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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III

IN THE MATTER OF:

WESTINGHOUSE ELEVATOR COMPANY  
PLANT SUPERFUND SITE;  
ADAMS COUNTY, PENNSYLVANIA

WESTINGHOUSE ELECTRIC CORPORATION

Docket No. III-93-12-DC

AND

SCHINDLER ELEVATOR CORPORATION

Respondents

Proceeding Under Section 106 of  
the Comprehensive Environmental  
Response, Compensation, and  
Liability Act of 1980, as amended,  
42 U.S.C. § 9606.

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ADMINISTRATIVE ORDER

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Docket No. III-93-12-DC

ADMINISTRATIVE ORDER

Having determined the necessity for implementation of remedial response activities at the Westinghouse Elevator Company Plant Superfund Site located in Adams County, Pennsylvania, ["Site"], the United States Environmental Protection Agency ["EPA"] hereby Orders as follows:

I. JURISDICTION

A. This Administrative Order ["Order"] is issued pursuant to the authority vested in the President of the United States by section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9606, as amended ["CERCLA"], and delegated to the Administrator of EPA by Executive Order No. 12580 [52 Fed. Reg. 2923 (January 29, 1987)],

and further delegated to the Regional Administrators of EPA by EPA Delegation No. 14-14-B (September 13, 1987).

B. Prior notice of issuance of this Order has been given to the Commonwealth of Pennsylvania pursuant to section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

## II. PARTIES BOUND

A. This Order is issued to Westinghouse Electric Corporation and Schindler Elevator Corporation ["Respondents"].

B. This Order shall apply to and be binding upon the Respondents and their agents, successors, and assigns.

C. No change in ownership of any property covered by this Order, or in corporate or partnership status of any Respondent, shall in any way alter, diminish, or otherwise affect Respondents' obligations and responsibilities under this Order.

D. In the event of any change in ownership or control of any Respondent, such Respondent shall notify EPA, in writing, no later than thirty (30) days after such change, of the nature and effective date of such change. Such Respondent shall provide a copy of this Order to its successor(s) before any change becomes irrevocable.

E. Respondents shall provide a copy of this Order to each contractor hired to perform the Work (as defined below) required by this Order and to each person representing Respondents with respect to the Site or the Work and shall condition all contracts

Regarding Work under this Order upon performance of the Work in conformity with the terms of this Order. Respondents shall require that its contractor(s) provide written notice of this Order to all subcontractors hired to perform any portion of the Work required by this Order. Respondents shall remain responsible for ensuring that their contractors and subcontractors perform the Work contemplated herein in accordance with this Order. Unacceptable performance by Respondents' contractors or subcontractors shall not excuse Respondents from any obligations of this Order. With regard to the activities undertaken pursuant to this Order, each contractor and subcontractor shall be deemed to be in a contractual relationship with the Respondents within the meaning of section 107(b)(3) of CERCLA, 42 U.S.C. § 9607(b)(3).

F. Respondents are jointly and severally responsible for implementing all of the requirements of this Order. The success or failure by any one of the Respondents to comply with all or any part of this Order shall not in any way excuse or justify noncompliance by the other Respondents.

## **II. FINDINGS OF FACT**

### **A. Description of the Site**

1. The Westinghouse Elevator Plant ["Plant"] was constructed in 1968 and is located on approximately 90 acres of land along the west side of Biglerville Road (Route 34),

**Westinghouse Elevator Company Plant**  
**EPA Docket No. III-93-12-DC**

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approximately 1.5 miles north of downtown Gettysburg in Cumberland Township, Adams County, Pennsylvania. The Site encompasses the Plant property, all areas beyond the Plant boundaries where waste materials from the Site have migrated, and all suitable areas in very close proximity to the above areas necessary for the implementation of the Remedial Action. The Site is further described in a Record of Decision ["ROD"] (attached hereto as Appendix A) issued by EPA on June 30, 1992.

2. The Plant is bounded to the south by property that is part of the Gettysburg Battlefield National Park; and to the west, north and east by residential and small commercial properties. Prior to its current use, most of the property consisted of farmland.

3. The regional topography in the area of the Site is low to medium relief, undulating terrain which slopes moderately to the east. The Site is located within the watershed of Rock Creek, a small southward-flowing stream. Two small intermittent streams are present near the Site and most surface water at the plant eventually discharges to these streams. No flood plains or wetlands are present on the Plant property.

4. The Site is located within the Gettysburg Basin, one of a number of discrete elongate sedimentary basins parallel to the Appalachian orogeny in eastern North America. Site investigations have mapped the underlying stratigraphy as being comprised of red and gray siltstones and shales overlain by

approximately two to ten feet of red to brown clay. Ground water in the vicinity of the Site is stored in and transmitted through a complex system of interconnected fractures consisting of bedding planes and steeply dipping joints. Ground water is the only source of potable water in the area and residents near the Site are dependent on municipal or private wells.

**B. History of Operations at the Site**

1. The Plant has been in operation since 1968 as a manufacturing Plant of elevator and escalator components and continues operations currently. Since January 1989 the Plant has been leased and operated by the Schindler Elevator Corporation ("Schindler").

2. The manufacturing process utilized by Westinghouse and continued to be used by Schindler consists of several steps including parts delivery and unloading; metal parts degreasing; rust prevention; primer and finisher paint booth operations; oven drying; acoustical coating; machining and sawing; adhesive application; final assembly; and shipping. Chemical feed materials used in many of the operations include solvents, paints, cutting and lubricating oils, and insulation board. The major solvent used up to 1975 was trichloroethene ["TCE"], after which time 1,1,1-trichloroethane ["TCA"] was substituted for TCE. Waste materials generated included spent solvents, paint sludges, spent oils and greases, and excess insulation board.



