ROD would be the northern limit of the area of the Moat already backfilled by Winner Steel Services. However, EPA has not set an arbitrary northern limit for the Moat backfill in the ROD. There will be a limit, but that limit should be determined as a result of post-remediation confirmation sampling that the specified soil contaminant cleanup levels have been met.

6. Comment: CBS recommended that provisions be developed which allow subsurface soils

to remain in place if an engineering determination is made that such excavations might result in damage to buildings or other structures that are to remain onsite.

Response: EPA agrees and has incorporated statements to this effect in the "EPA's Selected Alternatives" section of the ROD.

Comments of ARMCO, Inc.:

1. Comment: ARMCO (now AK Steel Corporation) expressed disagreement with EPA's proposal to apply remedial measures that were proposed for the A/B Slab truck roadway area to the North Sector (ARMCO) property. ARMCO expressed that EPA should allow for alternate remedial measures, different from those listed for the A/B Slab area, to be applied to the North Sector soils after those soils are characterized and any additional risk assessment is conducted.

Response: EPA recognizes that the characterization of the North Sector soils has been inadequate to estimate existing risks to human health for the soil contaminants present in the soils of that area. However, EPA also knows, based upon the limited sampling that has been done relating to soils in the North Sector, that at least moderate PCB contamination exists in the soils in that area. EPA's cleanup requirements set forth in the ROD assume that it is highly probable that further characterization of the area will demonstrate that contaminant levels, at least in some portions of the area, are above the levels determined to be protective of human health under similar conditions/circumstances at other parts of the Site and that some cleanup will therefore be required. EPA's soil contaminant cleanup levels which are delineated in the ROD for the North Sector are intended to reduce the risks to onsite workers and to nearby residents posed by contaminated dusts that might be generated by heavy machinery, and to supply a reasonable degree of protection to industrial workers (e.g., utility workers who might occasionally work below the ground surface) who might be exposed to the contaminated soils.

2. Comment: ARMCO expressed its belief that the implementation of deed restrictions, rather than deed notices, is excessive.

Response: The term "deed restrictions" encompasses the entire panoply of institutional controls necessary to protect human health and the environment from waste left in place. In this case, those institutional controls would take the form of easements and covenants, title notices and land use restrictions through orders from or agreements with EPA. Specifically, the deed restrictions would provide for worker safety, limit soil disturbance, prevent the installation or use of groundwater wells and prevent use of the Site for residential purposes. Given the extent to which waste will be left in place, it is appropriate to include restrictions on the use of the properties in addition to notices placed on the properties' titles.

3. Comment: ARMCO pointed out that the cleanup levels proposed in the Proposed Remedial Action Plan for the A/B Slab area for surface soils were also proposed, by EPA, for

the surface soils of the North Sector. ARMCO expressed that it believes that the conditions (e.g., security, public access) in the A/B Slab area are different from conditions in the North Sector, and that because of these differing conditions, the one (1) ppm level proposed for cleanup of the surface soils is overly restrictive. ARMCO also questioned the concept of using soils excavated from the A/B Slab area for fill in other areas onsite which have different owners. ARMCO recommended that action levels be established at the Remedial Design phase.

Response: The conditions for public access and the security provided at the A/B Slab area are not significantly different from those conditions in the North Sector, and there can be no guarantee that any stringent access restrictions will be maintained by future owners of any of the Site properties. Public access to both areas is currently limited and the primary exposures to soils considered by EPA for human receptors is from dust generated by heavy wheeled vehicles, and from a limited number of industrial activities (e.g., installation of utilities, excavations for construction). The one ppm limit for PCBs in surface soils that might cause exposures to onsite workers and to nearby residents through dust that is generated by heavy vehicles is reasonable and necessary. The cleanup level was determined upon EPA's consideration of a supplementary risk assessment which was submitted to EPA by CBS Corporation during the public comment period. (See EPA's response to CBS's comment number 1, above.)

Regarding the use of soils excavated from areas onsite being used as cover or fill material in other areas onsite, EPA has not mandated such usage, but rather has indicated that EPA has no objection to the use of acceptable fill materials taken from other portions of the Site to backfill excavated areas or as cover material as provided in the ROD. Property ownership and the rights that accompany that ownership are not to be disregarded by the entity conducting the cleanup activities.

One of the purposes of a Record of Decision is to set the cleanup levels for the various Site-related contaminants. Accordingly, EPA has set the soil cleanup requirements, including those for the North Sector, in this ROD. The Remedial Design (RD) will be based upon the requirements of the ROD, and that RD will be used to implement the Remedial Action.

Comments of the U.S. Department of the Interior:

1. Comment: The U.S. Department of the Interior (DOI) recommends that ecological risks be evaluated for the moat area and the railroad "corridor" stating that these areas provide habitat for wildlife.

Response: Westinghouse conducted a "Screening-Level Ecological Risk Assessment For the Former Sharon Transformer Plant, Sharon, Pennsylvania" as part of the Remedial Investigation. PADEP accepted that Screening-Level Ecological Risk Assessment with EPA's concurrence. The moat area and the railroad property are zoned as, and are utilized as,

industrial/commercial properties. Even though there might presently be small amounts of vegetated areas on these properties, the uses of these properties are such that the owners might choose to usurp those vegetated areas for industrial or commercial purposes at any time. As an example, the entire southern end of the moat area, which had been overgrown with fugitive vegetation, was cleared, grubbed and transformed into a parking area, a railroad crossing, and a truck crossing within the past year by one of the Site property owners. Indeed, the moat, for most of its length onsite, is underlain with a large rainwater drainage line that must be maintained. Remediation of the contaminated soils within the moat will require that the existing vegetation be removed. The remediated moat area will then be used for whatever purpose(s) the owners desire. Similarly, the railroad property is utilized presently for rail transport and, typically, railroad companies use herbicides to control the vegetation along the tracks.

2. Comment: DOI expressed its belief that all pathways from the moat to the Shenango River should be eliminated because it believes that the moat appears to be the source of PCBs to the river. DOI also expressed its belief that the primary conveyances of surface water to the Shenango River should be included in a Feasibility Study.:

Response: The moat is not currently a source of PCB runoff to the river. The major portion of the PCB contamination in the moat area was remediated by Westinghouse during cleanup actions initiated in January 1984 and ending in 1986. This cleanup did, however, leave some residual PCB-contaminated soil which was assessed as part of the Remedial Investigation, and which will be addressed as part of the remedial action selected in this ROD. Samplings required by the National Pollution Discharge Elimination System (NPDES) permit were conducted by Westinghouse several times per month for a period of approximately 10 years at Outfall 003 which is the outfall that received rainwater runoff from the moat area. For the past several years, that monitoring has shown that the discharge to the Shenango River has averaged less than one microgram (1 ppb) PCBs per liter. Information regarding this matter is shown in Section 1.5.2 and Appendix B of the RI document. Additionally, within the past year, the entire southern end of the moat--the lower end--has been filled to the level of the surrounding roadways and thereby prevents any water from leaving the moat via surface routes or drainageways from that end of the moat.

The remedial measures for the moat area which are called for in the ROD will provide further assurances that Site-related contamination will not impact the Shenango River. EPA and PADEP intend that consideration of the drainageways will be included in an upcoming Feasibility Study for a second operable unit which will also address the Shenango River sediments and floodplain.

3. Comment: DOI expressed its belief that "clean impermeable surfaces and separate discharge conveyances to the river..." are necessary to assure that residual contaminants are not transported to the river via drainage ditches and storm sewers.

Response: As noted above in EPA's response to DOI comment number 2, there is no

significantly contaminated surface water discharge to any conveyance from the moat area, even though it is the moat area which has been found to (currently) contain the highest concentrations of PCBs. Also, the outfall from the former north hotwell has been closed off (that outfall was located downstream from the Clark Street outfall). In 1992, as part of the Remedial Investigation (RI), samples of rain water runoff were obtained during a rain event. The sample of runoff water collected within the drainage line at the Clark Street outfall, which receives water from the Middle Sector and the North Sector, showed no detectable PCB contamination. A sample collected at the Franklin Street outfall during that sampling event contained 8.2 parts per billion (ppb) PCBs. However, a sample collected at the southwest corner of the Site in an upgradient portion of the Franklin Street sewer system had no detectable PCB contamination during the same sampling event. The Franklin Street sewer runs for about 2000 feet west from the Site and collects drainage from several streets that serve a number of commercial and industrial properties. Because PCBs are common environmental contaminants, and because no PCBs were detected in the upgradient sewer sample at the border of the Site, it is possible that the small concentration of PCBs collected at the Franklin Street sewer outfall was not Site-related.

It is important to note that the RI samples discussed in the paragraph above were obtained prior to the soil remediation that is called for in the Operable Unit One ROD. EPA expects that any threat of PCB contamination to the river from the Site will be very significantly reduced by the remedial measures required by the ROD.

4. Comment: DOI expressed that, "the PRAP does not fully describe how the preferred remedies will prevent any soil to groundwater conveyance of contamination to the River." DOI also expressed that residual contamination after implementation of the remedies would exceed both the "used" and the "non-use" aquifer standards set forth under Pennsylvania's Act 2.

Response: It is acknowledged that the alluvial ground water at the Site is significantly contaminated with Site-related hazardous substances, notably PCBs, chlorinated aliphatic hydrocarbons, and chlorinated benzenes. There appear to be only very isolated impacts from the Site to the bedrock aquifer, and the Site-related ground water contamination appears to be confined almost exclusively to the alluvial aquifer. (Bedrock well M-4B has a low concentration of PCBs which appears to be spurious in nature. Bedrock well M-11B, which is drilled through a contaminated alluvial area, shows a low level of ground water contamination which may be due to leakage around the well casing.) The impact of ground water from the alluvial aquifer upon the Shenango River is difficult to evaluate although it appears that this aquifer is not impacting the surface water. This judgment is made based upon the Site's distance from the River (800 to 2000 feet) and because downgradient wells used for the RI show limited contaminant migration. Also, sampling of the water in the River has not indicated that ground water contaminants from the Site are impacting the River's water.

Regarding Pennsylvania's Act 2, that Act and its implementing regulations are not

considered by EPA to be applicable or relevant and appropriate requirements (ARAR) for the purposes of this remedial action. Act 2 standards were included by CBS Corporation in the soils Feasibility Study (FS) as a basis of comparison, and these standards were included in the PRAP because they were included in the FS. Non-aqueous phase liquid (NAPL) contaminants, and dissolved contaminants in ground water at the Site will be addressed in a subsequent ROD.

5. Comment: DOI expressed its belief that the Site soil cleanup criteria proposed in the PRAP were derived without consideration for risk to ecological receptors.

Response: EPA's onsite soil cleanup criteria were formulated with the full knowledge, gained from the information gathered during the Remedial Investigation, that the onsite soils currently are presenting a negligible impact upon the Shenango River, considering both overland routes and ground water. EPA's cleanup criteria are derived considering that the properties that comprise the Site are commercial/industrial and will remain so into the foreseeable future (see EPA's response to DOI comment number 1, above).

6. Comment: DOI expressed its belief that the soil cleanup levels proposed in the PRAP are not protective, and are inconsistent and confusing. DOI questions the varying cleanup levels designated for the various areas and at various depths.

Response: The soil cleanup levels proposed in the PRAP, and the levels set forth in this ROD, are levels which will be protective of human health and which will also be protective of the environment considering that the area is designated for industrial and commercial purposes. For example, EPA's cleanup level for total PCBs in the railroad area surface soils is 25 parts per million (ppm) for the top 10 inches of soil and 71 ppm for soils from a depth of 10 inches to 24 inches. No absolute definition of "surface soil" exists in EPA's regulations or guidance. However, EPA's 1987 PCB Spill Cleanup Policy, which is a "To Be Considered" (TBC) standard, and not an ARAR, does refer to the top 10 inches of soil for the purposes of certain cleanup activities, and the Pennsylvania Department of Environmental Protection has informed EPA that it prefers to conservatively designate the top 24 inches of soil as "surface soil" at this Site. Therefore, for the purposes of this cleanup, EPA has conservatively chosen to designate the top 24 inches of soil as "surface soil" while realizing that certain exposures to soils at depths greater than 10 inches is unlikely. For example, regarding the railroad property, the primary risk scenarios involve exposures of child and adolescent trespassers to PCBs. It is unlikely that such trespassers would be exposed to soils below a depth of 10 inches, and the cleanup level for the top 10 inches was set at 25 ppm which corresponds to an excess cancer risk of approximately 3×10^{-4}. EPA has selected a cleanup level of 71 ppm for total PCBs in the railroad soil from a depth of 10 inches to 24 inches. This corresponds with an excess cancer risk *in surface soil* of 1×10^{-3}. Both of these exposure scenarios are within the acceptable risk range delineated in the NCP. Since low volume surface spillage and tracking of PCBs are suspected to have resulted in the PCB contamination of the railroad area, EPA believes that substantial contamination at greater depths is unlikely, and, in any case would not present an endangerment to human health.

EPA has chosen not to remediate soils that are directly overlain with ballast and railroad tracks because of the very limited likelihood of direct exposures to those soils and because of the major disruption to rail service that the implementation of such a remedy would cause.

7. Comment: DOI pointed out that the cleanup scenario for the moat would allow soil containing up to 25 ppm PCBs to be used as cover fill material. DOI expressed that the cleanup level of 689 ppm for total PCBs required for the moat subsurface (below 24 inches) soils is "seemingly arbitrary" and questions how this number was derived. DOI also expressed that there is no maximum depth set for excavation in the moat.

Response: EPA's remedy for soils at the Site does not require the elimination of contamination, but rather requires the reduction of contaminant concentrations and/or the reduction of exposure(s) relating to risks due to certain contaminants. The onsite use of cover/fill materials contaminated with low concentrations of PCBs (25 ppm or less), derived from excavations onsite, is an appropriate use of these materials when combined with a 10-inch topping of clean soil or of paving materials. There currently exists onsite a very large pile of this material which was excavated from areas in the southern portion of the Site, and more such material might be generated as a result of future cleanup activities. To dispose of all of this material offsite would result in a large expenditure of funds and would also result in the usurpation of a considerable amount of space within one or more residual waste landfills. It is important to note that EPA is not requiring the use of this material onsite, but merely informing that its usage is acceptable under certain circumstances. Such usage would be consistent with the use of that material to date on the Site and would not compromise the protectiveness of the remedy.

The 689 ppm cleanup level proposed in the PRAP for total PCBs was conservatively derived from the Site-specific human-health-based cleanup level for PCB Aroclor 1260 in moat subsurface soils. This cleanup level for Aroclor 1260 was shown on Table 2-2 of the soils Feasibility Study (FS). The 689 ppm cleanup level was determined to correspond with the very conservative 1×10^{-6} excess cancer risk. No maximum depth for excavation of moat subsurface soils was proposed in the PRAP because of the known presence of the storm water drainage line in the moat area. All excavations in the moat will require that the storm drainage line be considered. It is the judgment of EPA that such consideration would most appropriately be left for the Remedial Design of the cleanup. That Remedial Design will be subject to review and acceptance or preparation by EPA.

8. Comment: DOI questioned why EPA chose a more stringent surface contaminant cleanup level for certain areas (e.g., the A/B Slab truck roadway) than for other areas (e.g., the railroad) considering dust generation. DOI also questioned why rainwater runoff was considered in the PRAP to be more relevant in the truck roadway areas than in other areas of the Site.

Response: The dust generated by truck and heavy equipment traffic in certain areas of the Site

is much more prominent and pervasive than in other areas. For example, dust generation caused by truck traffic at the southern end of the A/B Slab area of the Site has been observed frequently by government personnel visiting the Site and has reportedly been the subject of complaints from residential neighbors of the Site. Comparatively, rail transport generates little dust. Therefore, more stringent surface soil cleanup requirements were set for those areas which are more likely to generate dust that would present a greater risk due to the inhalation and ingestion of, and direct skin contact with, soil contaminants.

Although the term "rainwater runoff" was used in the PRAP, a more appropriate term relating to the truck and heavy equipment roadway areas is "rainwater ponding." There is currently a more significant amount of soil disturbance caused by heavy vehicle traffic in certain areas of the Site (e.g., the southern end of the A/B Slab area) than in other areas of the Site. There is actually little concern of any significant runoff of rainwater from these areas of the Site since the areas are essentially level. The southern end of the A/B Slab, for example, varies only about one-tenth of one foot in elevation over its area. It is more likely that rainwater might stand in puddles. Ponded water, or mud, could be "tracked" offsite by wheeled vehicles. [Since the issuance of the PRAP, EPA has been informed that it is likely that a building will be built over the A/B Slab area as part of future industrial expansion. This would reduce or eliminate any concern relating to contaminated dusts or ponded water in this area.] EPA has considered rainwater runoff from other areas of the Site and has not found it to be of potential concern. (See response to DOI comments numbers 1 and 5, above.)