C. Response Actions Performed at the Site

1. Investigations of alleged environmental problems related to the Site were initiated in 1983, based on complaints from local residents to the Pennsylvania Department of Environmental Resources ["PADER"]. PADER representatives visited the Plant in 1983 and collected samples from the Plant irrigation well and from neighboring residential wells. Chemical analyses of these samples confirmed the presence of Volatile Organic Compounds ["VOCs"] including TCE and TCA in the on-Plant and off-Plant ground water. Analysis of residential well samples continued until alternative water supplies were provided by Westinghouse. The residential well sampling indicated widespread contamination throughout the area bounded by Biglerville, Table Rock and Boyd's School Roads.

2. In October 1983, PADER sampled two suspected source areas on the Plant property including soils from the railroad dock and surface water samples from the old waste drum storage area. Chemical analysis by both PADER and Westinghouse indicated the presence of volatile organics in surface water, ground water, and soil samples from the Site. In November 1983, Westinghouse initiated the removal of 10 drums of contaminated soil from the railroad dock area and 33 drums of contaminated soil from the pumphouse area. The drums were manifested as a hazardous waste and were sent to a secure landfill in New York State.

3. In January 1984, Westinghouse contracted R.E. Wright to

serve as a consultant. During 1984, Wright collected additional water and soil samples from various locations at the Site, installed fifteen monitoring wells, and conducted a pump test.

4. In 1984, Westinghouse installed water mains along Biglerville Road and a portion of Boyd's School Road to provide residents with access to the public water supply. Since 1984, Westinghouse has installed additional mains along stretches of Boyd's School Road, Cedar Avenue, Maple Avenue, and Apple Avenue. Westinghouse also installed monitoring wells and sampled ground water from these wells during this time.

5. In June 1984, Westinghouse installed and began to extract ground water at the Site and to operate an air stripping tower to remove TCE and other VOCs from ground water.

6. On March 10, 1987, Westinghouse entered into a Consent Agreement with EPA to perform a Remedial Investigation and Feasibility Study ["RI/FS"] of the Site. The Remedial Investigation was completed in June 1991. Finalization of the report was delayed by the need to investigate soil contamination from a TCA spill which occurred on May 3, 1991, at which time, Schindler Elevator Corporation was operating the Plant. Schindler Elevator removed contaminated soils and sampled the area to verify the cleanup at FADER's request. This area needs additional sampling and study before a remedial action decision can be made on the soil. A supplementary FS for soils will be issued in the future and a separate Record of Decision, not

addressed in this Order, will be issued for soils at the Site.

**D. The Record of Decision**

1. Pursuant to section 117 of CERCLA, 42 U.S.C. § 9617, EPA published notice in the Gettysburg Times and The Hanover Evening Sun of the proposed plan for remedial action on April 17, 1992, and provided an opportunity for written and oral comments from the public on the proposed remedial action. The major components of the Proposed Remedial Action Plan include:

- Extraction wells on the Plant property to contain the highly contaminated ground water plume.
- Extraction wells to the east-northeast of the Plant property to both contain and clean up the contaminated ground water that has migrated from the Plant property.
- Treatment of contaminated ground water by air stripping followed by removal of contaminants from the air stream using carbon adsorption. Spent carbon generated as part of the remedy would be disposed in accordance with the Land Disposal Restrictions set forth at 40 C.F.R. Part 268.
- Discharge of the treated water to the northern tributary of Rock Creek under an NPDES permit.
- Deed restrictions on the use of ground water on the Plant property.
- Ground water monitoring and residential well sampling.

2. The decision by EPA on the remedial action to be implemented at the site is embodied in a Final Record of Decision, executed on June 30, 1992, on which the Commonwealth of Pennsylvania did not concur. The ROD includes a summary of responses to the public comments. Notice of the final ROD was published in accordance with section 117(b) of CERCLA, 42 U.S.C. § 9617(b).

E. Hazardous Substances Identified in the ROD

1. The following substances, among others, were found in the ground water, surface water, surface soils, subsurface soils, sediments, and drainage ditch/surface waters, at the Site and are "hazardous substances" within the meaning of section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and can be found at 40 C.F.R. Part 302, Table 302.4:

1,1-Dichloroethane

The EPA has classified 1,1-dichloroethane as a Class C- Possible Human Carcinogen. At one time 1,1-dichloroethane was used as an anesthetic, but it induces cardiac arrhythmias and its use was discontinued. It is probable that human exposure to high levels of 1,1-dichloroethane may cause central nervous system depression, respiratory tract, and skin irritation, since many of the chlorinated aliphatics cause these effects (Parker et al, 1979). However, no dose response data concerning these effects are available.

1,2-Dichloroethane

The EPA has classified 1,2-dichloroethane as a Class B2-Probable Human Carcinogen-based on inadequate evidence of carcinogenicity from human studies and sufficient evidence from animal studies. Data on the toxicokinetics of 1,2-dichloroethane in humans are limited. Data from animal studies suggest that the compound is rapidly absorbed following oral and inhalation exposure and after dermal contact with the liquid form of the compound (EPA, 1985). Death may occur as a result of respiratory and circulatory failure. Chronic studies in animals also have revealed toxic effects following inhalation exposure including degeneration of the liver (EPA, 1985).