ENCLOSURE TWO

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA, COMMONWEALTH OF PENNSYLVANIA, Plaintiffs, v. CBS CORPORATION, WINNER DEVELOPMENT COMPANY, INC., AK STEEL CORPORATION, Defendants.	CIVIL ACTION NO. [ ]

CONSENT DECREE

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA, COMMONWEALTH OF PENNSYLVANIA, Plaintiffs,	)	
v.	)	CIVIL ACTION NO. [ ]
CBS CORPORATION, WINNER DEVELOPMENT COMPANY, INC., AK STEEL CORPORATION, Defendants.	)	

CONSENT DECREE

I. BACKGROUND

A. The United States of America ("United States"), on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), filed a complaint in this matter pursuant to Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. §§ 9606 and 9607.

B. The United States in its complaint seeks, inter alia: (1) reimbursement of costs incurred by EPA and the Department of Justice for response actions at the Westinghouse (Sharon) Superfund Site in Sharon, Mercer County, Pennsylvania, together with accrued interest; and (2) performance of studies and response work by the defendants at the Site consistent with the National Contingency Plan, 40 C.F.R. Part 300 (as amended) ("NCP").

C. In accordance with the NCP and Section 121(f)(1)(F) of CERCLA, 42 U.S.C. § 9621(f)(1)(F), EPA notified the Commonwealth of Pennsylvania (the "State") on May 5, 1999 of

negotiations with potentially responsible parties regarding the implementation of the remedial design and remedial action for the Site, and EPA has provided the State with an opportunity to participate in such negotiations and be a party to this Consent Decree.

D. The Commonwealth of Pennsylvania ("the State") has also filed a complaint against the defendants in this Court alleging that the defendants are liable to the State under Section 107 of CERCLA, 42 U.S.C. § 9607, and under Sections 6020.101-6020.1305 of the Pennsylvania Hazardous Sites Cleanup Act ("HSCA"), 35 P.S. §§ 6020.101-6020.1305.

E. In accordance with Section 122(j)(1) of CERCLA, 42 U.S.C. § 9622(j)(1), EPA notified the United States Department of the Interior and the National Oceanographic and Atmospheric Administration on May 5, 1999 of negotiations with potentially responsible parties regarding the release of hazardous substances that may have resulted in injury to the natural resources under Federal trusteeship and encouraged the trustees to participate in the negotiation of this Consent Decree.

F. The defendants that have entered into this Consent Decree ("Settling Defendants") do not admit any liability to the Plaintiffs arising out of the transactions or occurrences alleged in the complaints, nor do they acknowledge that the release or threatened release of hazardous substance(s) at or from the Site constitutes an imminent or substantial endangerment to the public health or welfare or the environment.

G. Pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, EPA placed the Site on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register on August 30, 1990, 55 Fed. Reg. 35502.

H. In response to a release or a substantial threat of a release of a hazardous substance(s) at

or from the Site, under order by the State, the Settling Defendants commenced on September 20, 1988, a Remedial Investigation and Feasibility Study for the Site pursuant to 40 C.F.R. § 300.430.

I. The Settling Defendants completed a Remedial Investigation Report on April, 7, 1998, which was approved by the State on April 22, 1998, and the Settling Defendants issued a Feasibility Study ("FS") Report on November 17, 1998 which was approved by the State on December 17, 1998.

J. Pursuant to Section 117 of CERCLA, 42 U.S.C. § 9617, EPA published notice of the completion of the FS and of the proposed plan for remedial action on June 11, 1999 in a major local newspaper of general circulation. EPA provided an opportunity for written and oral comments from the public on the proposed plan for remedial action. A copy of the transcript of the public meeting is available to the public as part of the administrative record upon which the Director of the Hazardous Site Cleanup Division, Region III, based the selection of the response action.

K. The decision by EPA on the remedial action to be implemented at the Site is embodied in a final Record of Decision for Operable Unit 1 ("ROD"), executed on February 18, 2000, on which the State has given its concurrence. The ROD includes EPA's explanation for any significant differences between the final plan and the proposed plan as well as a responsiveness summary to the public comments. Notice of the final plan was published in accordance with Section 117(b) of CERCLA.

L. Based on the information presently available to EPA and the State, EPA and the State believe that the Work will be properly and promptly conducted by the Settling Defendants if

conducted in accordance with the requirements of this Consent Decree and its appendices.

M. Solely for the purposes of Section 113(j) of CERCLA, 42 U.S.C. § 9613(j), the Remedial Action selected by the ROD and the Work to be performed by the Settling Defendants shall constitute a response action taken or ordered by the President.

N. The Parties recognize, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith and implementation of this Consent Decree will expedite the cleanup of the Site and will avoid prolonged and complicated litigation between the Parties, and that this Consent Decree is fair, reasonable, and in the public interest.

NOW, THEREFORE, it is hereby Ordered, Adjudged, and Decreed:

II. JURISDICTION

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. §§ 9606, 9607, and 9613(b). This Court also has personal jurisdiction over the Settling Defendants. Solely for the purposes of this Consent Decree and the underlying complaints, Settling Defendants waive all objections and defenses that they may have to jurisdiction of the Court or to venue in this District. Settling Defendants shall not challenge the terms of this Consent Decree or this Court's jurisdiction to enter and enforce this Consent Decree.

III. PARTIES BOUND

2. This Consent Decree applies to and is binding upon the United States and the State and

upon Settling Defendants and their successors and assigns. Any change in ownership or corporate status of a Settling Defendant including, but not limited to, any transfer of assets or real or personal property, shall in no way alter such Settling Defendants' responsibilities under this Consent Decree.

3. Settling Defendants shall provide a copy of this Consent Decree to each contractor hired to perform the Work (as defined below) required by this Consent Decree and to each person representing any Settling Defendant with respect to the Site or the Work and shall condition all contracts entered into hereunder upon performance of the Work in conformity with the terms of this Consent Decree. Settling Defendants or their contractors shall provide written notice of the Consent Decree to all subcontractors hired to perform any portion of the Work required by this Consent Decree. Settling Defendants shall nonetheless be responsible for ensuring that their contractors and subcontractors perform the Work contemplated herein in accordance with this Consent Decree. With regard to the activities undertaken pursuant to this Consent Decree, each contractor and subcontractor shall be deemed to be in a contractual relationship with the Settling Defendants within the meaning of Section 107(b)(3) of CERCLA, 42 U.S.C. § 9607(b)(3).

IV. DEFINITIONS

4. Unless otherwise expressly provided herein, terms used in this Consent Decree which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Consent Decree or in the appendices attached hereto and incorporated hereunder, the following definitions shall apply:

"CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601-9675.

"Consent Decree" shall mean this Decree and all appendices attached hereto (listed in Section XXVIII). In the event of conflict between this Decree and any appendix, this Decree shall control.

"Day" shall mean a calendar day unless expressly stated to be a working day. "Working day" shall mean a day other than a Saturday, Sunday, or Federal holiday. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the close of business of the next working day.

"Duly Authorized Representative" shall mean a person set forth or designated in accordance with the procedures set forth in 40 C.F.R. § 270.11(b).

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

"PADEP" shall mean the Pennsylvania Department of Environmental Protection and any successor departments or agencies of the State.

"Future Response Costs" shall mean the United States' and the State's Future Response Costs.

"United States' Future Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States incurs in reviewing or developing plans, reports and other items pursuant to this Consent Decree, verifying the Work, or otherwise implementing, overseeing, or enforcing this Consent Decree, including, but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, the costs incurred pursuant to Sections VIII

(including, but not limited to, attorneys fees and any monies paid to secure access and/or to secure institutional controls, including the amount of just compensation), XIV, and Paragraph 79 of Section XX. The United States' Future Response Costs shall also include all of the United States' Interim Response Costs and all Interest on the United States' Past Response Costs that has accrued pursuant to 42 U.S.C. § 9607(a) during the period from February 9, 1999 to the date of entry of this Consent Decree.

"HSCA" shall mean the Pennsylvania Hazardous Sites Cleanup Act, 35 P.S. §§ 6020.101-6020.1305.

"United States' Interim Response Costs" shall mean all costs, including direct and indirect costs, (a) paid by the United States in connection with the Site between February 9, 1999 and the effective date of this Consent Decree, or (b) incurred prior to the effective date of this Consent Decree but paid after that date.

"Interest" shall mean interest at the rate specified for interest on investments of the Hazardous Substance Superfund established under Subchapter A of Chapter 98 of Title 26 of the U.S. Code, compounded on October 1 of each year, in accordance with 42 U.S.C. § 9607(a).

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

"Operation and Maintenance" or "O & M" shall mean all activities required to maintain the effectiveness of the Remedial Action as required under the Operation and Maintenance Plan approved or developed by EPA pursuant to this Consent Decree.

"Operable Unit 1" shall mean the February 18, 1999 Record of Decision addressing

contaminated soils at the Site.

"Oversight Costs" shall mean, for purposes of this Consent Decree only, that portion of Future Response Costs incurred by EPA in monitoring and supervising the Settling Defendants' performance of the Work to determine whether such performance is consistent with the requirements of this Consent Decree, including costs incurred in reviewing plans, reports and other documents submitted pursuant to this Consent Decree, as well as costs incurred in overseeing implementation of the Work; however, Oversight Costs do not include, inter alia: (1) the costs of direct action by EPA to investigate, evaluate or monitor a release, threat of release, or a danger posed by such release or threat of release; (2) the costs of litigation or other enforcement activities; (3) the costs of determining the need for or taking direct response action by EPA to conduct a removal or remedial action at the Site, including but not limited to, the cost of activities by EPA pursuant to Section XIV (Emergency Response) of this Consent Decree; (4) the costs of determining whether or to what extent the Work has reduced the release or threat of release at the Site; (5) the cost of enforcing the terms of this Consent Decree, including all costs incurred in connection with Dispute Resolution pursuant to Section XVIII (Dispute Resolution); (6) the costs of securing access under Section VIII (Access and Institutional Controls); and (7) the cost of actions taken pursuant to Section VI (Performance of the Work by Settling Defendants), Paragraph 15 of this Consent Decree.

"Paragraph" shall mean a portion of this Consent Decree identified by an arabic numeral or an upper case letter.

"Parties" shall mean the United States, the Commonwealth of Pennsylvania and the Settling Defendants.

"Plaintiffs" shall mean the United States and the Commonwealth of Pennsylvania.

"United States' Past Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States paid at or in connection with the Site through February 9, 1999, plus Interest on all such costs which has accrued pursuant to 42 U.S.C. § 9607(a) through such date.

"Performance Standards" shall mean the cleanup standards and other measures of achievement set forth on page 24 of the ROD attached hereto as Appendix A.

"Plaintiffs" shall mean the United States and the Commonwealth of Pennsylvania.

"RCRA" shall mean the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901-6992k. (also known as the Resource Conservation and Recovery Act).

"Record of Decision" or "ROD" shall mean the EPA Record of Decision relating to Operable Unit One at the Site signed on February 18, 1999, by the Director of the Hazardous Site Cleanup Division, EPA Region III, or his delegate, and all attachments thereto. The ROD is attached as Appendix A.

"Remedial Action" shall mean those activities, except for Remedial Design and Operation and Maintenance, to be undertaken by the Settling Defendants to implement the ROD, in accordance with the final Remedial Design and Remedial Action Work Plans and other plans approved by EPA.

"Remedial Action Work Plan" shall mean the document developed pursuant to Paragraph 12 of this Consent Decree and approved by EPA, and any amendments thereto.

"Remedial Design" shall mean those activities to be undertaken by the Settling Defendants to develop the final plans and specifications for the Remedial

Design Work Plan.

"Remedial Design Work Plan" shall mean the document developed pursuant to Paragraph 12 of this Consent Decree and approved by EPA, and any amendments thereto.

"Removal Actions" shall mean "remove" or "removal" as those terms are defined by Section 101(23) of CERCLA, 42 U.S.C. § 9601(23).

"Section" shall mean a portion of this Consent Decree identified by a roman numeral.

"Settling Defendants" shall mean CBS Corporation, Winner Development Company, Inc. and AK Steel Corporation.

"Site" shall mean the Westinghouse (Sharon) Superfund Site, encompassing approximately 58 acres, located at the town of Sharon in Mercer County, Pennsylvania and depicted in the ROD.

"State" shall mean the Commonwealth of Pennsylvania.

"State's Future Response Costs" shall mean shall mean all costs, including, but not limited to, direct and indirect costs, that the State incurs related to the Site and that are not recoverable pursuant to the Consent Order and Agreement, dated September 21, 1988, between Westinghouse Electric Corporation and the Commonwealth of Pennsylvania, Department of Environmental Resources.

"Supervising Contractor" shall mean the principal contractor retained by the Settling Defendants to supervise and direct the implementation of the Work under this Consent Decree.

"United States" shall mean the United States of America.

"Waste Material" shall mean (1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (2) any pollutant or contaminant under Section 101(33), 42

U.S.C. § 9601(33).

"Work" shall mean all activities Settling Defendants are required to perform under this Consent Decree, except those required by Section XXIV (Retention of Records).

V. GENERAL PROVISIONS

5. Objectives of the Parties.

The objectives of the Parties in entering into this Consent Decree are to protect public health or welfare or the environment at the Site by the design and implementation of response actions at the Site by the Settling Defendants, to reimburse response costs of the Plaintiffs, and to resolve the claims of Plaintiffs against Settling Defendants as provided in this Consent Decree.

6. Commitments by Settling Defendants.

a. Settling Defendants shall finance and perform the Work as specified in Section VI of this Consent Decree. Settling Defendants shall also reimburse the United States for Past Response Costs and the United States and the State for Future Response Costs as provided in this Consent Decree.

b. The obligations of Settling Defendants to finance and perform the Work and to pay amounts owed the United States and the State under this Consent Decree are joint and several. In the event of the insolvency or other failure of any one or more Settling Defendants to implement the requirements of this Consent Decree, the remaining Settling Defendants shall complete all such requirements.

c. In the event that any of the Settling Defendants files for bankruptcy or is placed involuntarily in bankruptcy proceedings, such Settling Defendant shall notify the United States

within three (3) days of such filing.

7. Compliance With Applicable Law.

All activities undertaken by Settling Defendants pursuant to this Consent Decree shall be performed in accordance with the requirements of all applicable federal and state laws and regulations. Settling Defendants must also comply with all applicable or relevant and appropriate requirements of all Federal and state environmental laws as set forth in the ROD. The activities conducted pursuant to this Consent Decree, if approved by EPA, shall be considered to be consistent with the NCP.

8. Permits.

a. As provided in Section 121(e) of CERCLA and Section 300.400(e) of the NCP, no permit shall be required for any portion of the Work conducted entirely on-site (i.e., within the areal extent of contamination or in very close proximity to the contamination and necessary for implementation of the Work). Where any portion of the Work that is not on-site requires a federal or state permit or approval, Settling Defendants shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals.

b. The Settling Defendants may seek relief under the provisions of Section XVII (Force Majeure) of this Consent Decree for any delay in the performance of the Work resulting from a failure to obtain, or a delay in obtaining, any permit required for the Work.

c. This Consent Decree is not, and shall not be construed to be, a permit issued pursuant to any federal, state or local statute, regulation, or ordinance.

9. Pre-Entry Obligations Under This Consent Decree

Settling Defendants' Consent Decree obligations scheduled to arise prior to the effective date

of this Consent Decree shall be legally enforceable once this Consent Decree has been entered by the Court pursuant to Section XXVI (Effective Date), below. If applicable, payment of stipulated penalties for violation of pre-entry obligations may be demanded by the United States as provided in Section XIX (Stipulated Penalties) of this Consent Decree upon the effective date of this Consent Decree. Such payments may be demanded for the entire period beginning on the pre-entry date on which the obligation should have been met to the date of actual compliance.

10. Notice of Obligations to Successors-in-Title.

a. With respect to any property owned or controlled by the Settling Defendants that is located within the Site, within fifteen (15) days after the entry of this Consent Decree, the Settling Defendants shall each submit to EPA for review and approval, and to the State for reasonable opportunity for review and comment, a notice to be filed with the Recorder's Office, Mercer County, Commonwealth of Pennsylvania, which shall provide notice to all successors-in-title that the property is part of the Site, that EPA selected a remedy for the Site on February 18, 1999, and that potentially responsible parties have entered into a Consent Decree requiring implementation of the remedy. Such notice(s) shall identify the United States District Court in which the Consent Decree was filed, the name and civil action number of this case, and the date the Consent Decree was entered by the Court. Such notice(s) shall recite the Settling Defendants' obligation to provide access and institutional controls pursuant to Section VIII of this Consent Decree. The Settling Defendants shall record the notice(s) within ten (10) days of EPA's approval of the notice(s). The Settling Defendants shall not modify or release such notice(s) without prior written approval of EPA, after reasonable opportunity for review and comment by the State. The Settling Defendant(s) shall provide EPA and the State with a

certified copy of the recorded notice(s) within 10 days of recording such notice(s).

b. At least thirty (30) days prior to the conveyance of any interest in property located within the Site including, but not limited to, fee interests, leasehold interests, and mortgage interests, the Settling Defendant(s) conveying the interest shall give the grantee written notice of (i) this Consent Decree; and (ii) any instrument by which an interest in real property on the Site has been conveyed pursuant to Section VIII (Access and Institutional Controls). At least thirty (30) days prior to such conveyance, the Settling Defendants conveying the interest shall also give written notice to EPA and the State of the proposed conveyance, including the name and address of the grantee, and the date on which notice of the Consent Decree, access easements, and/or restrictive easements was given to the grantee.

c. In the event of any such conveyance, the Settling Defendants' obligations under this Consent Decree, including, but not limited to, their obligation to provide or secure access and institutional controls, as well as to abide by such institutional controls, pursuant to Section VIII (Access and Institutional Controls) of this Consent Decree, shall continue to be met by the Settling Defendants. In no event shall the conveyance release or otherwise affect the obligation of the Settling Defendants to comply with all provisions of this Consent Decree, absent the prior written approval of EPA. If the United States and the State approve, the grantee may perform some or all of the Work under this Consent Decree.

VI. PERFORMANCE OF THE WORK BY SETTLING DEFENDANTS

11. Selection of Contractors.

a. Supervising Contractor.

i) All aspects of the Work to be performed by Settling Defendants pursuant to Sections VI (Performance of the Work by Settling Defendants), VII (Quality Assurance, Sampling, and Data Analysis), and XIV (Emergency Response) of this Consent Decree shall be under the direction and supervision of the Supervising Contractor, the selection of which shall be subject to acceptance or disapproval by EPA after reasonable opportunity for review and comment by the State. Within ten (10) days after the lodging of this Consent Decree, Settling Defendants shall notify EPA and the State in writing of the name, title, and qualifications of any contractor proposed to be the Supervising Contractor. EPA will issue a notice of disapproval or acceptance of the selection of such Supervising Contractor. If at any time thereafter, Settling Defendants propose to change a Supervising Contractor, Settling Defendants shall give such notice to EPA and the State and must obtain a notice of acceptance of such change from EPA, after reasonable opportunity for review and comment by the State, before the new Supervising Contractor performs, directs, or supervises any Work under this Consent Decree.

ii) If EPA disapproves the selection of a proposed Supervising Contractor, EPA will notify Settling Defendants in writing. Settling Defendants shall submit to EPA and the State a list of at least three contractors, including the qualifications of each contractor, that would be acceptable to them within thirty (30) days of receipt of EPA's notice. EPA will provide written notice of the names of any contractor(s) whose selection it would accept. Settling Defendants may select any contractor from that list and shall notify EPA and the State of the

name of the contractor selected within twenty-one (21) days of EPA's written notice.

iii) If EPA fails to provide written notice of its acceptance or disapproval as provided in this Paragraph and this failure prevents the Settling Defendants from meeting one or more deadlines in a plan approved by the EPA pursuant to this Consent Decree, Settling Defendants may seek relief under the provisions of Section XVII (Force Majeure) of this Consent Decree.

b. Other Contractors and Subcontractors.

The Settling Defendants shall submit to EPA and the State for acceptance or disapproval by EPA the names and qualifications of any additional contractors and subcontractors they propose to use to satisfy any requirement of this Consent Decree before such contractor or subcontractor performs any Work. If EPA does not respond with a notice accepting or disapproving the selection of the proposal for additional contractors and subcontractors within fourteen (14) days of receipt by EPA of Settling Defendants' selections, the proposal for additional contractors and subcontractors shall be deemed accepted. In the event EPA disapproves the selection of any proposed contractor or subcontractor, Settling Defendants shall submit to EPA and the State a list of at least three contractors or subcontractors, including the qualifications of each, that would be acceptable to them within ten (10) days of receipt of EPA's notice. EPA will provide written notice of the names of any contractor(s) or subcontractor(s) whose selection it would accept. Settling Defendants may select any contractor or subcontractor from that list and shall notify EPA and the State of the name of the contractor or subcontractor selected within five (5) days of EPA's written notice.

12. Remedial Design/Remedial Action.

a. Within forty-five (45) days after EPA's acceptance of the selection of the Supervising Contractor pursuant to Paragraph 11, Settling Defendants shall submit to EPA and the State a work plan for the design of the Remedial Action at the Site ("Remedial Design Work Plan" or "RD Work Plan"). The RD Work Plan shall be prepared by the individual(s) and/or entity(ies) responsible for completion of the Remedial Design, except to the extent the selection of such persons has been disapproved by EPA. The Remedial Design Work Plan shall provide for design of the remedy set forth in the ROD and for achievement of the Performance Standards and other requirements set forth in the ROD and this Consent Decree. Upon its approval by EPA, the Remedial Design Work Plan shall be incorporated into and become enforceable under this Consent Decree. The Settling Defendants shall also submit to EPA and the State, at the time the Remedial Design Work plan is submitted, a Health and Safety Plan for field design activities which conforms to the applicable Occupational Safety and Health Administration and EPA requirements including, but not limited to, 29 C.F.R. § 1910.120.

b. The Remedial Design Work Plan shall include plans, schedules, and methodologies for implementation of all remedial design and pre-design tasks and shall include, at a minimum:

i. a Site Management Plan;

ii. a Sampling and Analysis Plan, containing:

a. a Field Sampling Plan; and

b. a Quality Assurance Project Plan (QAPP);

iii. a Remedial Design Contingency Plan;

iv. a Treatability Study Work Plan which includes, at a minimum, plans and schedules for the preparation and submission of a Treatability Study Evaluation Report;

v. plans and schedules for the preparation and submission of a Preliminary Design Submittal (the preliminary design begins with the initial design and ends with the completion of approximately 30% of the design effort) containing, at a minimum:

a. a Design Criteria Report, including:

1. project description;

2. design requirements and provisions;

3. preliminary process flow diagrams;

4. operation & maintenance requirements;

b. a Basis of Design Report, including:

1. justification of design assumptions;

2. a project delivery strategy;

3. remedial action permits plan for off-site permits;

4. preliminary easement/access requirements;

c. Preliminary Drawings and Specifications, including:

1. outline of general specifications;

2. preliminary schematics and drawings;

3. chemical and geotechnical data (including data from pre-design activities);

d. a value engineering screen; and

e. preliminary Remedial Action schedule.

vi. plans and schedules for the preparation and submission of an intermediate design submittal which shall be submitted at approximately 60% percent of the design effort and shall address all of EPA's comments to the preliminary design and, at a minimum, additionally include:

a. a revised Design Criteria Report, if necessary;

b. a revised Basis of Design Report, if necessary;

c. any value engineering study results;

d. a revised Remedial Action schedule;

e. a preliminary Remedial Action contingency plan;

f. a preliminary Remedial Action Health and Safety Plan ("HASP") for EPA acceptance;

g. a preliminary Remedial Action waste management plan; and

h. a preliminary Remedial Action Sampling and Analysis Plan.

vii. plans and schedules for the preparation and submission of a pre-final design submittal which shall be submitted at approximately 90% of the design effort and shall address all of EPA's comments to the intermediate design, and, at a minimum, additionally include:

a. a preliminary Operation & Maintenance Plan;

b. a preliminary Construction Quality Assurance Plan ("CQAP") (the CQAP, which shall detail the approach to quality assurance during

construction activities at the Site, shall specify a quality assurance official ("QA Official"), independent of the Supervising Contractor, to conduct a quality assurance program during the construction phase of the project);

c. a preliminary Remedial Action decontamination plan;

d. a draft final Remedial Action schedule;

e. a draft final Remedial Action contingency plan; and

f. a draft final Remedial Action HASP for EPA acceptance.

viii. plans and schedules for the preparation and submission of a final design submittal which shall be submitted at 100% of the design effort and shall address all of EPA's comments to the pre-final design, and, at a minimum, additionally include:

a. a final Remedial Action schedule;

b. a final Remedial Action contingency plan;

c. a final Remedial Action HASP for EPA acceptance;

d. a final Remedial Action waste management plan;

e. a preliminary Remedial Action decontamination plan and a schedule for the submission of the final Remedial Action decontamination plan;

f. a final Design Criteria Report;

g. a final Remedial Action Sampling and Analysis Plan (directed at measuring progress towards meeting the Performance Standards);

h. a final Basis of Design Report;

i. final Drawings and Specifications;

j. a revised Operation & Maintenance Plan and a schedule for submission of the final Operation & Maintenance Plan;

k. a final Construction Quality Assurance Plan;

l. a final Remedial Action decontamination plan; and

m. a final project delivery strategy.

ix. a Remedial Design schedule.

c. Upon approval of the Remedial Design Work Plan by EPA, after reasonable opportunity for review and comment by the State, and submittal of the Health and Safety Plan for all field activities to EPA and the State, Settling Defendants shall implement the approved Remedial Design Work Plan in accordance with the schedules and methodologies contained therein. The Settling Defendants shall submit to EPA and the State all plans, submittals, and other deliverables required under the approved Remedial Design Work Plan in accordance with the approved schedule therein for review and approval pursuant to Section X (EPA Approval of Plans and Other Submissions). Unless otherwise directed by EPA, Settling Defendants shall not commence further Remedial Design field activities at the Site prior to approval of the Remedial Design Work Plan.

d. Upon approval, approval with conditions, or modification by EPA, as provided in Section X (EPA Approval of Plans and Other Submissions), of all components of the final design submittal, the final design submittal shall serve as the Remedial Action Work Plan and shall be enforceable under this Consent Decree. The Settling Defendants shall implement the activities

required under the Remedial Action Work Plan in accordance with the schedules and methodologies contained therein.

e. The Settling Defendants shall submit all plans, submittals, or other deliverables required under the Remedial Action Work Plan in accordance with the approved schedule for review and approval pursuant to Section X (EPA Approval of Plans and Other Submissions). Unless otherwise directed by EPA or required under the Remedial Design Work Plan, the Settling Defendants shall not commence physical activities at the Site prior to the date for commencement set forth in the approved schedule in the Remedial Action Work Plan.

13. Resident Engineer. Following EPA approval, approval with conditions, or modification by EPA, as provided in Section X (EPA Approval of Plans and Other Submissions), of all components of the final design submittal, and prior to commencement of any on-Site Work under the Remedial Action Work Plan, the Settling Defendants shall submit to EPA and the State the name and qualifications of a Resident Engineer to be present at the Site during construction to ensure that the Work is performed in accordance with the approved Remedial Action Work Plan. The Resident Engineer shall be familiar with all aspects of the Remedial Design approved by EPA. EPA retains the right to disapprove the use of any Resident Engineer proposed by Settling Defendants. In the event EPA disapproves the use of any proposed Resident Engineer, Settling Defendants shall submit to EPA and the State a list of at least three replacements, including the qualifications of each, who would be acceptable to them within five (5) days of receipt of EPA's notice. EPA will provide written notice of the names of any replacements whose use it would accept. Settling Defendants may select any replacement from the EPA notice and shall notify EPA and the State of the name of the replacement selected within three (3) days of EPA's written

notice. Settling Defendants shall ensure that the Resident Engineer performs on-Site inspections as necessary to ensure compliance with the approved Remedial Action Work Plan and that the results of such inspections are promptly provided to Settling Defendants, EPA, and the State. The Resident Engineer may act as the QA Official.

14. The Settling Defendants shall continue to implement the Remedial Action and O & M until EPA determines that the Performance Standards are achieved and for so long thereafter as is otherwise required under this Consent Decree.

15. Modification of the Work.

a. If EPA determines that modification of the Work is necessary to achieve and maintain the Performance Standards or to carry out and maintain the effectiveness of the remedy set forth in the ROD, EPA may (1) require that such modification be incorporated into the Remedial Design Work Plan, Remedial Action Work Plan, Operation and Maintenance Plan, and/or any other plan relating to such Work, and/or (2) require that Settling Defendants submit a plan for EPA approval which incorporates such modification to the Work and implement such approved plan. Provided, however, that a modification may be required pursuant to this Paragraph only to the extent that it is consistent with the scope of the remedy selected in the ROD.

b. For the purposes of this Paragraph 15 and Paragraph 46 only, the "scope of the remedy selected in the ROD" means:

i) tasks employing a technology, combination of technologies or activities described in Section XI (EPA's Selected Remedy) and Section XII (Performance Standards) of the ROD to achieve and maintain the objectives for soil remediation described in the ROD. The

technologies and activities discussed in Section XI of the ROD include:

A) further characterization of soils at areas of the Site delineated in the ROD to determine the need for further Remedial Action;

B) the excavation and treatment and/or off-site disposal of contaminated soils from the Site as defined in the ROD; and

C) institutional controls to limit future activities at the Site which would undermine or be inconsistent with the remediation of soils required by the ROD. Such institutional controls include but are not limited to the following: (1) restrictions on the excavation and disturbance of Site soils; (2) prevention of unsafe exposure to workers from contaminated soils during construction activities; (3) prevention of use of the land for residential purposes; and (4) notice to future owners of the existence of contamination of the Site and the existence of this Consent Decree and its institutional control requirements.

c. If Settling Defendants object to any modification determined by EPA to be necessary pursuant to this Paragraph 15 they may seek dispute resolution pursuant to Section XVIII (Dispute Resolution), Paragraph 63 The Remedial Design Work Plan, Remedial Action Work Plan, Operation and Maintenance Plan, and/or related work plans shall be modified in accordance with final resolution of the dispute.

d. Settling Defendants shall implement any work required by any modifications incorporated in the Remedial Design Work Plan, Remedial Action Work Plan, Operation and Maintenance Plan, and/or in work plans developed in accordance with this Paragraph 15.

e. Nothing in this Paragraph 15 shall be construed to limit EPA's authority to require performance of further response actions as otherwise provided in this Consent Decree or

CERCLA.

16 Settling Defendants acknowledge and agree that nothing in this Consent Decree or the Remedial Design or Remedial Action Work Plans constitutes a warranty or representation of any kind by Plaintiffs that compliance with the work requirements set forth in the Work Plans will achieve the Performance Standards.

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

a. The Settling Defendants shall include in the written notification the following information, where available:

i. the name and location of the facility to which the Waste Material is to be shipped;

ii. the type and quantity of the Waste Material to be shipped;

iii. the expected schedule for the shipment of the Waste Material; and

iv. the method of transportation.

The Settling Defendants shall notify the state in which the planned receiving facility is located of major changes in the shipment plan, such as a decision to ship the Waste Material to another facility within the same state, or to a facility in another state.

b. The identity of the receiving facility and state will be determined by the Settling Defendants following the award of the contract for Remedial Action construction. The Settling

Defendants shall provide the information required by Paragraph 16.a. as soon as practicable after the award of the contract but in no case less than seven (7) days before the Waste Material is actually shipped.

c. The Settling Defendants shall transfer Waste Materials only to a receiving facility that is in compliance with Section 121(d)(3) of CERCLA, 42 U.S.C. § 121(d)(3), and 40 C.F.R. § 300.440.

VII. QUALITY ASSURANCE, SAMPLING, AND DATA ANALYSIS

18. While conducting all sample collection and analysis activities required by this Consent Decree, the Settling Defendants shall implement quality assurance, quality control, and chain of custody procedures in accordance with "EPA Requirements for Quality Assurance Project Plans," External Review Draft (EPA QA/R-5) (October 1998); "EPA NEIC Policies and Procedures Manual," (Revised 1991) (EPA 330/978-001-R); National Functional Guidelines for Inorganic Data Review (EPA 540/R-94/013) (February 1994); and EPA Region III Modifications to the National Functional Guidelines for Inorganic Data Review (EPA Region III: April 1993); National Functional Guidelines for Organic Data Review (EPA 540/R-94/012) (February 1994) and EPA Region III Modifications to the National Functional Guidelines for Organic Data Review (EPA Region III: September 1994); "EPA Region III Innovative Approaches to Data Validation," (EPA Region III: June 1995); "Data Quality Objectives Process for Superfund," (EPA 540/R-93/071: September 1994); and subsequent amendments to such guidelines upon notification by EPA to Settling Defendants of such amendment. Amended guidelines shall apply only to procedures conducted after such notification. Prior to the commencement of any

monitoring project under this Consent Decree, Settling Defendants shall submit to EPA for approval, after reasonable opportunity for review and comment by the State, a Quality Assurance Project Plan ("QAPP") for the Work that is consistent with the NCP and the guidance documents cited above. If relevant to the proceeding, the Parties agree that validated sampling data generated in accordance with the QAPP(s) and reviewed and approved by EPA shall be admissible as evidence, without objection, in any proceeding under this Decree. Settling Defendants shall ensure that EPA and State personnel and their authorized representatives are allowed access at reasonable times to all laboratories utilized by Settling Defendants in implementing this Consent Decree. In addition, Settling Defendants shall ensure that such laboratories shall analyze all samples submitted by EPA pursuant to the QAPP for quality assurance monitoring. Settling Defendants shall ensure that the laboratories they utilize for the analysis of samples taken pursuant to this Decree perform all analyses according to accepted EPA methods. Settling Defendants shall submit to EPA the selected laboratories' Quality Assurance Program Plan (QAPP) and their qualifications, which shall include, at a minimum, previous certifications, Performance Evaluation (PE) results, equipment lists and personnel resumes. Settling Defendants shall ensure that all field methodologies utilized in collecting samples for subsequent analysis pursuant to this Decree will be conducted in accordance with the procedures set forth in the QAPP approved by EPA. At the request of EPA, Settling Defendants shall conduct one or more audits of the selected laboratories to verify analytical capability and compliance with the QAPP. Auditors shall conduct lab audits during the time the laboratories are analyzing samples collected pursuant to this Consent Decree. The lab audit shall be conducted according to procedures available from the QA Branch. Audit reports shall be

submitted to the EPA Project Coordinator within fifteen (15) days of completion of the audit. The Settling Defendants shall report serious deficiencies, including all those which adversely impact data quality, reliability or accuracy, and take action to correct such deficiencies within twenty-four (24) hours of the time the Settling Defendants knew or should have known of the deficiency.