1,1-Dichloroethene

The EPA has classified 1,1-dichloroethene ["DCE"] as a Class C-Possible Human Carcinogen. The compound is rapidly absorbed after oral and inhalation exposures (EPA, 1984, 1987). Humans acutely exposed to 1,1-dichloroethane vapors exhibit central nervous system depression (CH2M Hill, 1989). In animals, the liver is the principal target of toxicity (CH2M Hill, 1989). Workers chronically exposed to 1,1 dichloroethene in combination with other vinyl compounds exhibit liver dysfunction, headaches, vision problems, weakness, fatigue and neurological sensory disturbances (EPA, 1987a). Chronic oral administration to experimental animals results in both hepatic and renal toxicity (EPA, 1984).

#### 1,1,1-Trichloroethane

The EPA has classified 1,1,1-trichloroethane ["TCA"] as a Class D carcinogen. It is rapidly absorbed following oral and inhalation exposures. Pulmonary absorption is initially large and gradually decreases to a steady state condition. Absorption through the skin is slow. 1,1,1-Trichloroethane distributes throughout the body and readily crosses the blood brain barrier (EPA 1984). The most notable toxic effects of the compound in humans and animals are central nervous system depression, including anesthesia at very high concentrations, and impairment of coordination, equilibrium, and judgement at lower concentrations (350 ppm and above).

#### Trichloroethene

The EPA has classified trichloroethene ["TCE"] as a B2-Probable Human Carcinogen based on inadequate evidence in humans and sufficient evidence of carcinogenicity from animal studies. TCE is a central nervous system depressant following acute and chronic exposure (Stephans 1985). High level exposure can result in death due to respiratory and cardiac failure (EPA, 1985). Hepatotoxicity has been reported in human and animal studies following acute exposure to TCE (EPA, 1985).

### F. Description of Respondents

#### 1. Westinghouse Electric Corporation

(a) Respondent Westinghouse Electric Corporation is a

corporation incorporated under the laws of the Commonwealth of Pennsylvania since 1872.

(b) The Westinghouse Elevator Plant ["Plant"] was constructed on farmland in 1968 for the manufacture of elevator and escalator components. The Westinghouse Electric Corporation ["Westinghouse"] began operating the Plant following completion of construction and used the solvents TCE and TCA in the manufacturing process. Since January 1989 the Plant has been leased and operated by the Schindler Elevator Corporation ["Schindler"].

The manufacturing process utilized by Westinghouse and continued to be used by Schindler consists of several steps including parts delivery and unloading; metal parts degreasing with solvents; rust prevention; primer and finisher paint booth operations; oven drying; acoustical coating; machining and sawing; adhesive application; final assembly; and shipping. The major solvent used up to 1975 was TCE, after which time TCA was substituted for TCE. Waste materials generated include spent solvents, paint sludges, spent oils and greases, and excess insulation board.

Based on testimony from past Westinghouse employees, metal grates from the Plant's paint booths were cleaned on a concrete pad in the pumphouse area, located at the southwest corner of the Plant. Caustic solutions with solvents were used to loosen excess paint build-up on the grates. The loosened paint was then

scoured off using a steam cleaner. This is considered a potential source area due to the nature of operations whereby solvent-contaminated washwater may have been discharged directly into the environment.

At the railroad dock area, located at the north end of the Plant, solvent-coated metal chips and shavings that accumulated at the bottom of degreasing tanks were stored in metal bins prior to removal by truck for recycling. Past testimony of Westinghouse employees indicates that these bins had holes in the bottom to drain the solvent. This area is considered to be a potential source due to solvent drippings leaking out of the containers and migrating into the subsurface environment.

The old waste drum storage area is located on the southern side of the building. Prior to 1981, drummed waste was stored in this area until shipped for disposal. This is considered to be a potential source due to the possibility of spills. The transcript of the lawsuit Merry v. Westinghouse Electric Corporation, Civil Action No. 86-1673 (M.D.Pa) contains testimony regarding several major solvent spills in this general area.

(c) Investigations of alleged environmental problems related to the Site were initiated in 1983, based on complaints from local residents to the PADER. PADER representatives visited the Plant in 1983 and collected samples from the Plant irrigation well and from neighboring residential wells. Chemical analyses of these samples confirmed the presence of VOCs including TCE and



TCA in the on-Plant and off-Plant ground water. Analysis of residential well samples continued until alternative water supplies were provided by Westinghouse. The residential well sampling indicated widespread contamination throughout the area bounded by Biglerville, Table Rock and Boyd's School Roads.

In October 1983, PADER sampled two suspected source areas on the Plant property including soils from the railroad dock and surface water samples from the old waste drum storage area. Chemical analysis by both PADER and Westinghouse indicated the presence of volatile organics in surface water, ground water, and soil samples from the Site. In November 1983, Westinghouse initiated the removal of 10 drums of contaminated soil from the railroad dock area and 33 drums of contaminated soil from the pumphouse area. The drums were manifested as a hazardous waste and were sent to a secure landfill in New York State.

A comprehensive Remedial Investigation performed by Westinghouse was completed in June 1991 under a Consent Order with EPA. The investigation showed widespread ground water DCE, TCA and TCE contamination far above EPA's drinking water standards. The investigation also showed that the highest levels of ground water contamination were under the Westinghouse Plant building.

(d) TCE and TCA are hazardous substances as defined by section 101(14) of CERCLA, 42 U.S.C. § 9601 (14).