19. Upon request, the Settling Defendants shall allow split or duplicate samples to be taken by EPA and the State or their authorized representatives. Settling Defendants shall notify EPA and the State not less than twenty-eight (28) days in advance of any sample collection activity unless shorter notice is agreed to by EPA. In addition, EPA and the State shall have the right to take any additional samples that EPA or the State deems necessary. Upon request, EPA and the State shall allow the Settling Defendants to take split or duplicate samples of any samples they take as part of the Plaintiffs' oversight of the Settling Defendants' implementation of the Work.

20. Settling Defendants shall submit to EPA and the State five (5) copies of the results of all sampling and/or tests or other data obtained or generated by or on behalf of Settling Defendants with respect to the Site and/or the implementation of this Consent Decree unless EPA agrees otherwise.

21. Notwithstanding any provision of this Consent Decree, the United States and the State hereby retain all of their information gathering and inspection authorities and rights, including enforcement actions related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

VIII. ACCESS AND INSTITUTIONAL CONTROLS

22. If the Site, or any other property where access and land and water use restrictions are needed to implement this Consent Decree, is owned or controlled by any of the Settling Defendants, each such Settling Defendant shall:

a. commencing on the date of lodging of this Consent Decree, provide the United States, the State and their representatives, including EPA, PADEP and their contractors, with access at all reasonable times to the Site, or such other property, for the purpose of conducting any activity related to this Consent Decree including, but not limited to, the following activities:

i. Monitoring the Work;

ii. Verifying any data or information submitted to the United States or the State;

iii. Conducting investigations relating to contamination at or near the Site;

iv. Obtaining samples;

v. Assessing the need for, planning, or implementing additional response actions at or near the Site;

vi. Implementing the Work pursuant to the conditions set forth in Paragraph 79 of this Consent Decree;

vii. Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Settling Defendants or their agents, consistent with Section XXIII (Access to Information);

viii. Assessing Settling Defendants' compliance with this Consent Decree; and

ix. Determining whether the Site or other property is being used in a manner that is prohibited or restricted, or that may need to be prohibited or restricted, by or pursuant to this Consent Decree or by any restrictive easements filed pursuant to this Consent Decree;

b. commencing on the date of lodging of this Consent Decree, refrain from using the Site, or such other property, in any manner that would interfere with or adversely affect the integrity or protectiveness of the remedial measures to be implemented pursuant to this Consent Decree. In addition, Settling Defendants shall refrain from using the Site, or such other property, for any purpose which might interfere with, obstruct, or disturb the performance, support, or supervision of the Work, including any Operation and Maintenance activities taken pursuant to this Consent Decree. Unless otherwise required for implementation of the Work under this Consent Decree or otherwise determined to be necessary by EPA, such restrictions include, but are not limited to, the following:

i. There shall be no installation or use of new groundwater wells or use of any existing groundwater wells;

ii. The land may not be used for any residential purposes; and

iii. There shall be no disturbance of the surface of the land by filling, drilling, excavation, removal of topsoil, rocks or minerals, or change in the topography of the land without at least thirty (30) days prior written approval from EPA, after reasonable opportunity for review and comment by the State, in accordance with Section XXV (Notices and Submissions).

c. prepare for execution and recordation in the Recorder's Office of Mercer County, Commonwealth of Pennsylvania, an easement, running with the land, that (i) grants a right of

access to each of the other Settling Defendants ("Grantees") for the purpose of conducting any activity related to this Consent Decree including, but not limited to, those activities listed in Paragraph 22(a) of this Consent Decree; and (ii) grants the right to each of the Grantees to enforce the use restrictions listed in Paragraph 22(b) of this Consent Decree, or other restrictions that EPA determines are necessary to implement, ensure non-interference with, or ensure the protectiveness of the remedial measures to be performed pursuant to this Consent Decree. Each Settling Defendant ("Settling Defendant Grantor") shall grant the access rights and the rights to enforce the use restrictions to the Grantees and their representatives. Each Settling Defendant Grantor shall, within forty-five (45) days of entry of this Consent Decree, submit to EPA for review and approval or disapproval, and to the State for reasonable opportunity for review and comment, with respect to each Settling Defendant Grantor's property:

i. a draft easement, in substantially the form attached hereto as Appendix B, that is enforceable by the Grantees under the laws of the Commonwealth of Pennsylvania and is free and clear of all prior liens and encumbrances (except as approved by EPA); and

ii. a current title commitment or report prepared in accordance with the U.S. Department of Justice Standards for the Preparation of Title Evidence in Land Acquisitions by the United States (1970) (the "Standards") (or the Commonwealth of Pennsylvania equivalent thereof).

Within fifteen (15) days of EPA's approval of the easement, each Settling Defendant Grantor shall execute the Easement and send the Easement to the Grantees for their signature. Within fifteen (15) of their receipt of the easement from each Settling Defendant Grantor, the Grantees

shall update the title search and, if it is determined that nothing has occurred since the effective date of the commitment or report to affect the title adversely, the Grantees shall execute and then record the easement with the Recorder's Office of Mercer County, Pennsylvania. Within thirty (30) days of recording the easement, the Grantees shall provide EPA and the State with final title evidence acceptable under the Standards (or the Commonwealth of Pennsylvania equivalent thereof), and a certified copy of the original recorded easement showing the Recorder's Office's recording stamps. The Grantees shall enforce and comply with the terms of the easement.

23. If the Site, or any other property where access and/or land and water use restrictions are needed to implement this Consent Decree, is owned or controlled by persons other than any of the Settling Defendants, Settling Defendants shall use best efforts to secure from each such person:

a. an agreement to provide access thereto for Settling Defendants, as well as for the United States on behalf of EPA, and the State, as well as their representatives (including contractors), for the purpose of conducting any activity related to this Consent Decree including, but not limited to, those activities listed in Paragraph 22(a) of this Consent Decree;

b. an agreement, enforceable by the Settling Defendants and the United States, to abide by the obligations and restrictions established by Paragraph 22(b) of this Consent Decree, or that are otherwise necessary to implement, ensure non-interference with, or ensure the protectiveness of the remedial measures to be performed pursuant to this Consent Decree; and

c. an easement for execution and recordation in the Recorder's Office of Mercer

County, Commonwealth of Pennsylvania, running with the land, that (i) grants a right of access for the purpose of conducting any activity related to this Consent Decree including, but not limited to, those activities listed in Paragraph 22(a) of this Consent Decree; and (ii) grants the right to enforce the land/water use restrictions listed in Paragraph 22(b) of this Consent Decree, or other restrictions that EPA determines are necessary to implement, ensure non-interference with, or ensure the protectiveness of the remedial measures to be performed pursuant to this Consent Decree. The access rights and/or rights to enforce land/water use restrictions shall be granted to each of the Settling Defendants and their representatives. Within forty-five (45) days of entry of this Consent Decree, Settling Defendants shall obtain from each such person ("Non-Defendant Grantor") for submission to EPA for review and approval or disapproval, and submission to the State for reasonable opportunity for review and comment, with respect to such property:

i. a draft easement, in substantially the form attached hereto as Appendix B, that is enforceable by the Settling Defendants under the laws of the Commonwealth of Pennsylvania and is free and clear of all prior liens and encumbrances (except as approved by EPA); and

ii. a current title commitment or report prepared in accordance with the Standards (or the Commonwealth of Pennsylvania equivalent thereof).

Within fifteen (15) days of EPA's approval of the easement, the Settling Defendants shall cause each Non-Defendant Grantor to execute the easement and send the easement to the Settling Defendants for the Settling Defendants' signatures. Within fifteen (15) of their receipt of the easement from each Non-Defendant Grantor, the Settling Defendants shall update the title search

and, if it is determined that nothing has occurred since the effective date of the commitment or report to affect the title adversely, the Settling Defendants shall execute and then record the easement with the Recorder's Office of Mercer County, Pennsylvania. Within thirty (30) days of recording the easement, the Settling Defendants shall provide EPA and the State with final title evidence acceptable under the Standards (or the Commonwealth of Pennsylvania equivalent thereof), and a certified copy of the original recorded easement showing the Recorder's Office's recording stamps. The Settling Defendants shall enforce and comply with the terms of the easement.

24. For purposes of Paragraph 23 of this Consent Decree, "best efforts" includes the payment of reasonable sums of money in consideration of access, access easements, land/water use restrictions, and/or restrictive easements. If any access or land/water use restriction agreements required by Paragraphs 23(a) or 23(b) of this Consent Decree are not obtained within forty-five (45) days of the date of entry of this Consent Decree, or any easements required by Paragraph 23(c) of this Consent Decree are not submitted to EPA and the State in draft form within forty-five (45) days of the date of entry of this Consent Decree, Settling Defendants shall promptly notify the United States and the State in writing, and shall include in that notification a summary of the steps that Settling Defendants have taken to attempt to comply with Paragraph 23 of this Consent Decree. The United States or the State may, as it deems appropriate, assist Settling Defendants in obtaining access or land/water use restrictions, either in the form of contractual agreements or in the form of easements running with the land. Settling Defendants shall reimburse the United States or the State in accordance with the procedures in Section XV (Reimbursement of Response Costs), for all costs incurred, direct and indirect, by the United

States or the State in obtaining such access and/or land/water use restrictions including, but not limited to, the cost of attorney time and the amount of monetary consideration paid or just compensation.

25. If EPA determines that land/water use restrictions in the form of state or local laws, regulations, ordinances or other governmental controls are needed to implement the remedy selected in the ROD, ensure the integrity and protectiveness thereof, or ensure non-interference therewith, Settling Defendants shall cooperate with EPA's efforts to secure such governmental controls.

26. Notwithstanding any provision of this Consent Decree, the United States and the State retain all of their access authorities and rights, as well as all of their rights to require land/water use restrictions, including enforcement authorities related thereto, under CERCLA, RCRA and any other applicable statute or regulations.

IX. REPORTING REQUIREMENTS

27. In addition to any other requirement of this Consent Decree, Settling Defendants shall submit to EPA and the State five (5) copies each of written progress reports that: (a) describe the actions which have been taken toward achieving compliance with this Consent Decree during the previous month; (b) include a summary of all results of sampling and tests and all other data received or generated by Settling Defendants or their contractors or agents in the previous month; (c) identify all work plans, plans, and other deliverables required by this Consent Decree completed and submitted during the previous month; (d) describe all actions, including, but not limited to, data collection and implementation of work plans, which are scheduled for the next

six weeks and provide other information relating to the progress of construction, including, but not limited to, critical path diagrams, Gantt charts, and Pert charts; (e) include information regarding percentage of completion, unresolved delays encountered or anticipated that may affect the future schedule for implementation of the Work, and a description of efforts made to mitigate those delays or anticipated delays; (f) include any modifications to the work plans or other schedules that Settling Defendants have proposed to EPA or that have been approved by EPA; and (g) describe all activities undertaken in support of the Community Relations Plan during the previous month and those to be undertaken in the next six weeks. Settling Defendants shall submit these progress reports to EPA and the State by the tenth day of every month following the lodging of this Consent Decree until EPA, after reasonable opportunity for review and comment by the State, notifies the Settling Defendants pursuant to Paragraph 46.b of Section XIII (Certification of Completion). If requested by EPA or the State, Settling Defendants shall also provide briefings for EPA and the State to discuss the progress of the Work.

28. The Settling Defendants shall notify EPA of any change in the schedule described in the monthly progress report for the performance of any activity, including, but not limited to, implementation of work plans, no later than seven (7) days prior to the performance of the activity. Notwithstanding the foregoing, the Settling Defendants shall notify EPA of any change in the schedule described in the monthly progress reports for the performance of data collection no later than thirty (30) days prior to the performance of such activity.

29. Upon the occurrence of any event during performance of the Work that Settling Defendants are required to report pursuant to Section 103 of CERCLA or Section 304 of the Emergency Planning and Community Right-to-Know Act (EPCRA), Settling Defendants shall

within twenty-four (24) hours of the onset of such event orally notify the EPA Project Coordinator or the Alternate EPA Project Coordinator (in the event of the unavailability of the EPA Project Coordinator), or, in the event that neither the EPA Project Coordinator or Alternate EPA Project Coordinator is available, the EPA Region III Hotline at (215) 814-9016. These reporting requirements are in addition to the reporting required by CERCLA § 103 or EPCRA § 304.

30. Within twenty (20) days of the onset of such an event, Settling Defendants shall furnish to Plaintiffs a written report, signed by the Settling Defendants' Project Coordinator, setting forth the events which occurred and the measures taken, and to be taken, in response thereto. Within thirty (30) days of the conclusion of such an event, Settling Defendants shall submit a report setting forth all actions taken in response thereto.

31. Settling Defendants shall submit five (5) copies of all plans, reports, and data required by the Remedial Design Work Plan, the Remedial Action Work Plan, or any other approved plans to EPA in accordance with the schedules set forth in such plans. Settling Defendants shall simultaneously submit (5) copies of all such plans, reports, and data to the State.

32. All reports and other documents submitted by Settling Defendants to EPA (other than the monthly progress reports referred to above) which purport to document Settling Defendants' compliance with the terms of this Consent Decree shall be signed by a Duly Authorized Representative of the Settling Defendants.

X. EPA APPROVAL OF PLANS AND OTHER SUBMISSIONS

33. After review of any plan, report or other item which is required to be submitted for

approval pursuant to this Consent Decree, EPA, after reasonable opportunity for review and comment by the State, shall: (a) approve, in whole or in part, the submission; (b) approve the submission upon specified conditions; (c) modify the submission to cure the deficiencies; (d) disapprove, in whole or in part, the submission, directing that the Settling Defendants modify the submission; or (e) any combination of the above. However, EPA shall not modify a submission without first providing Settling Defendants at least one notice of deficiency and an opportunity to cure within fourteen (14) days, or such other time as specified by EPA in such notice, except where to do so could cause serious disruption to the Work, or where previous submission(s) have been disapproved due to material defects and the deficiencies in the submission under consideration indicate to EPA a bad faith lack of effort to submit an acceptable deliverable.

34. In the event of approval, approval upon conditions, or modification by EPA, pursuant to Paragraph 33(a), (b), or (c), Settling Defendants shall proceed to take any action required by the plan, report, or other item, as approved or modified by EPA subject only to their right to invoke the Dispute Resolution procedures set forth in Section XVIII (Dispute Resolution) with respect to the modifications or conditions made by EPA. In the event that EPA modifies the submission to cure the deficiencies pursuant to Paragraph 33(c) and the submission has a material defect, EPA retains its right to seek stipulated penalties, as provided in Section XIX (Stipulated Penalties).

35.a. Upon receipt of a notice of disapproval pursuant to Paragraph 33(d), Settling Defendants shall, within fourteen (14) days, or such other time as specified by EPA in such notice, correct the deficiencies and resubmit the plan, report, or other item for approval. Any stipulated penalties applicable to the submission, as provided in Section XIX, shall accrue during the fourteen (14)-day period, or otherwise specified period, but shall not be payable unless the

resubmission is disapproved or modified due to a material defect as provided in Paragraphs 36 and 37.

b. Notwithstanding the receipt of a notice of disapproval pursuant to Paragraph 33(d), Settling Defendants shall proceed, at the direction of EPA, to take any action required by any non-deficient portion of the submission. Implementation of any non-deficient portion of a submission shall not relieve Settling Defendants of any liability for stipulated penalties under Section XIX (Stipulated Penalties).

36. In the event that a resubmitted plan, report or other item, or portion thereof, is disapproved by EPA, EPA may again require the Settling Defendants to correct the deficiencies, in accordance with the preceding Paragraphs. EPA also retains the right to modify or develop the plan, report or other item. Settling Defendants shall implement any such plan, report, or item as modified or developed by EPA, subject only to their right to invoke the procedures set forth in Section XVIII (Dispute Resolution).

37. If upon resubmission, a plan, report, or item is disapproved or modified by EPA due to a material defect, Settling Defendants shall be deemed to have failed to submit such plan, report, or item timely and adequately unless the Settling Defendants invoke the dispute resolution procedures set forth in Section XVIII (Dispute Resolution) and EPA's action is overturned pursuant to that Section. The provisions of Section XVIII (Dispute Resolution) and Section XIX (Stipulated Penalties) shall govern the implementation of the Work and accrual and payment of any stipulated penalties during Dispute Resolution. If EPA's disapproval or modification is upheld, stipulated penalties shall accrue for such violation from the date on which the initial submission was originally required, as provided in Section XIX.

38. All plans, reports, and other items required to be submitted to EPA under this Consent Decree shall, upon approval or modification by EPA, be enforceable under this Consent Decree. In the event EPA approves or modifies a portion of a plan, report, or other item required to be submitted to EPA under this Consent Decree, the approved or modified portion shall be enforceable under this Consent Decree.

XI. PROJECT COORDINATORS

39.a. The EPA Project Coordinator and Alternate Project Coordinator for this Site are:

EPA Project Coordinator:

Victor Janosik (3HS22)
U.S. Environmental Protection Agency
1650 Arch Street
Philadelphia, PA 19103
(215) 814-3217 (phone)
(215) 814-3002 (telefax)

EPA Alternate Project Coordinator:

Gregg Crystall (3HS22)
U.S. Environmental Protection Agency
1650 Arch Street
Philadelphia, PA 19103
(215) 814-3207 (phone)
(215) 814-3002 (telefax)

39.b. The State Project Coordinator ano Alternate Project Coordinator for this Site are:

State Project Coordinator:

Charles Tordella
State Project Coordinator
Pennsylvania Department of Environmental Protection
230 Chestnut Street
Meadville, PA 16335
(814) 332-6071 (phone)
(814) 332-6121 (telefax)

State Alternate Project Coordinator:

Christine Dougherty
Program Supervisor
Pennsylvania Department of Environmental Protection
230 Chestnut Street
Meadville, PA 16335
(814) 332-6648 (phone)
(814) 332-6121 (telefax)

Within twenty (20) days of lodging this Consent Decree, Settling Defendants shall notify EPA and the State, in writing, of the name, address and telephone number of their designated Project Coordinator and Alternate Project Coordinator. If a Project Coordinator or Alternate Project Coordinator initially designated is changed, the identity of the successor will be given to the other Parties at least five (5) working days before the changes occur, unless impracticable, but in no event later than the actual day the change is made. The Settling Defendants' Project Coordinator and Alternate Project Coordinator shall be subject to acceptance or disapproval by EPA and shall have the technical expertise sufficient to adequately oversee all aspects of the Work. The Settling Defendants' Project Coordinator and Alternate Project Coordinator shall not be an attorney for any of the Settling Defendants in this matter. The Settling Defendants' Project Coordinator and Alternate Project Coordinator may assign other representatives, including other

contractors, to serve as a Site representative for oversight of performance of daily operations during remedial activities.

40. Plaintiffs may designate other representatives, including, but not limited to, EPA and State employees, and federal and state contractors and consultants, to observe and monitor the progress of any activity undertaken pursuant to this Consent Decree. EPA's Project Coordinator and Alternate Project Coordinator shall have the authority lawfully vested in a Remedial Project Manager and an On-Scene Coordinator by the National Contingency Plan, 40 C.F.R. Part 300. In addition, EPA's Project Coordinator and Alternate Project Coordinator shall have authority, consistent with the National Contingency Plan, to halt any Work required by this Consent Decree and to take any necessary response action when s/he determines that conditions at the Site constitute an emergency situation or may present an immediate threat to public health or welfare or the environment due to release or threatened release of Waste Material.

41. EPA's Project Coordinator and the Settling Defendants' Project Coordinator will meet, at a minimum, on a monthly basis.

XII. ASSURANCE OF ABILITY TO COMPLETE WORK

42. Within thirty (30) days of entry of this Consent Decree, Settling Defendants shall establish and maintain financial security in the amount of $6,000,000.00 in one or more of the following forms:

a. A surety bond guaranteeing performance of the Work;

b. One or more irrevocable letters of credit equaling the total estimated cost of the Work;

c. A trust fund;

d. A guarantee to perform the Work by one or more parent corporations or subsidiaries, or by one or more unrelated corporations that have a substantial business relationship with at least one of the Settling Defendants; or

e. A demonstration that one or more of the Settling Defendants satisfy the requirements of 40 C.F.R. § 264.143(f) (for these purposes, references in 40 C.F.R. § 264.143(f) to "the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates" shall mean the amount of financial security specified above). Such financial security shall be maintained by the Settling Defendants until EPA agrees that the Work has been completed and issues a Certification of Completion in accordance with Paragraph 46.b.

43. If the Settling Defendants seek to demonstrate the ability to complete the Work through a guarantee by a third party pursuant to Paragraph 42(d) of this Consent Decree, Settling Defendants shall demonstrate that the guarantor satisfies the requirements of 40 C.F.R. § 264.143(f). If Settling Defendants seek to demonstrate their ability to complete the Work by means of the financial test or the corporate guarantee pursuant to Paragraph 42(d) or (e), they shall resubmit sworn statements conveying the information required by 40 C.F.R. § 264.143(f) annually, on the anniversary of the effective date of this Consent Decree. In the event that EPA, after reasonable opportunity for review and comment by the State, determines at any time that the financial assurances provided pursuant to this Section are inadequate, Settling Defendants shall, within thirty (30) days of receipt of notice of EPA's determination, obtain and present to EPA for approval one of the other forms of financial assurance listed in Paragraph 42 of this Consent

Decree. Settling Defendants' inability to demonstrate financial ability to complete the Work shall not excuse performance of any activities required under this Consent Decree.

44. If Settling Defendants can show that the estimated cost to complete the remaining Work has diminished below the amount set forth in Paragraph 42 above after entry of this Consent Decree, Settling Defendants may, on any anniversary date of entry of this Consent Decree, or at any other time agreed to by the Parties, reduce the amount of the financial security provided under this Section to the estimated cost of the remaining work to be performed. Settling Defendants shall submit a proposal for such reduction to EPA, in accordance with the requirements of this Section, and may reduce the amount of the security upon approval by EPA. In the event of a dispute, Settling Defendants may reduce the amount of the security in accordance with the final administrative or judicial decision resolving the dispute.

45. Settling Defendants may change the form of financial assurance provided under this Section at any time, upon notice to and approval by EPA, provided that the new form of assurance meets the requirements of this Section. In the event of a dispute, Settling Defendants may change the form of the financial assurance only in accordance with the final administrative or judicial decision resolving the dispute.

XIII. CERTIFICATION OF COMPLETION

46. Completion of the Work

a. Within ninety (90) days after Settling Defendants conclude that all phases of the Work (including O & M), have been fully performed, Settling Defendants shall schedule and conduct a pre-certification inspection to be attended by Settling Defendants, EPA and the State.

If, after the pre-certification inspection, the Settling Defendants still believe that the Work has been fully performed, Settling Defendants shall submit a written report by a registered professional engineer stating that the Work has been completed in full satisfaction of the requirements of this Consent Decree. The report shall contain the following statement, signed by a Duly Authorized Representative of a Settling Defendant or the Settling Defendants' Project Coordinator:

> "To the best of my knowledge, after thorough investigation, I certify that the information contained in or accompanying this submission is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

If, after review of the written report, EPA, after reasonable opportunity for review and comment by the State, determines that any portion of the Work has not been completed in accordance with this Consent Decree, EPA will notify Settling Defendants in writing of the activities that must be undertaken by Settling Defendants pursuant to this Consent Decree to complete the Work. Provided, however, that EPA may only require Settling Defendants to perform such activities pursuant to this Paragraph to the extent that such activities are consistent with the "scope of the remedy selected in the ROD," as that term is defined in Paragraph 15.b. EPA will set forth in the notice a schedule for performance of such activities consistent with the Consent Decree or require the Settling Defendants to submit a schedule to EPA for approval pursuant to Section X (EPA Approval of Plans and Other Submissions). Settling Defendants shall perform all activities described in the notice in accordance with the specifications and schedules established therein, subject to their right to invoke the dispute resolution procedures set forth in Section XVIII (Dispute Resolution).

b. If EPA concludes, based on the initial or any subsequent request for Certification of Completion by Settling Defendants and after reasonable opportunity for review and comment by the State, that the Work has been performed in accordance with this Consent Decree, EPA will so notify the Settling Defendants in writing.

XIV. EMERGENCY RESPONSE

47. In the event of any action or occurrence during the performance of the Work which causes or threatens a release of Waste Material from the Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Settling Defendants shall, subject to Paragraph 48, immediately take all appropriate action to prevent, abate, or minimize such release or threat of release, and shall immediately notify the EPA's Project Coordinator, or, if the Project Coordinator is unavailable, EPA's Alternate Project Coordinator. If neither of these persons is available, the Settling Defendants shall notify the EPA Region III Hotline at (215) 814-9016. Settling Defendants shall take such actions in consultation with EPA's Project Coordinator or other available authorized EPA officer and in accordance with all applicable provisions of the Health and Safety Plans, the Contingency Plans, and any other applicable plans or documents developed pursuant to this Consent Decree. In the event that Settling Defendants fail to take appropriate response action as required by this Section, and EPA or, as appropriate, the State, takes such action instead, Settling Defendants shall reimburse EPA and the State for all costs of the response action not inconsistent with the NCP pursuant to Section XV (Reimbursement of Response Costs).

48. Nothing in the preceding Paragraph or in this Consent Decree shall be deemed to limit

any authority of the United States or the State to (a) take all appropriate action to protect human health and the environment or to prevent, abate, respond to, or minimize an actual or threatened release of Waste Material on, at, or from the Site; or (b) direct or order such action, or seek an order from the Court, to protect human health and the environment or to prevent, abate, respond to, or minimize an actual or threatened release of Waste Material on, at, or from the Site, subject to Section XX (Covenants Not to Sue by Plaintiffs).

XV. REIMBURSEMENT OF RESPONSE COSTS

49. Within thirty (30) days of the effective date of this Consent Decree, Settling Defendants shall pay to the EPA Hazardous Substance Superfund $1,202,266.00, in reimbursement of the United States' Past Response Costs, by FedWire Electronic Funds Transfer ("EFT" or wire transfer) to the U.S. Department of Justice account in accordance with current electronic funds transfer procedures, referencing U.S.A.O. file number [ ], the EPA Region and Site/Spill ID #03Y7, and DOJ case number [ ]. Payment shall be made in accordance with instructions provided to the Settling Defendants by the Financial Litigation Unit of the United States Attorney's Office for the Western District of Pennsylvania following lodging of the Consent Decree. Any payments received by the Department of Justice after 4:00 P.M. (Eastern Time) will be credited on the next business day. Settling Defendants shall send notice that such payment has been made to the United States as specified in Section XXV (Notices and Submissions) and to the Docket Clerk (3RC00), United States Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103.

50.a. Settling Defendants shall reimburse the EPA Hazardous Substance Superfund for

all of the United States' Future Response Costs not inconsistent with the National Contingency Plan. The United States will send Settling Defendants a bill requiring payment that includes a cost summary, setting forth direct and indirect costs incurred by EPA, Department of Justice, and their contractors on a periodic basis. Settling Defendants shall make all payments within thirty (30) days of Settling Defendants' receipt of each bill requiring payment, except as otherwise provided in Paragraph 51. The Settling Defendants shall make all payments required by this Paragraph in the form of a certified or cashier's check or checks made payable to "EPA Hazardous Substance Superfund" and referencing the EPA Region and Site/Spill ID #03Y7, the DOJ case number [ ] and the name and address of the party making payment. The Settling Defendants shall send the check(s) to United States Environmental Protection Agency, Region III, Attention: Superfund Accounting, P.O. Box 360515, Pittsburgh, PA 15251-6515, and shall send copies of the check(s) to the United States as specified in Section XXV (Notices and Submissions) and to the Docket Clerk (3RC00), United States Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103.

b. Settling Defendants shall reimburse the State for all of the State's Future Response Costs not inconsistent with the National Contingency Plan. The State will send Settling Defendants a bill requiring payment that includes a State-prepared cost summary, which includes direct and indirect costs incurred by the State and its contractors on a periodic basis. Settling Defendants shall make all payments within thirty (30) days of Settling Defendants' receipt of each bill requiring payment, except as otherwise provided in Paragraph 51. The Settling Defendants shall make all payments to the State required by this paragraph in the form of a certified or cashier's check or checks made payable to the Commonwealth of Pennsylvania

Hazardous Sites Cleanup Fund. The Settling Defendants shall send the check(s) to Charles Tordella, State Project Coordinator, Pennsylvania Department of Environmental Protection, 230 Chestnut Street, Meadville, PA 16335.

c. Notwithstanding Paragraph 50.a, the Settling Defendants shall be obligated to reimburse the United States for Oversight Costs incurred in connection with Remedial Design and oversight of Removal Actions only if the decision in United States v. Rohm & Haas Co., No. 92-1517 (3rd Cir. Aug. 12, 1993), regarding the liability of responsible parties under Section 107(a)(4)(A) of CERCLA for EPA oversight costs is reversed or overturned by the Court of Appeals for the Third Circuit, the United States Supreme Court, or the United States Congress through amendment to CERCLA or otherwise. Nothing in this Paragraph 50.c shall be deemed to be an adjudication by this Court or an admission by EPA or the United States or shall be admissible in any other proceeding as to the legal issue whether oversight costs are properly recoverable under Section 107 of CERCLA or pursuant to a settlement of such an action.

51. Settling Defendants may contest payment of any Future Response Costs under Paragraph 50 if they determine that the United States or the State has made an accounting error or if they allege that a cost item that is included represents costs that are inconsistent with the NCP. Such objection shall be made in writing within thirty (30) days of receipt of the bill and must be sent to the United States, if the United States' accounting is being disputed, or the State, if the State's accounting is being disputed, pursuant to Section XXV (Notices and Submissions). Any such objection shall specifically identify the contested Future Response Costs and the basis for objection. In the event of an objection, the Settling Defendants shall, within the thirty (30)-day period, pay all uncontested Future Response Costs to the United States or the State in the

manner described in Paragraph 50. Simultaneously, the Settling Defendants shall establish an interest-bearing escrow account in a federally-insured, duly chartered, bank in the Commonwealth of Pennsylvania and remit to that escrow account funds equivalent to the amount of the contested Future Response Costs. The Settling Defendants shall send to the United States and the State, as provided in Section XXV (Notices and Submissions), a copy of the transmittal letter and check paying the uncontested Future Response Costs, and a copy of the correspondence that establishes and funds the escrow account, including, but not limited to, information containing the identity of the bank and bank account under which the escrow account is established as well as a bank statement showing the initial balance of the escrow account. Simultaneously with establishment of the escrow account, the Settling Defendants shall initiate the Dispute Resolution procedures in Section XVIII (Dispute Resolution). If the United States or the State prevails in the dispute, within five (5) days of the resolution of the dispute, the Settling Defendants shall pay the sums due (with accrued interest) to the United States or to the State, if State costs are disputed, in the manner described in Paragraph 50. If the Settling Defendants prevail concerning any aspect of the contested costs, the Settling Defendants shall pay that portion of the costs (plus associated accrued interest) for which they did not prevail to the United States and the State, if State costs are disputed, in the manner described in Paragraph 50; Settling Defendants shall be disbursed any balance of the escrow account. The dispute resolution procedures set forth in this Paragraph in conjunction with the procedures set forth in Section XVIII (Dispute Resolution) shall be the exclusive mechanisms for resolving disputes regarding the Settling Defendants' obligation to reimburse the United States and the State for their Future Response Costs.

52. In the event that the payments required by Paragraph 49 are not made within thirty (30) days of the effective date of this Consent Decree or the payments required by Paragraph 50 are not made within thirty (30) days of the Settling Defendants' receipt of the bill, Settling Defendants shall pay Interest on the unpaid balance. The Interest to be paid on the United States' Past Response Costs under this Paragraph shall begin to accrue thirty (30) days after the effective date of this Consent Decree. The Interest on Future Response Costs shall begin to accrue on the date of the bill. The Interest shall accrue through the date of the Settling Defendants' payment. Payments of Interest made under this Paragraph 52 shall be in addition to such other remedies or sanctions available to Plaintiffs by virtue of Settling Defendants' failure to make timely payments under this Section. The Settling Defendants shall make all payments required by this Paragraph 52 in the manner described in Paragraph 50.