(e) EPA concludes, based on these facts, that the

Westinghouse Electric Corporation is the owner, and was an owner and operator at the time of disposal, of a facility at which hazardous substances were disposed.

## 2. Schindler Elevator Corporation

(a) Respondent Schindler Elevator Corporation ["Schindler"] has leased and operated the elevator plant since 1989 and has exercised control over the premises since that time.

(b) On May 3, 1991, at which time, Schindler was operating the Plant, Schindler experienced a TCA spill of approximately fifteen gallons in an area known as the courtyard. Schindler immediately removed six drums of contaminated soils and sampled the area to verify the cleanup at PADER's request. Levels were relatively low, but still significant and Schindler sampled the area over the next six months. The samples generally showed declining TCA levels. Additional soil was removed from the trench by Schindler, but levels of TCA were still detected.

(c) A joint investigation of the courtyard was performed by Schindler and Westinghouse in September 1992. Samples from the trench showed levels of TCA present at shallow depth.

(d) TCA is a hazardous substances as defined by section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

(e) The trench was not protected from precipitation; therefore, rain water in the trench would leach some TCA and

enter the ground water.

(f) EPA concludes that based on the above facts, that Schindler Elevator Corporation is the current owner and operator of a facility at which hazardous substances were disposed.

#### IV. CONCLUSIONS OF LAW AND DETERMINATIONS

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

B. "Hazardous substances", as that term is defined in section 101(14) of CERCLA, 42 U.S.C. § 9601(14), have been disposed of, deposited, stored, placed, or otherwise come to be located on and remain at the Site.

C. The hazardous substances at the Site are being released, and threaten to be released, from the Site into the environment and may present an imminent and substantial endangerment to the public health or welfare or the environment.

D. Each Respondent is a "person" within the meaning of section 101(21) of CERCLA, 42 U.S.C. § 9601(21), and is liable under section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

E. EPA has determined that in order to protect against an imminent and substantial endangerment to the public health and welfare or the environment because of an actual or threatened release of a hazardous substance from a facility, the actions described in the Statement of Work (as defined below) must be

undertaken.

#### V. DEFINITIONS

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

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

2. "Commonwealth" shall mean the Commonwealth of Pennsylvania.

3. "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 Order, 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.

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

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

the United States.

6. "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, including, but not limited to, any amendments thereto.

7. "Operation and Maintenance" or "O & M" shall mean all activities required to maintain the effectiveness of the Remedial Action (as defined below) as required under the Operation and Maintenance Plan approved or developed by EPA pursuant to this Order.

8. "Order" shall mean this Order and all appendices attached hereto. In the event of conflict between the Order and any appendix, the Order shall control.

9. "Performance Standards" shall mean those cleanup standards, standards of control, and other substantive requirements, criteria or limitations that are used to determine whether the objectives of the ROD and this Order are being achieved, as set forth in Appendix A to this Order, and, in addition, any that are developed during the Remedial Design.

10. "Record of Decision" or "ROD" shall mean the EPA Record of Decision relating to the Westinghouse Elevator Company Plant Site, signed by the Regional Administrator of EPA Region III on June 30, 1992 and set forth in Appendix A hereto.

11. "Remedial Action" shall mean all activities, as defined

by section 101(24) of CERCLA, 42 U.S.C. § 9601(24), except for Remedial Design and Operation and Maintenance, to be undertaken by Respondents to implement both the ROD and the final plans and specifications submitted by Respondents pursuant to the requirements of this Order.

12. "Remedial Action Work Plan" shall mean a plan for Remedial Action, including a schedule for implementation of Remedial Action, that shall be submitted by Respondents and approved by EPA pursuant to section XIII (Plans and Reports Requiring EPA Approval) of this Order.

13. "Remedial Design" shall mean the activities undertaken by Respondents pursuant to the Remedial Design Work Plan to develop the final plans and specifications for the Remedial Action as specified in the ROD.

14. "Respondents" shall mean Westinghouse Electric Corporation and Schindler Elevator Corporation.

15. "Section" shall mean a portion of this Order identified by a Roman numeral.

16. "Site" shall mean the Westinghouse Elevator Company Plant Superfund Site located in an industrial area 1.5 miles north of Gettysburg, Adams County, Pennsylvania. The Site encompasses the Plant property, all areas beyond the Plant boundaries where waste materials from the Site have migrated, and all suitable areas in very close proximity to the above areas necessary for the implementation of the Remedial Action. The

Site is further described in a Record of Decision ("ROD") (attached hereto as Appendix A) issued by EPA on June 30, 1992.

17. "Supervising Contractor" shall mean the contractor retained by the Respondents to carry out the Work under this Order and accepted by EPA pursuant to Section VI.D of this Order.

18. "United States" shall mean the United States of America, including its agencies and departments.

19. "Waste Material" shall mean (1) any "hazardous substance" under section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (2) any pollutant or contaminant under section 101(33) of CERCLA, 42 U.S.C. § 9601(33); or (3) any "solid waste" under section 1004(27) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6903(27).

20. "Work" shall mean all activities Respondents are required to perform under this Order.

## VI. WORK TO BE PERFORMED

### A. General Statement of Requirements/Permits

1. Based on the foregoing, and the Administrative Record supporting the Order, it is hereby ordered that Respondents implement the ROD (attached hereto as Appendix A) in accordance with that document; CERCLA; the NCP and the requirements and schedules specified in this Order including, but not limited to, the Performance Standards. Nothing in this Order, the Remedial Design Specifications, or Remedial Action

Work Plan constitutes a warranty or representation of any kind by EPA that compliance with this Order will achieve the Performance Standards or that such compliance will foreclose EPA from seeking compliance with all terms and conditions of this Order including, but not limited to, the Performance Standards.