XVI. INDEMNIFICATION AND INSURANCE

53.a. The United States and the State do not assume any liability by entering into this agreement or by virtue of any designation of Settling Defendants as EPA's authorized representatives under Section 104(e) of CERCLA. Settling Defendants shall indemnify, save, and hold harmless the United States, the State, and their officials, agents, employees, contractors, subcontractors, or representatives for or from any and all claims or causes of action arising from, or on account of, negligent or other wrongful acts or omissions of Settling Defendants, their officers, directors, employees, agents, contractors, subcontractors, and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Consent Decree, including, but not limited to, any claims arising from any designation of Settling Defendants as EPA's

authorized representatives under Section 104(e) of CERCLA. Further, the Settling Defendants agree to pay the United States and the State all costs they incur including, but not limited to, attorneys' fees and other expenses of litigation and settlement arising from, or on account of, claims made against the United States and the State based on negligent or other wrongful acts or omissions of Settling Defendants, their officers, directors, employees, agents, contractors, subcontractors, and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Consent Decree. Neither the United States nor the State shall be held out as a party to any contract entered into by or on behalf of Settling Defendants in carrying out activities pursuant to this Consent Decree. Neither the Settling Defendants nor any such contractor shall be considered an agent of the United States or the State.

b. The United States or the State shall give Settling Defendants notice of any claim for which the United States or the State plans to seek indemnification pursuant to Paragraph 53.a., and shall consult with Settling Defendants prior to settling such claim.

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

of construction delays.

55. No later than fifteen (15) days before commencing any on-site Work, Settling Defendants shall secure, and shall maintain until the first anniversary of EPA's Certification of Completion pursuant to Paragraph 46.b. of Section XIII (Certification of Completion) comprehensive general liability insurance with limits of five million dollars, combined single limit, and automobile liability insurance with limits of $500,000, combined single limit, naming the United States and the State as additional insureds. In addition, for the duration of this Consent Decree, Settling Defendants shall satisfy, or shall ensure that their contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of Settling Defendants in furtherance of this Consent Decree. Prior to commencement of the Work under this Consent Decree, Settling Defendants shall provide to EPA certificates of such insurance and a copy of each insurance policy. Settling Defendants shall resubmit such certificates and copies of policies each year on the anniversary of the effective date of this Consent Decree. If Settling Defendants demonstrate by evidence satisfactory to EPA and the State that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering the same risks but in a lesser amount, then, with respect to that contractor or subcontractor, Settling Defendants need provide only that portion of the insurance described above which is not maintained by the contractor or subcontractor. Settling Defendants may satisfy the provisions of this Paragraph 55 if they submit to EPA for approval one of the financial assurance mechanisms of Section XII (Assurance of Ability to Complete Work) in at least the amounts stated in this Paragraph 55 demonstrating that Settling Defendants are able to pay any claims arising out of Settling

Defendants' performance of their obligations under this Consent Decree. Such financial assurance mechanism shall meet all of the requirements of Section XII (Assurance of Ability to Complete Work). If Settling Defendants seek to utilize the mechanisms set forth in Section XII (Assurance of Ability to Complete Work) to satisfy the provisions of this Paragraph 55, they must demonstrate an ability to pay the amounts required under this Paragraph 55, above and beyond that required by the obligations of Section XII (Assurance of Ability to Complete Work).

XVII. FORCE MAJEURE

56. "Force majeure," for purposes of this Consent Decree, is defined as any event arising from causes beyond the control of the Settling Defendants, of any entity controlled by Settling Defendants, or of Settling Defendants' contractors, that delays or prevents the performance of any obligation under this Consent Decree despite Settling Defendants' best efforts to fulfill the obligation. The requirement that the Settling Defendants exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any potential force majeure event (a) as it is occurring; and (b) following the potential force majeure event, such that the delay is minimized to the greatest extent possible. Force Majeure does not include financial inability to complete the Work, a failure to attain the Performance Standards, or increased costs.

57. If any event occurs or has occurred that may delay the performance of any obligation under this Consent Decree, whether or not caused by a force majeure event, the Settling Defendants shall notify orally EPA's Project Coordinator or, in his absence, EPA's Alternate Project Coordinator, within forty-eight (48) hours of when Settling Defendants first knew that the

event might cause a delay. Within five (5) days thereafter, Settling Defendants shall provide in writing to EPA and the State an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; the Settling Defendants' rationale for attributing such delay to a force majeure event if they intend to assert such a claim; and a statement as to whether, in the opinion of the Settling Defendants, such event may cause or contribute to an endangerment to public health, welfare or the environment. The Settling Defendants shall include with any notice all available documentation supporting their claim that the delay was attributable to a force majeure. Failure to comply with the above requirements shall preclude Settling Defendants from asserting any claim of force majeure for that event for the period of time of such failure to comply, and for any additional delay caused by such failure. Settling Defendants shall be deemed to know of any circumstance of which Settling Defendants, any entity controlled by Settling Defendants, or Settling Defendants' contractors knew or should have known.

58. If EPA, after reasonable opportunity for review and comment by the State, agrees that the delay or anticipated delay is attributable to a force majeure event, the time for performance of the obligations under this Consent Decree that are affected by the force majeure event will be extended by EPA, after reasonable opportunity for review and comment by the State, for such time as is necessary to complete those obligations on an expedited basis. An extension of the time for performance of the obligations affected by the force majeure event shall not, of itself, extend the time for performance of any other obligation. If EPA, after reasonable opportunity for review and comment by the State, does not agree that the delay or anticipated delay has been or

will be caused by a force majeure event, EPA will notify the Settling Defendants in writing of its decision. If EPA, after reasonable opportunity for review and comment by the State, agrees that the delay is attributable to a force majeure event, EPA will notify the Settling Defendants in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure event.

59. If the Settling Defendants elect to invoke the dispute resolution procedures set forth in Section XVIII (Dispute Resolution), they shall do so no later than fifteen (15) days after receipt of EPA's notice. In any such proceeding, Settling Defendants shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure event, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that Settling Defendants complied with the requirements of Paragraphs 56 and 57, above. If Settling Defendants carry this burden, the delay at issue shall be deemed not to be a violation by Settling Defendants of the affected obligation of this Consent Decree identified to EPA and the Court.

XVIII. DISPUTE RESOLUTION

60. Unless otherwise expressly provided for in this Consent Decree, the dispute resolution procedures of this Section XVIII shall be the exclusive mechanism to resolve disputes arising under or with respect to this Consent Decree. However, the procedures set forth in this Section XVIII shall not apply to actions by the United States to enforce obligations of the Settling Defendants that have not been disputed in accordance with this Section XVIII.

61. Any dispute which arises under or with respect to this Consent Decree shall in the first instance be the subject of informal negotiations between the parties to the dispute. The period for informal negotiations shall not exceed twenty (20) days from the time the dispute arises, unless it is modified by written agreement of the parties to the dispute. The dispute shall be considered to have arisen when one party sends the other parties a written Notice of Dispute.

62. a. In the event that the parties cannot resolve a dispute by informal negotiations under the preceding Paragraph 61, then the position advanced by EPA shall be considered binding unless, within ten (10) days after the conclusion of the informal negotiation period, Settling Defendants invoke the formal dispute resolution procedures of this Section XVIII by serving on the United States and the State a written Statement of Position on the matter in dispute, including, but not limited to, any factual data, analysis or opinion supporting that position and any supporting documentation relied upon by the Settling Defendants. The Statement of Position shall specify the Settling Defendants' position as to whether formal dispute resolution should proceed under Paragraph 63 or Paragraph 64.

b. Within fourteen (14) days after receipt of Settling Defendants' Statement of Position, EPA will serve on Settling Defendants its Statement of Position, including, but not limited to, any factual data, analysis, or opinion supporting that position and all supporting documentation relied upon by EPA. EPA's Statement of Position shall include a statement as to whether formal dispute resolution should proceed under Paragraph 63 or 64. Within seven (7) days after receipt of EPA's Statement of Position, Settling Defendants may submit a Reply.

c. If there is disagreement between EPA and the Settling Defendants as to whether formal dispute resolution should proceed under Paragraph 63 or 64, the parties to the dispute

shall follow the procedures set forth in the Paragraph determined by EPA to be applicable. However, if the Settling Defendants ultimately appeal to the Court to resolve the dispute, the Court shall determine which Paragraph is applicable in accordance with the standards of applicability set forth in Paragraphs 63 and 64.

63. Formal dispute resolution for disputes pertaining to the selection or adequacy of any response action and all other disputes that are accorded review on the administrative record under applicable principles of administrative law shall be conducted pursuant to the procedures set forth in this Paragraph 63. For purposes of this Paragraph, the adequacy of any response action includes, without limitation: (1) the adequacy or appropriateness of plans, procedures to implement plans, or any other items requiring approval by EPA under this Consent Decree; and (2) the adequacy of the performance of response actions taken pursuant to this Consent Decree. Nothing in this Consent Decree shall be construed to allow any dispute by Settling Defendants regarding the validity of the ROD's provisions.

a. An administrative record of the dispute shall be maintained by EPA and shall contain all statements of position, including supporting documentation, submitted pursuant to this Section. Where appropriate, EPA may allow submission of supplemental statements of position by the parties to the dispute.

b. The Director of the Hazardous Site Cleanup Division, EPA Region III, will issue a final administrative decision resolving the dispute based on the administrative record described in Paragraph 63.a. This decision shall be binding upon the Settling Defendants, subject only to the right to seek judicial review pursuant to Paragraph 63.c. and d.

c. Any administrative decision made by EPA pursuant to Paragraph 63.b. shall be

reviewable by this Court, provided that a motion for judicial review of the decision is filed by the Settling Defendants with the Court and served on all Parties within ten (10) days of receipt of EPA's decision. The motion shall include a description of the matter in dispute, the efforts made by the parties to resolve it, the relief requested, and the schedule, if any, within which the dispute must be resolved to ensure orderly implementation of this Consent Decree. The United States may file a response to Settling Defendants' motion.

d. In proceedings on any dispute governed by this Paragraph 63, Settling Defendants shall have the burden of demonstrating that the decision of the Director of the Hazardous Site Cleanup Division, EPA Region III, is arbitrary and capricious or otherwise not in accordance with law. Judicial review of EPA's decision shall be on the administrative record compiled pursuant to Paragraph 63.a.

64. Formal dispute resolution for disputes that neither pertain to the selection or adequacy of any response action nor are otherwise accorded review on the administrative record under applicable principles of administrative law, shall be governed by this Paragraph 64.

a. Following receipt of Settling Defendants' Statement of Position submitted pursuant to Paragraph 62, the Director of the Hazardous Site Cleanup Division, EPA Region III, will issue a final decision resolving the dispute. The Director's decision shall be binding on the Settling Defendants unless, within ten (10) days of receipt of the decision, the Settling Defendants file with the Court and serve on the parties a motion for judicial review of the decision setting forth the matter in dispute, the efforts made by the parties to resolve it, the relief requested, and the schedule, if any, within which the dispute must be resolved to ensure orderly implementation of the Consent Decree. The United States may file a response to Settling

Defendants' motion.

b. Notwithstanding Paragraph M of Section I (Background) of this Consent Decree, judicial review of any dispute governed by this Paragraph shall be governed by applicable principles of law.

65. The invocation of formal dispute resolution procedures under this Section XVIII shall not extend, postpone, or affect in any way any obligation of the Settling Defendants under this Consent Decree unless EPA or the Court agrees otherwise. Stipulated penalties with respect to the disputed matter shall continue to accrue but payment shall be stayed pending resolution of the dispute as provided in Paragraph 74. Notwithstanding the stay of payment, stipulated penalties shall accrue from the first day of noncompliance with any applicable provision of this Consent Decree. In the event that the Settling Defendants do not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section XIX (Stipulated Penalties).

XIX. STIPULATED PENALTIES

66. Settling Defendants shall be liable for stipulated penalties in the amounts set forth in Paragraphs 67 and 68 to the United States for failure to comply with the requirements of this Consent Decree specified below, unless excused under Section XVII (Force Majeure). "Compliance" by Settling Defendants shall include completion of the activities under this Consent Decree or any work plan or other plan approved under this Consent Decree identified below in accordance with all applicable requirements of law, this Consent Decree, and any plans or other documents approved by EPA pursuant to this Consent Decree and within the specified time schedules established by and approved under this Consent Decree.

67. a. The following stipulated penalties shall accrue per violation per day for any noncompliance identified in Subparagraph 67.b:

Penalty Per Violation Per Day	Period of Noncompliance
$5,000	1st through 14th day
$10,000	15th through 30th day
$15,000	31st day and beyond

b. Failure to comply with requirements of Section VI (Performance of the Work by Settling Defendants), Section VII (Quality Assurance, Sampling, and Data Analysis), Section X (EPA Approval of Plans and Other Submissions), and Section XIV (Emergency Response).

68. The following stipulated penalties shall accrue per violation per day for any noncompliance identified in Subparagraph 68.b:

Penalty Per Violation Per Day	Period of Noncompliance
$1,000	1st through 14th day
$2,000	15th through 30th day
$3,000	30th day and beyond

b. All requirements of this Consent Decree that are not identified in Paragraph 67.b of this Consent Decree.

69. In the event that EPA assumes performance of a portion or all of the Work pursuant to Paragraph 79 of Section XX (Covenants Not to Sue by Plaintiffs), Settling Defendants shall be liable for a stipulated penalty in the amount of $100,000.

70. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs, and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. However, stipulated penalties shall not accrue: (1) with respect to a deficient submission under Section X (EPA Approval of Plans and Other

Submissions), during the period, if any, beginning on the 31st day after EPA's receipt of such submission until the date that EPA notifies Settling Defendants of any deficiency; (2) with respect to a decision by the Director of the Hazardous Site Cleanup Division, EPA Region III, under Paragraph 63.b. or 64.a. of Section XIX (Dispute Resolution), during the period, if any, beginning on the 21st day after the date that Settling Defendants' reply to EPA's Statement of Position is received until the date that the Director of the Hazardous Site Cleanup Division, EPA Region III, issues a final decision regarding such dispute; or (3) with respect to judicial review by this Court of any dispute under Section XVIII (Dispute Resolution), during the period, if any, beginning on the 31st day after the Court's receipt of the final submission regarding the dispute until the date that the Court issues a final decision regarding such dispute. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Decree.

71. Following EPA's determination that Settling Defendants have failed to comply with a requirement of this Consent Decree, EPA may give Settling Defendants written notification of the same and describe the noncompliance. EPA may send the Settling Defendants a written demand for the payment of the penalties. However, penalties shall accrue as provided in the preceding Paragraph 69 regardless of whether EPA has notified the Settling Defendants of a violation.

72. All penalties accruing under this Section shall be due and payable to the United States within thirty (30) days of the Settling Defendants' receipt from EPA of a demand for payment of the penalties, unless Settling Defendants invoke the Dispute Resolution procedures under Section XVIII (Dispute Resolution). All payments to the United States under this Section shall be paid

by certified or cashier's check(s) made payable to "EPA Hazardous Substances Superfund," shall be mailed to the United States Environmental Protection Agency, Region III, Attention: Superfund Accounting, P.O. Box 360515, Pittsburgh, PA 125251-6515, shall indicate that the payment is for stipulated penalties, and shall reference the EPA Region and Site/Spill ID #03Y7, the DOJ Case Number [ ], and the name and address of the party making payment. Copies of check(s) paid pursuant to this Section, and any accompanying transmittal letter(s), shall be sent to the United States as provided in Section XXV (Notices and Submissions), and to the Docket Clerk (3RC00), United States Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103.

73. The payment of penalties shall not alter in any way Settling Defendants' obligation to complete the performance of the Work required under this Consent Decree.

74. Penalties shall continue to accrue as provided in Paragraph 70 during any dispute resolution period, but need not be paid until the following:

a. If the dispute is resolved by agreement or by a decision of EPA that is not appealed to this Court, accrued penalties determined to be owing shall be paid to EPA within fifteen (15) days of the agreement or the receipt of EPA's decision or order;

b. If the dispute is appealed to this Court and the United States prevails in whole or in part, Settling Defendants shall pay all accrued penalties determined by the Court to be owed to EPA within sixty (60) days of receipt of the Court's decision or order, except as provided in Subparagraph c below;

c. If the District Court's decision is appealed by any Party, Settling Defendants shall pay all accrued penalties determined by the District Court to be owing to the United States into

an interest-bearing escrow account within sixty (60) days of receipt of the Court's decision or order. Penalties shall be paid into this account as they continue to accrue, at least every sixty (60) days. Within fifteen (15) days of receipt of the final appellate court decision, the escrow agent shall pay the balance of the account to EPA or to Settling Defendants to the extent that they prevail.

75. a. If Settling Defendants fail to pay stipulated penalties when due, the United States may institute proceedings to collect the penalties, as well as interest. Settling Defendants shall pay Interest on the unpaid balance, which shall begin to accrue on the date of demand made pursuant to Paragraph 72.

b. Nothing in this Consent Decree shall be construed as prohibiting, altering, or in any way limiting the ability of the United States to seek any other remedies or sanctions available by virtue of Settling Defendants' violation of this Decree or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to Section 122(l) of CERCLA. Provided, however, that for any particular violation of this Consent Decree, the United States shall be limited to either demanding stipulated penalties pursuant to this Section XIX of the Consent Decree or pursuing civil penalties pursuant to Section 122(l) of CERCLA.

76. Notwithstanding any other provision of this Section, the United States may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Consent Decree.

XX. COVENANTS NOT TO SUE BY PLAINTIFFS

77. In consideration of the actions that will be performed and the payments that will be made by the Settling Defendants under the terms of the Consent Decree, and except as specifically provided in Paragraph 78 of this Section XX, the United States covenants not to sue or to take administrative action against Settling Defendants pursuant to Sections 106 and 107(a) of CERCLA for performance of the Work and for recovery of the United States' Past Response Costs and the United States' Future Response Costs. These covenants not to sue shall take effect upon the receipt by EPA of the payments required by Paragraph 49 of Section XV (Reimbursement of Response Costs). These covenants not to sue are conditioned upon the satisfactory performance by Settling Defendants of their obligations under this Consent Decree. These covenants not to sue extend only to the Settling Defendants and do not extend to any other person.

78. General reservations of rights. The covenants not to sue set forth above do not pertain to any matters other than those expressly specified in Paragraph 77. The United States reserves, and this Consent Decree is without prejudice to, all rights against Settling Defendants with respect to all other matters, including but not limited to, the following:

a. claims based on a failure by Settling Defendants to meet a requirement of this Consent Decree;

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

c. liability for future disposal of Waste Material at the Site, other than as provided in the ROD, the Work, or otherwise ordered by EPA;

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

e. criminal liability;

f. liability for violations of federal or state law which occur during or after implementation of the Work;

g. liability, prior to Certification of Completion of the Work, for additional response actions that EPA determines are necessary to achieve Performance Standards, but that cannot be required pursuant to Paragraph 15 (Modification of the Work); and

h. liability for additional operable units at the Site or the final response action.

79. Work Takeover. In the event EPA determines that Settling Defendants have ceased implementation of any portion of the Work, are seriously or repeatedly deficient or late in their performance of the Work, or are implementing the Work in a manner which may cause an endangerment to human health or the environment, EPA may assume the performance of all or any portions of the Work as EPA determines necessary. Settling Defendants may invoke the procedures set forth in Section XVII (Dispute Resolution), Paragraph 63, to dispute EPA's determination that takeover of the Work is warranted under this Paragraph 79. Costs incurred by the United States in performing the Work pursuant to this Paragraph shall be considered Future Response Costs that Settling Defendants shall pay pursuant to Section XV (Reimbursement of Response Costs).

80. [The State's Covenant Not to Sue the Settling Defendants and Reservation of Rights will be added shortly.].

81. Notwithstanding any other provision of this Consent Decree, the United States and the

State retain all authority and reserve all rights to take any and all response actions authorized by law.

XXI. COVENANTS BY SETTLING DEFENDANTS

82. Covenant Not to Sue. Subject to the reservations in Paragraph 83, Settling Defendants hereby covenant not to sue and agree not to assert any claims or causes of action against the United States or the State with respect to the Work, past response actions, the United States' Past and the United States and State's Future Response Costs as defined herein or this Consent Decree, including, but not limited to:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund (established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507) through CERCLA §§ 106(b)(2), 107, 111, 112, 113, or any other provision of law;

b. any claims against the United States, including any department, agency or instrumentality of the United States under CERCLA Sections 107 or 113 related to the Site, or

c. any claims arising out of response activities at the Site, including claims based on EPA's and the State's selection of response actions, oversight of response activities or approval of plans for such activities.

83. The Settling Defendants reserve, and this Consent Decree is without prejudice to, claims against the United States, subject to the provisions of Chapter 171 of Title 28 of the United States Code, for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the United States while acting within the scope of his or her office or employment under circumstances where the United States,

if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. However, any such claim shall not include a claim for any damages caused, in whole or in part, by the act or omission of any person, including any contractor, who is not a federal employee as that term is defined in 28 U.S.C. § 2671; nor shall any such claim include a claim based on EPA's selection of response actions, or the oversight or approval of the Settling Defendants' plans or activities. The foregoing applies only to claims which are brought pursuant to any statute other than CERCLA and for which the waiver of sovereign immunity is found in a statute other than CERCLA.

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

XXII. EFFECT OF SETTLEMENT; CONTRIBUTION PROTECTION

85. Nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Decree. The preceding sentence shall not be construed to waive or nullify any rights that any person not a signatory to this decree may have under applicable law. Each of the Parties expressly reserves any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action which each Party may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto.

86. The Parties agree, and by entering this Consent Decree this Court finds, that the Settling Defendants are entitled, as of the effective date of this Consent Decree, to protection from

contribution actions or claims as provided by CERCLA Section 113(f)(2), 42 U.S.C. § 9613(f)(2), for matters addressed in this Consent Decree.

87. The Settling Defendants agree that with respect to any suit or claim for contribution brought by them for matters related to this Consent Decree they will notify the United States and the State in writing no later than sixty (60) days prior to the initiation of such suit or claim.

88. The Settling Defendants also agree that with respect to any suit or claim for contribution brought against them for matters related to this Consent Decree they will notify in writing the United States and the State within ten (10) days of service of the complaint on them. In addition, Settling Defendants shall notify the United States and the State within ten (10) days of service or receipt of any Motion for Summary Judgment and within ten (10) days of receipt of any order from a court setting a case for trial.

89. In any subsequent administrative or judicial proceeding initiated by the United States or the State for injunctive relief, recovery of response costs, or other appropriate relief relating to the Site, Settling Defendants shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States or the State in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph 89 affects the enforceability of the covenants not to sue set forth in Section XX (Covenants Not to Sue by Plaintiffs).

XXIII. ACCESS TO INFORMATION

90. Settling Defendants shall provide to EPA and the State, upon request, copies of all

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

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

b. The Settling Defendants may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If the Settling Defendants assert such a privilege in lieu of providing documents, they shall provide the Plaintiffs with the following: (1) the title of the document, record, or information; (2) the date of the document, record, or information; (3) the name and title of the author of the document, record, or information; (4) the name and title of each addressee and

recipient; (5) a description of the contents of the document, record, or information: and (6) the privilege asserted by Settling Defendants. However, no documents, reports or other information created or generated pursuant to the requirements of the Consent Decree shall be withheld on the grounds that they are privileged.

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

XXIV. RETENTION OF RECORDS

93. Until ten (10) years after the Settling Defendants' receipt of EPA's notification pursuant to Paragraph 46.b of Section XII (Certification of Completion), each Settling Defendant shall preserve and retain all records and documents now in its possession or control or which come into its possession or control that relate in any manner to the performance of the Work or liability of any person for response actions conducted and to be conducted at the Site, regardless of any corporate retention policy to the contrary. Until ten (10) years after the Settling Defendants' receipt of EPA's notification pursuant to Paragraph 45.b of Section XIII (Certification of Completion), Settling Defendants shall also instruct their contractors and agents to preserve all documents, records, and information of whatever kind, nature, or description relating to the performance of the Work.

94. At the conclusion of this document retention period, Settling Defendants shall notify the United States and the State at least ninety (90) days prior to the destruction of any such records or

documents, and, upon request by the United States or the State, Settling Defendants shall deliver any such records or documents to EPA or the State. If the United States has not responded to Settling Defendants' notice prior to the time Settling Defendants intend to destroy the records or documents, Settling Defendants shall deliver all such records and documents to EPA no earlier than ten (10) days after providing an additional written notice that such records and documents will be delivered, unless EPA provides otherwise after receiving such notice. The Settling Defendants may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If the Settling Defendants assert such a privilege, they shall provide the Plaintiffs with the following: (1) the title of the document, record, or information; (2) the date of the document, record, or information; (3) the name and title of the author of the document, record, or information; (4) the name and title of each addressee and recipient; (5) a description of the subject of the document, record, or information; and (6) the privilege asserted by Settling Defendants. However, no documents, reports, or other information created or generated pursuant to the requirements of the Consent Decree shall be withheld on the grounds that they are privileged.

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

XXV. NOTICES AND SUBMISSIONS

96. Whenever, under the terms of this Consent Decree, written notice is required to be given or a report or other document is required to be sent by one Party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing. All notices and submissions shall be considered effective upon receipt, unless otherwise provided. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of the Consent Decree with respect to the United States, EPA, the State, and the Settling Defendants, respectively.

As to the United States:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20044
Re: DOJ # _____

and

Michael A. Hendershot
Senior Assistant Regional Counsel (3RC43)
United States Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103

As to EPA:

Victor Janosik
EPA Project Coordinator (3HS22)
United States Environmental Protection Agency
Region III
1650 Arch St.
Philadelphia, PA 19103

As to the State:

Charles Tordella
State Project Coordinator
Pennsylvania Department of Environmental Protection
230 Chestnut Street
Meadville, PA 16335

As to the Settling Defendants:

[ ]
Settling Defendants' Project Coordinator
[ ]

XXVI. EFFECTIVE DATE

97. The effective date of this Consent Decree shall be the date upon which this Consent Decree is entered by the Court, except as otherwise provided herein.

XXVII. RETENTION OF JURISDICTION

98. This Court retains jurisdiction over both the subject matter of this Consent Decree and the Settling Defendants for the duration of the performance of the terms and provisions of this Consent Decree for the purpose of enabling any of the Parties to apply to the Court at any time for such further order, direction, and relief as may be necessary or appropriate for the construction or modification of this Consent Decree, or to effectuate or enforce compliance with its terms, or to resolve disputes in accordance with Section XVIII (Dispute Resolution) hereof.

XXVIII. APPENDICES

99. The following appendices are attached to and incorporated into this Consent Decree:

"Appendix A" is the ROD.

"Appendix B" is the Environmental Protection Easement and Declaration of Restrictive Covenants.

"Appendix C" is the map of the Site.

XXIX. COMMUNITY RELATIONS

100. Within thirty (30) days of the effective date of this Consent Decree, Settling Defendants shall propose to EPA and the State their participation in the community relations plan to be developed by EPA. EPA will determine the appropriate role for the Settling Defendants under the Plan. Settling Defendants shall also cooperate with EPA and the State in providing information regarding the Work to the public. As requested by EPA or the State, Settling Defendants shall participate in the preparation of such information for dissemination to the public and in public meetings which may be held or sponsored by EPA or the State to explain activities at or relating to the Site.

XXX. MODIFICATION

101. Schedules specified in this Consent Decree for completion of the Work may be modified by agreement of the EPA Project Coordinator and the Settling Defendants. All such modifications shall be made in writing.

102. Except as otherwise provided in this Paragraph 102 no modifications shall be made to provisions of this Consent Decree without written notification to and written approval of the United States, Settling Defendants, and the Court. Prior to providing its approval to any modification to the provisions of this Consent Decree, the United States will provide the State with a reasonable opportunity to review and comment on the proposed modification. Modifications to the Remedial Design Work Plan, Remedial Action Work Plan, and any other plan approved by EPA under this Consent Decree that do not materially alter the requirements of those documents may be made by written agreement between the EPA Project Coordinator, after

providing the State with a reasonable opportunity to review and comment on the proposed modification, and the Settling Defendants. Modifications to the Work made pursuant to Paragraph 15 (Modification of the Work) may be made by EPA. Nothing in this Decree shall be deemed to alter the Court's power to enforce, supervise, or approve modifications to this Consent Decree.

XXXI. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

103. This Consent Decree shall be lodged with the Court for a period of not less than thirty (30) days for public notice and comment in accordance with Section 122(d)(2) of CERCLA, 42 U.S.C. § 9622(d)(2), and 28 C.F.R. § 50.7. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations which indicate that the Consent Decree is inappropriate, improper, or inadequate. Settling Defendants consent to the entry of this Consent Decree without further notice.

104. If for any reason the Court should decline to approve this Consent Decree in the form presented, this agreement is voidable at the sole discretion of any Party and the terms of the agreement may not be used as evidence in any litigation between the Parties.

XXXII. SIGNATORIES/SERVICE

105. Each undersigned representative of a Settling Defendant to this Consent Decree, the Assistant Attorney General for Environment and Natural Resources of the United States Department of Justice, and the Regional Environmental Cleanup Program Manager of the Pennsylvania Department of Environmental Protection certifies that he or she is fully authorized

to enter into the terms and conditions of this Consent Decree and to execute and legally bind such Party to this document.

106. Each Settling Defendant hereby agrees not to oppose entry of this Consent Decree by this Court or to challenge any provision of this Consent Decree unless the United States has notified the Settling Defendants in writing that it no longer supports entry of the Consent Decree.

107. Each Settling Defendant shall identify, on the attached signature page, the name, address, and telephone number of an agent who is authorized to accept service of process by mail on behalf of that Party with respect to all matters arising under or relating to this Consent Decree. Settling Defendants hereby agree to accept service in that manner and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court, including, but not limited to, service of a summons.

SO ORDERED THIS ___ DAY OF _____, 20_.

_____
United States District Judge

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. CBS Corporation, et. al, Civil Action No. [ ] relating to the Westinghouse (Sharon) Superfund Site.

FOR THE UNITED STATES OF AMERICA

Date: _____

_____

LOIS J. SCHIFFER
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

Date: _____

_____

ROBERT D. BROOK
Assistant Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

Date: _____

_____

Assistant United States Attorney
Western District of Pennsylvania
U.S. Department of Justice

Date: _____

_____
BRADLEY M. CAMPBELL
Regional Administrator, Region III
U.S. Environmental Protection Agency
1650 Arch Street
Philadelphia, PA 19103

Date: _____

_____
WILLIAM C. EARLY
Regional Counsel
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103

Date: _____

_____
MICHAEL A. HENDERSHOT
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103

FOR THE COMMONWEALTH OF PENNSYLVANIA

Date:_____

_____

S. CRAIG LOBINS
Regional Environmental Cleanup Program Manager
Pennsylvania Department of Environmental Protection
230 Chestnut Street
Meadville, PA 16335

Date:_____

_____

MICHAEL D. BUCHWACH
Assistant Counsel
Office of Chief Counsel
Pennsylvania Department of Environmental Protection
400 Waterfront Drive
Pittsburgh, PA 15222-4745

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. CBS Corporation et. al. Civil Action No. [ ] relating to the Westinghouse (Sharon) Superfund Site.

FOR CBS CORPORATION:

Date: _____ _____

Name: _____

Title: _____

Address: _____

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: _____

Title: _____

Address: _____

Tel. Number: _____

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. CBS Corporation et. al. Civil Action No. [ ] relating to the Westinghouse (Sharon) Superfund Site.

FOR WINNER DEVELOPMENT COMPANY, INC.:

Date: _____ _____

Name: _____

Title: _____

Address: _____

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: _____

Title: _____

Address: _____

Tel. Number: _____

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. CBS Corporation et. al. Civil Action No. [ ] relating to the Westinghouse (Sharon) Superfund Site.

FOR AK STEEL CORPORATION:

Date: _____ _____

Name: _____

Title: _____

Address: _____

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: _____

Title: _____

Address: _____

Tel. Number: _____

APPENDIX B

ENVIRONMENTAL PROTECTION EASEMENT
AND
DECLARATION OF RESTRICTIVE COVENANTS

1. This Environmental Protection Easement and Declaration of Restrictive Covenants is made this ____ day of _____, 20___, by and between _____, ("Grantor"), having an address of _____, and, _____ _____("Grantee"), having an address of _____ _____.

WITNESSETH:

2. WHEREAS, Grantor is the owner of a parcel of land located in the county of Mercer, Commonwealth of Pennsylvania, more particularly described on **Exhibit A** attached hereto and made a part hereof (the "Property"); and

3. WHEREAS, the Property is part of the Westinghouse (Sharon) Superfund Site ("Site"), which the U.S. Environmental Protection Agency ("EPA"), pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9605, placed on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register on August 30, 1990, 55 Fed. Reg. 35502; and

4. WHEREAS, in a Record of Decision dated February 18, 2000 (the "ROD"), the Director of the Hazardous Site Cleanup Division, EPA Region III, selected a "remedial action for Operable Unit One" for the Site, which provides, in part, for the following actions:

a) further characterization of soils at areas of the Site delineated in the ROD to determine the need for further Remedial Action;

b) the excavation and treatment and/or off-site disposal of contaminated soils from the Site as defined in the ROD; and

c) institutional controls to limit future activities at the Site which would undermine or be inconsistent with the remediation of soils pursuant to the ROD. Such institutional controls include, but are not limited to the following: (1) restrictions on the

excavation and disturbance of Site soils; (2) prevention of unsafe exposure to workers from contaminated soils during construction activities; (3) prevention of use of the land for residential purposes; and (4) notice to future owners of the existence of contamination of the Site and the existence of the Consent Decree and its institutional control requirements; and

5. WHEREAS, in connection with the terms of a consent decree in the case of United States and Commonwealth of Pennsylvania v. CBS Corporation, et al., [CIVIL ACTION NUMBER] ("Consent Decree") (**Exhibit B** attached hereto and made a part hereof), the parties hereto have agreed 1) to grant a permanent right of access over the Property from the Grantor to the Grantee for purposes of implementing, facilitating and monitoring the remedial action set forth in the ROD; and 2) to impose on the Property use restrictions as covenants that will run with the land for the purpose of protecting human health and the environment; and

6. WHEREAS, Grantor wishes to cooperate fully with the Grantee in the implementation of all response actions at the Site;

NOW, THEREFORE:

7. Grant: Grantor, on behalf of itself, its successors and assigns, in consideration of the terms of the Consent Decree, does hereby covenant and declare that the Property shall be subject to the restrictions on use set forth below, and does give, grant and convey to the Grantee, and its assigns, with general warranties of title, 1) the perpetual right to enforce said use restrictions, and 2) an environmental protection easement of the nature and character, and for the purposes hereinafter set forth, with respect to the Property.