2. All actions and activities carried out by Respondents pursuant to this Order shall be performed in compliance with all applicable Federal and state laws and regulations. Respondents shall also comply with all applicable or relevant and appropriate requirements of Federal and state environmental laws as set forth in the ROD.

3. In the event EPA determines that Respondents have failed to implement any provision(s) of the Work in an adequate or timely manner, or have otherwise violated this Order, EPA may exercise any and all rights it may have, including but not limited to, those expressly reserved in Section XIV (Reservation of Rights) of this Order.

4. Respondents shall obtain all permits and authorizations necessary for any off-site work and shall timely submit complete applications and requests for any such permits and authorizations. This Order is not, and shall not be construed to be, a permit issued pursuant to any Federal, State or local statute or regulation.



B. Notice of Order in Property Records

1. Within fifteen (15) days after the effective date of this Order, the Respondents shall record a certified copy of this Order with the Registry of Deeds, or other office where land ownership and transfer records are maintained, in such manner as shall be effective to bring this Order to the attention of any person examining or researching the state and/or quality of the title to the real property constituting the Site or searching for any encumbrances, covenants, easements, liens, restrictions, or other limitations relating to said property.

2. Respondents shall, at least thirty (30) days prior to the conveyance of any interest in the property, give written notice of this Order to the grantee and written notice to EPA and the Commonwealth of the proposed conveyance, including the name and address of the grantee, and the date on which notice of the Order was given to the grantee. In the event of any such conveyance, the Respondents' obligations under this Order shall continue to be met by the Respondents. In addition, if EPA approves, the grantee may perform some or all of the Work under this Order. In no event shall the conveyance of an interest in property that includes, or is a portion of, the Site release or otherwise affect the liability of the Respondents to comply with this Order.

C. Assurance of Ability to Complete Work/Insurance

1. Within thirty (30) days of the effective date of this Order, Respondents shall establish and maintain financial security in the amount of \$ 5,724,849 in one of the following forms:

- a. A surety bond guaranteeing performance of the Work;
- b. One or more letters of credit;
- 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 the Respondent; or
- e. A demonstration that the Respondent satisfies the requirements of 40 C.F.R. § 264.143(f).

2. If the Respondents seeks to demonstrate the ability to complete the Work through a guarantee by a third party pursuant to Section VI.C(1)(d) of this Order, Respondents shall demonstrate that the guarantor satisfies the requirements of 40 C.F.R. § 264.143(f). If Respondents seeks to demonstrate its ability to complete the Work by means of the financial test or the corporate guarantee, Respondents 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 Order. In the event that EPA, after a reasonable opportunity for review and comment by the Commonwealth,

determines at any time that the financial assurances provided pursuant to this Paragraph are inadequate, Respondents shall, within thirty days of receipt of notice of EPA's determination, obtain and present to EPA for approval one of the other forms of financial assurance identified in Section VI.C(1) of this Order. Respondents' inability to demonstrate financial ability to complete the Work shall not excuse performance of any activities required under this Order.

2. No later than fifteen (15) days before commencing any on-site Work, Respondents shall secure and maintain, or shall ensure that its Supervising Contractor, contractors, and subcontractors secure and maintain, until the first anniversary of EPA's certification of completion of the Remedial Action pursuant to Section XVII.A of this Order, comprehensive general liability insurance with limits of at least five million dollars, combined single limit, naming as additional insured the United States. No later than fifteen (15) days after the effective date of this Order, Respondents shall secure automobile liability insurance with limits of \$500,000 and shall maintain such insurance until the first anniversary of EPA's certification of completion of the Remedial Action pursuant to Section XVII.A of this Order. In addition, during the pendency of this Order, Respondents shall satisfy, and shall ensure that its contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for

all persons retained to perform Work pursuant to this Order. Prior to commencement of on-site Work under this Order, Respondents shall provide to EPA certificates of comprehensive general liability and automobile insurance and a copy of each insurance policy. Respondents shall resubmit such certificates and copies of policies each year on the anniversary of the effective date of this Order. If Respondents demonstrate by evidence satisfactory to EPA that any contractor or subcontractor retained to perform Work pursuant to this Order maintains insurance equivalent to that described above, or insurance covering the same risks but in a lesser amount, then, with respect to matters so insured by that contractor or subcontractor, Respondents need provide only that portion of the insurance described above which is not maintained by the contractor or subcontractor. Respondents may satisfy the provisions of this Paragraph if Respondents submit to EPA for approval one of the financial assurance mechanisms of Section VI.C(1) of this Order in at least the amounts stated in this Paragraph demonstrating that Respondents are able to pay any claims arising out of Respondents' performance of its obligations under this Order. Such financial assurance mechanism shall meet all of the requirements of Section VI.C(1) of this Order. If Respondents seek to provide financial assurances pursuant to Section VI.C(1) of this Order to satisfy the provisions of this Paragraph, Respondents must demonstrate an ability to pay above

and beyond that required by the obligations of Section VI.C(1) of this Order.

D. Selection of Contractor(s).

1. All aspects of the Work to be performed by Respondents pursuant to this Order shall be under the direction and supervision of qualified personnel, the selection of which shall be subject to acceptance or disapproval by EPA.