8. Purpose: It is the purpose of this instrument to convey to the Grantee real property rights, which will run with the land, to facilitate the remediation of past environmental contamination and to protect human health and the environment by reducing the risk of exposure to contaminants.

9. Restrictions on use: The following covenants, conditions, and restrictions apply to the use of the Property, run with the land and are binding on the Grantor:

[The restrictions and obligations regarding the Property are set forth in Sections 22(b) and 23(b) of the Consent Decree.]

10. Modification of restrictions: The above restrictions may not be modified, or terminated in whole or in part, without at least thirty (30) days written approval of EPA, after reasonable opportunity for review and comment by the Commonwealth of Pennsylvania. Any such modification or termination will be executed by Grantee in recordable form.

11. Environmental Protection Easement: Grantor hereby grants to the Grantee an irrevocable, permanent and continuing right of access at all reasonable times to the Property for

purposes of:

a) Implementing the response actions in the ROD, including but not limited to tasks employing a technology, combination of technologies or activities described in Section XI (EPA's Selected Remedy) and Section XII (Performance Standards) of the ROD to achieve and maintain the objectives for soil remediation described in the ROD. The technologies discussed in Section XI of the ROD include:

i) further characterization of soils at areas of the Site delineated in the ROD to determine the need for further Remedial Action;

ii) the excavation and treatment and/or off-site disposal of contaminated soils from the Site as defined in the ROD; and

iii) institutional controls to limit future activities at the Site which would undermine or be inconsistent with the remediation of soils pursuant to the ROD. Such institutional controls include but are not limited to the following: (1) restrictions on the excavation and disturbance of Site soils; (2) prevention of unsafe exposure to workers from contaminated soils during construction activities; (3) prevention of use of the land for residential purposes; and (4) notice to future owners of the existence of contamination of the Site and the existence of the Consent Decree and its institutional control requirements.

b) Verifying any data or information submitted to EPA.

c) Verifying that no action is being taken on the property in violation of the terms of this instrument or of any federal or state environmental laws or regulations;

d) Monitoring response actions on the Site and conducting investigations relating to contamination on or near the Site, including, without limitation, sampling of air, water, sediments, soils, and specifically, without limitation, obtaining split or duplicate samples;

e) Implementing additional or new response actions under the terms of the Consent Decree if the Grantee is informed by EPA that such actions are necessary under the terms of the Consent Decree.

12. Reserved rights of Grantor: Grantor hereby reserves unto itself, its successors, and assigns, all rights and privileges in and to the use of the Property which are not incompatible with the restrictions, rights and easements granted herein.

13. Nothing in this document shall limit or otherwise affect EPA or the Grantee's right of entry and access or EPA's authority to take response actions under CERCLA, the National Oil and Hazardous Substances Pollution Contingency Plan, as amended, 40 C.F.R. Part 300, or other

federal law.

14. No Public Access and Use: No right of access or use by the general public to any portion of the Property is conveyed by this instrument.

15. Notice requirement: Grantor agrees to include in any instrument conveying any interest in any portion of the Property, including but not limited to deeds, leases and mortgages, a notice which is in substantially the following form:

> NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL PROTECTION EASEMENT AND DECLARATION OF RESTRICTIVE COVENANTS, DATED _____, 20_, RECORDED IN THE PUBLIC LAND RECORDS ON _____, 20___, IN BOOK _____, PAGE _____, IN FAVOR OF, AND ENFORCEABLE BY, THE GRANTEE.

Within thirty (30) days of the date any such instrument of conveyance is executed, Grantor must provide Grantee with a certified true copy of said instrument and, if it has been recorded in the public land records, its recording reference.

16. Enforcement: The Grantee shall enforce the terms of this instrument by resort to specific performance or legal process. All remedies available hereunder shall be in addition to any and all other remedies at law or in equity, including CERCLA.

17. Damages: Grantee shall be entitled to recover damages for violations of the terms of this instrument, or for any injury to the remedial action, to the public or to the environment protected by this instrument.

18. Waiver of certain defenses: Grantor hereby waives any defense of laches, estoppel, or prescription.

19. Covenants: Grantor hereby covenants to and with the Grantee and its assigns, that the Grantor is lawfully seized in fee simple of the Property, that the Grantor has a good and lawful right and power to sell and convey it or any interest therein, that the Property is free and clear of encumbrances, except for those approved by EPA and noted on **Exhibit E** which is attached hereto and made a part hereof, and that the Grantor will forever warrant and defend the title thereto and the quiet possession thereof.

20. Notices: Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

To Grantor:

_____

_____

_____

To Grantee:

_____

_____

_____

21. General provisions:

a) Controlling law: The interpretation and performance of this instrument shall be governed by the laws of the United States or, if there are no applicable federal laws, by the law of the state where the Property is located.

b) Liberal construction: Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the grant to effect the purpose of this instrument and the policy and purpose of CERCLA. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

c) Severability: If any provision of this instrument, or the application of it to any person or circumstance, is found to be invalid, the remainder of the provisions of this instrument, or the application of such provisions to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.

d) Entire Agreement: This instrument sets forth the entire agreement of the parties with respect to rights and restrictions created hereby, and supersedes all prior discussions, negotiations, understandings, or agreements relating thereto, all of which are merged herein.

e) No Forfeiture: Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

f) Joint Obligation: If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.

g) Successors: The covenants, terms, conditions, and restrictions of this instrument shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property. The term "Grantor", wherever used herein, and any pronouns used in place thereof, shall include the persons and/or entities named at the beginning of this document, identified as "Grantor" and their personal representatives, heirs,

successors, and assigns. The term "Grantee", wherever used herein, and any pronouns used in place thereof, shall include the persons and/or entities named at the beginning of this document, identified as "Grantee" and their personal representatives, heirs, successors, and assigns. The rights of the Grantee and Grantor under this instrument are freely assignable, subject to the notice provisions hereof.

h) Captions: The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

i) Counterparts: The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

TO HAVE AND TO HOLD unto the Grantee and its assigns forever.

IN WITNESS WHEREOF, Grantor has caused this Agreement to be signed in its name.

Executed this _____ day of _____, 20__.

_____

By: _____

Its: _____

[The acknowledgment must comply with the law of the Commonwealth of Pennsylvania.]

COMMONWEALTH OF PENNSYLVANIA)
) ss
COUNTY OF MERCER)

On this __ day of _____, 20__, before me, the undersigned, a Notary Public in and for the Commonwealth of Pennsylvania, duly commissioned and sworn, personally appeared _____, known to be the _____ of _____, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute said instrument.

Witness my hand and official seal hereto affixed the day and year written above.

_____
Notary Public in and for the
Commonwealth of Pennsylvania

My Commission Expires: _____.

This easement is accepted this ____ day of _____, 20__.

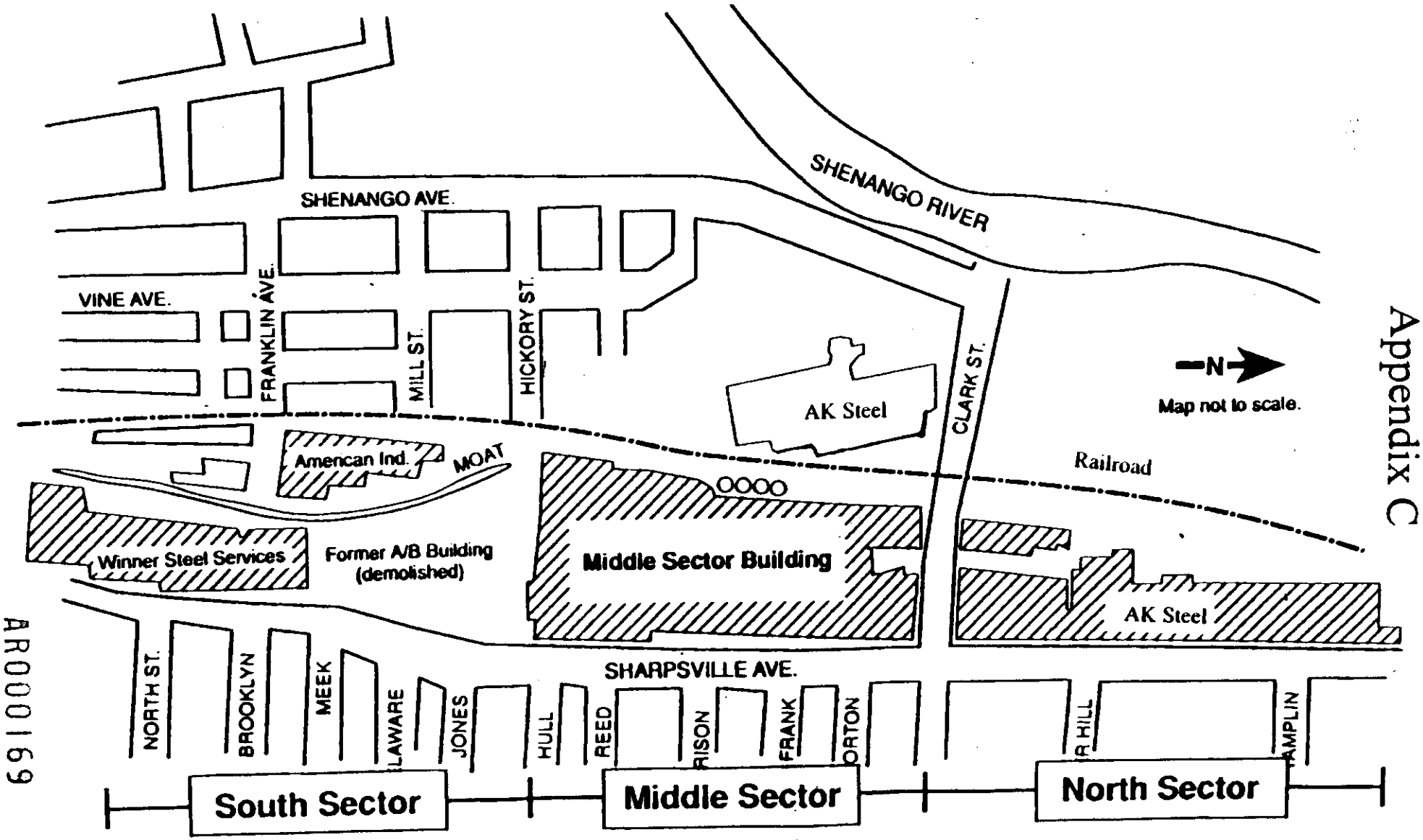
[NAME OF GRANTEE]

By: _____

_____

Attachments:	Exhibit A	-	legal description of the Property
	Exhibit B	-	Consent Decree in United States and Commonwealth of Pennsylvania v. CBS Corporation, et al., [CIVIL ACTION NO.]
	Exhibit C	-	identification of proposed uses and construction plans, for the Property
	Exhibit D	-	identification of existing uses of the Property
	Exhibit E	-	list of permitted title encumbrances

Westinghouse Sharon Superfund Site



Appendix C

AR000169

ENCLOSURE THREE

LIST OF SPECIAL NOTICE RECIPIENTS
WESTINGHOUSE (SHARON) SUPERFUND SITE

1. **CBS Corporation**
Mr. Louis J. Briskman
Executive Vice President and General Counsel
CBS Corporation
51 West 52nd Street
New York, NY 10019

Attorney:
William D. Wall, Esquire
CBS Corporation
11 Stanwix
Westinghouse Building
Gateway Center
Pittsburgh, PA 15222

2. **Winner Development Company, Inc.**
Mr. Albert F. Dombrowski
Chief Operating Officer
Winner Development Company, Inc.
32 West State Street
Sharon, PA 16146

Attorney:
John F. Hornbostel, Jr., Esquire
Vice President, General Counsel and Secretary
Winner Development Corporation
32 West State Street
Sharon, PA 16146

3. **AK Steel Corporation**
Mr. Richard M. Wardrop, Jr.
Chairman and Chief Executive Officer
AK Steel Corporation
703 Curtis Street
Middletown, OH 45043

Attorney:

John J. Kuzman, Esquire
AK Steel Corporation
703 Curtis Street
Middletown, OH 45043

ENCLOSURE FOUR

United States Environmental Protection Agency

Office of Enforcement and Compliance Assurance (2201A)
EPA 300-F-99-004 September 1999

Office of Enforcement and Compliance Assurance

INFORMATION SHEET

U.S. EPA Small Business Resources

If you own a small business, the United States Environmental Protection Agency (EPA) offers a variety of compliance assistance and tools to assist you in complying with federal and State environmental laws. These resources can help you understand your environmental obligations, improve compliance and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

EPA Websites

EPA has several Internet sites that provide useful compliance assistance information and materials for small businesses. Many public libraries provide access to the Internet at minimal or no cost.

EPA's Small Business Home Page (http://www.epa.gov/sbo) is a good place to start because it links with many other related websites. Other useful websites include:

EPA's Home Page
http://www.epa.gov

Small Business Assistance Programs
http://www.epa.gov/ttn/sbap

Compliance Assistance Home Page
http://www.epa.gov/oeca/oc

Office of Site Remediation Enforcement
http://www.epa.gov/oeca/osre

Hotlines, Helplines and Clearinghouses

EPA sponsors approximately 89 free hotlines and clearinghouses that provide convenient assistance on environmental requirements.

EPA's Small Business Ombudsman Hotline can provide a list of all the hot lines and assist in determining the hotline best meeting your needs. Key hotlines include:

EPA's Small Business Ombudsman
(800) 368-5888

Hazardous Waste/Underground Tanks/ Superfund
(800) 424-9346

National Response Center
(to report oil and hazardous substance spills)
(800) 424-8802

Toxics Substances and Asbestos Information
(202) 554-1404

Safe Drinking Water
(800) 426-4791

Stratospheric Ozone and Refrigerants Information
(800) 296-1996

Clean Air Technical Center
(919) 541-0800

Wetlands Hotline
(800) 832-7828

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Compliance Assistance Centers

In partnership with industry, universities, and other federal and state agencies, EPA has established national Compliance Assistance Centers that provide Internet and "faxback" assistance services for several industries with many small businesses. The following Compliance Assistance Centers can be accessed by calling the phone numbers below and at their respective websites:

Metal Finishing
(1-800-AT-NMFRC or www.nmfrc.org)

Printing
(1-888-USPNEAC or www.pneac.org)

Automotive Service and Repair
(1-888-GRN-LINK or www.ccar-greenlink.org)

Agriculture
(1-888-663-2155 or www.epa.gov/oeca/ag)

Printed Wiring Board Manufacturing
(1-734-995-4911 or www.pwbrc.org)

The Chemical Industry
(1-800-672-6048 or www.chemalliance.org)

The Transportation Industry
(1-888-459-0656 or www.transource.org)

The Paints and Coatings Center
(1-800-286-6372 or www.paintcenter.org)

State Agencies

Many state agencies have established compliance assistance programs that provide on-site and other types of assistance. Contact your local state environmental agency for more information. For assistance in reaching state agencies, call EPA's Small Business Ombudsman at (800)-368-5888 or visit the Small Business Environmental Homepage at http://www.smallbiz-enviroweb.org/state.html.

Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations, businesses may be eligible for penalty waivers or reductions. EPA has two policies that potentially apply to small businesses: The Audit Policy (http://www.epa.gov/oeca/auditpol.html) and the Small Business Policy (http://www.epa.gov/oeca/smbusi.html). These do not apply if an enforcement action has already been initiated.

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established an ombudsman ("SBREFA Ombudsman") and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The SBREFA Ombudsman will annually rate each agency's responsiveness to small businesses. If you believe that you fall within the Small Business Administration's definition of a small business (based on your Standard Industrial Code (SIC) designation, number of employees or annual receipts, defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Your Duty to Comply

If you receive compliance assistance or submit comments to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act (SBREFA) or related provisions.