2. Within ten (10) days after the effective date of this Order, Respondents shall notify EPA in writing of the name, title, and qualifications of any contractor proposed to be the Supervising Contractor. If at any time after acceptance by EPA of the Supervising Contractor, Respondents propose to change a Supervising Contractor, Respondents shall give notice of such proposed change to EPA and shall obtain acceptance of the selection from EPA before the new Supervising Contractor performs, directs, or supervises any Work under this Order.

3. EPA will notify Respondents in writing of its acceptance or disapproval of the selection of a proposed Supervising Contractor. If EPA disapproves of the selection of any contractor as Supervising Contractor, Respondents shall submit to EPA the names and qualifications of at least three contractors that would be acceptable to Respondents within thirty (30) days of receipt of EPA's disapproval of the selection of the contractor previously selected. EPA will provide written notice of the names of the contractor(s) that EPA accepts. Respondents

may select any accepted contractor from that list and shall notify EPA of the name of the contractor selected within twenty-one (21) days of EPA's designation of accepted contractors.

4. After the Remedial Design Work Plan is approved, and prior to implementation of such plan, Respondents shall submit to EPA for acceptance the names and qualifications of any additional contractors and subcontractors, including the name(s) and qualifications of the individual(s) or entities responsible for completion of Remedial Design submittals ["Remedial Design Professional"]. Respondents shall notify EPA of the date the contract is entered into with the Remedial Design Professional. The Remedial Design Professional shall provide a Professional Engineer to be present at the Site during construction to ensure that the Work is performed in accordance with the approved Remedial Design submittal(s). EPA retains the right to disapprove any additional contractors and subcontractors selected to perform the Work. Within fourteen (14) days of receipt by EPA of the names of the additional contractor or subcontractors, EPA will notify Respondents of its acceptance or disapproval of the selected additional contractors or subcontractors. If EPA disapproves any additional contractor or subcontractor, Respondents may submit further information to EPA giving reasons why the additional contractor or subcontractor should be accepted. Within fourteen (14) days of the receipt of the notice of disapproval, Respondents shall notify EPA of the name and

qualifications of a replacement additional contractor or subcontractor. If at any time during the pendency of this Order a decision is made by Respondents to retain a substitute additional contractor or subcontractor, selection of the substitute shall be governed by the provisions of this paragraph.

5. EPA retains the right to disapprove at any time the contractor(s), subcontractor(s), supervisory personnel, or other persons retained to conduct any of the Work required by this Order. In such event, Respondents shall propose replacements in accordance with the requirements of this Section.

6. Neither the United States nor EPA shall be held out to be or be considered a party to any contract between Respondents and any contractors, subcontractors, or other persons retained to conduct Work required by this Order.

E. Remedial Design/Remedial Action

1. Within thirty (30) days after EPA approval of Respondents' Supervising Contractor, Respondents shall submit to EPA and the Commonwealth, for approval by EPA, a work plan for the design of the Remedial Action at the Site ["Remedial Design Work Plan"]. The Remedial Design Work Plan shall provide for the design of the remedy as set forth in the ROD and, upon its approval by EPA, shall be enforceable under this Order. The Remedial Design Work Plan shall include plans, schedules, and methodologies for implementation of all necessary remedial design and pre-design tasks, including but not limited to: (a) a

Sampling and Analysis Plan ["SAP"], prepared in accordance with Section XI (Quality Assurance); (b) a Remedial Design Permitting Requirements Plan; (c) a Remedial Design Contingency Plan; (d) work plans and schedules for the design and implementation of treatability studies; and (e) plans and schedules for the preparation and submission of preliminary, pre-final, and final design submittals. The treatability study work plans shall include Treatability Study Construction Quality Assurance Project Plans applicable to any necessary construction. In addition, the Remedial Design Work Plan shall include an expeditious schedule for completion of all components of the Remedial Design.

2. With thirty (30) days after EPA approval of Respondents' Supervising Contractor, Respondents shall submit to EPA and the Commonwealth a Health and Safety Plan for field design activities, if any, which conforms to the applicable Occupational Safety and Health Administration and EPA requirements including, but not limited to, 29 C.F.R. § 1910.120.

3. Upon approval of the Remedial Design Work Plan by EPA, Respondents shall implement the Remedial Design Work Plan in accordance with the schedules and methodologies contained therein. Respondents shall submit all plans, submittals, and other deliverables required in accordance with the approved schedule therein for review and approval pursuant to Section XIII (Plans and Reports Requiring EPA approval) of this Order. Unless otherwise directed by EPA, Respondents shall not commence



Remedial Design or Remedial Action activities at the Site prior to approval of the Remedial Design Work Plan.

4. The preliminary design submittal required under paragraph E(3), above, shall include, at a minimum, the following: (a) design criteria; (b) results of treatability studies (if any); (c) results of additional field sampling; (d) project delivery strategy; (e) preliminary plans, drawings, and sketches; (f) required specifications in outline form; and (g) a preliminary construction schedule.

5. The pre-final and final design submittals required under paragraph E(1), above, shall each include, at a minimum, the following plans, as well as expeditious schedules and specific methodologies for implementation of these plans: (a) final designs and specifications for the Remedial Action; (b) Operation and Maintenance Plan; (c) a Remedial Action Construction Plan; (d) a Remedial Action Construction Quality Assurance Plan ["CQAP"]; (e) a Field Sampling Plan (directed at measuring progress towards meeting Performance Standards); (f) a Ground Water, Surface Water, Sediment, and Air Monitoring Plan (that will include provisions for sampling of residential and early warning wells); (g) complete specifications for preparation of a Health and Safety Plan for field activities required by the pre-final/final design; (h) complete specifications for preparation of procedures and plans for the decontamination of equipment and disposal of contaminated materials

["Decontamination Plan"]; (i) a Remedial Action Permitting Plan; (j) a Remedial Action Contingency Plan; and (k) a plan for implementation of deed restrictions which will ensure that the structures, devices, and other components of the Work are not interfered with or disturbed by future use of the property (if Respondents own any portion of the Site upon which Work is performed pursuant to this Order). Respondents shall ensure that specifications required under item (g), above, as accepted by EPA and under item (h), above, as accepted by EPA, are met by Respondents' contractor(s) in preparing the Health and Safety Plan and the Decontamination Plan. The Decontamination Plan shall be submitted by Respondents for approval, and the Health and Safety Plan for field activities for acceptance, in accordance with the schedule set forth in the final design submittal, and upon approval of the Decontamination Plan and acceptance of such Health and Safety Plan by EPA, shall be enforceable as part of this Order. The CQAP, which shall detail the approach to quality assurance during construction activities at the Site, shall specify an Independent Quality Assurance Team ["IQAT"] to conduct the quality assurance program during the construction phase of the project. The IQAT shall be responsible for examining and testing various materials, procedures, and equipment during implementation of the construction activities. The IQAT shall perform on-site inspections of the Work to assess compliance with project standards, verify that the CQAP is

implemented, and report to the Respondents and EPA the results of all inspections.

6. The EPA-approved final design submittal shall serve as the Remedial Action Work Plan and shall be enforceable under this Order. The Respondents shall implement the Remedial Action Work Plan according to the schedules and methodologies contained therein. Unless otherwise directed by EPA or required under the Remedial Design Work Plan, the Respondents shall not commence physical on-site activities at the Site prior to the date for commencement set forth in the approved schedule in the Remedial Action Work Plan.

7. Not later than 60 days after EPA's approval of the final design submittal, Respondents shall submit to EPA and the Commonwealth, for approval by EPA, a Construction Management Plan. The Construction Management Plan shall identify key personnel, their experience, their qualifications, and their responsibilities for construction activities, and shall include a detailed schedule for completing all construction activities. Upon approval by EPA, the Construction Management Plan shall be enforceable under this Order.

8. Within forty-five (45) days after EPA approved the Construction Management Plan, Respondents shall begin on-site implementation of the Remedial Action. Upon approval by EPA of the Construction Management Plan, Respondents shall implement and comply with the schedules and terms of all requirements relating

to Remedial Action including the Remedial Action Work Plan and the Construction Management Plan.

9. The Work performed by Respondents pursuant to this Order shall, at a minimum, be consistent with the ROD and shall attain the Performance Standards.

**F. Additional Response Actions.**

1. In the event that EPA or Respondents determine(s) that additional response actions are necessary to carry out the requirements of the ROD or to achieve Performance Standards, notification of such additional response actions shall be provided by EPA to Respondents' Project Coordinator or by Respondents to the EPA Remedial Project Manager.

2. Within thirty (30) days of receipt of notice from EPA pursuant to Section VI.F(1) of this Order that additional response actions are necessary (or such longer time as may be specified by EPA), Respondents shall submit to EPA and the Commonwealth, for approval by EPA, a work plan for the additional response actions. Upon approval of the plan by EPA pursuant to Section XIII.B of this Order, Respondents shall implement the plan for additional response actions in accordance with the schedule contained therein.

3. Any additional response actions that Respondents determine are necessary to carry out the requirements of the ROD or to achieve the Performance Standards shall be subject to

approval by EPA, and, if authorized by EPA, shall be completed by Respondents in accordance with plans, specifications, and schedules approved or established by EPA pursuant to Section XIII.B of this Order.

4. If required by sections 113(k)(2) or 117 of CERCLA; 42 U.S.C. §§ 9613(k)(2) or 9617, or the NCP, Respondents and the public will be provided with an opportunity to comment on any additional response actions proposed pursuant to this Subsection and to submit written comments for the record during the public comment period. After the expiration of any such statutorily prescribed comment period, the Regional Administrator, EPA Region III, or his/her delegate will determine in writing whether additional response actions are appropriate.

G. Reporting Requirements.

1. In addition to any other requirement of this Order, Respondents shall submit to EPA and the Commonwealth five (5) copies each of a written monthly progress report that: (a) describes the actions which have been taken toward achieving compliance with this Order during the previous month; (b) upon the request of the Project Manager, includes all results of sampling and tests and all other data related to the Site received or generated by Respondents or their contractors or agents in the previous month; (c) identifies all work plans, plans and other deliverables required by this Order completed and submitted during the previous month; (d) describes all actions,

including, but not limited to, data collection and implementation of work plans, which are scheduled for the next month and provides other information relating to the progress of construction, including, but not limited to, critical path diagrams, Gantt charts and Pert charts; (e) includes 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; and (f) describes any modifications to the work plans or other schedules that Respondents have proposed to EPA or that have been approved by EPA; and (g) describes all activities, as approved by EPA under Section XX (Community Relations) undertaken in support of the Community Relations Plan during the previous month and those to be undertaken in the next month. Respondents shall submit these progress reports to EPA and the Commonwealth by the end of every month, for previous month, immediately following the effective date of this Order until EPA notifies the Respondents pursuant to Section XVII.B(2) of this Order that the Work has been fully performed in accordance with this Order. If requested by EPA, Respondents shall also provide briefings for EPA and the Commonwealth to discuss the progress of the Work.

2. Except as provided in this Section VI.G(2), Respondents shall notify EPA of any anticipated change to the EPA-approved schedule for performance of any activity including,

but not limited to, implementation of work plans, no later than fourteen (14) days prior to the scheduled performance of the activity. Notwithstanding the foregoing, Respondents shall notify EPA of any anticipated change to the EPA-approved schedule for the performance of data collection no later than thirty (30) days prior to the performance of such activity, unless otherwise directed by EPA. All modifications to the EPA-approved schedule must be approved by the EPA.

3. In addition to the reporting required by section 103 of CERCLA, 42 U.S.C. § 9603, or section 304 of the Emergency Planning and Community Right-to-Know Act ["EPCRA"] section 304, 42 U.S.C. § 11004, upon the occurrence of any event during performance of the Work that Respondents are required to report pursuant to section 103 of CERCLA, 42 U.S.C. § 9603, or section 304 of EPCRA, 42 U.S.C. § 11004, Respondents shall, within twenty-four (24) hours of the onset of such event, orally notify the EPA Remedial Project Manager or the Chief, Western Pennsylvania Remedial Section, EPA Region III ["Section Chief"] (in the event of the unavailability of the EPA Remedial Project Manager); or, in the event that neither the EPA Remedial Project Manager nor the Section Chief is available, the EPA Region III Hotline at (215) 597-9898. Within ten (10) days of the onset of such an event, Respondents shall furnish to EPA and the Commonwealth a written report, signed by the Respondents' 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, Respondents shall submit a report setting forth all actions taken in response thereto.

H. EPA Periodic Review.

1. Respondents shall conduct any studies and investigations deemed necessary by EPA in order to permit EPA to conduct reviews at least every five (5) years required by section 121(c) of CERCLA, 42 U.S.C. § 9621(c), and any applicable regulations.

2. If required by sections 113(k)(2) or 117 of CERCLA, 42 U.S.C. §§ 9613(k)(2) or 9617, or the NCP, Respondents and the public will be provided with an opportunity to comment on any additional response actions proposed by EPA as a result of the review conducted pursuant to section 121(c) of CERCLA, 42 U.S.C. § 9621(c), and to submit written comments for the record during the public comment period. After the period for submission of written comments is closed, the Regional Administrator, EPA Region III, or his/her delegate will determine in writing whether additional response actions are appropriate.

3. If the Regional Administrator, EPA Region III, or his/her delegate determines that information received, in whole or in part, during the review conducted pursuant to section 121(c) of CERCLA, 42 U.S.C. § 9621(c), indicates that the Remedial Action is not protective of human health and the



environment, the Respondents shall undertake any additional response actions EPA has determined are appropriate.

4. Within thirty (30) days after notice of EPA's determination that additional response actions are necessary (or such longer time as may be specified by EPA), Respondents shall submit to EPA and the Commonwealth, for approval by EPA, a work plan for the additional response actions. Upon approval of the plan by EPA pursuant to Section XIII.B of this Order, Respondents shall implement the plan for the additional response actions in accordance with the schedule contained therein.

I. Off-Site Shipment of Waste Materials.

1. Respondents shall, prior to any off-site shipment of Waste Material from the Site to a waste management facility, provide written notification to the appropriate state environmental official in the receiving facility's state and to the EPA Remedial Project Manager of each shipment of Waste Material. However, this notification requirement shall not apply to any off-site shipment when the total volume of all shipments from the Site to the facility will not exceed ten (10) cubic yards. Notification to receiving state officials shall then be governed by applicable state law.

2. The Respondents shall include in the written notification the following information, where available: (a) the name and location of the facility to which the Waste Materials are to be shipped; (b) the type and quantity of the Waste

Materials to be shipped; (c) the expected schedule for the shipment of the Waste Materials; and (d) the method of transportation. The Respondents shall notify the state in which the planned receiving facility is located of major changes in the shipment plan, such as a decision to ship the Waste Materials to another facility within the same state, or to a facility in another state or a significant change in volume or shipment schedule.

3. The identity of the receiving facility and state will be determined by the Respondents following the award of the contract for Remedial Action construction. The Respondents shall provide written notification required by this Section VI.I, including the information required by Paragraph I.1, as soon as practicable after the award of the contract, but in no case less than fourteen (14) days before the Waste Materials are actually shipped.

#### **VII. FAILURE TO PERFORM/PERFORMANCE EVENTS**

A. In the event of an inability or anticipated inability on the part of Respondents to perform any of the actions required by this Order in the time and manner required herein, the Respondents' Project Coordinator (as defined in Section VIII, below) shall notify EPA orally within twenty-four (24) hours of such event and in writing as soon as possible, but in no event more than ten (10) days after such event. Such notice shall set

forth the reason(s) for, and the expected duration of, the inability to perform; the actions taken and to be taken by Respondents to avoid and mitigate the impact of such inability to perform; and the proposed schedule for completing such actions. Such notification shall not relieve Respondents of any obligation of this Order. Respondents shall take all reasonable actions to prevent and minimize any delay.

B. Failure of Respondents to carry out any requirement of this Order in accordance with the terms and conditions specified herein may result in the unilateral performance of the required actions by EPA pursuant to applicable authorities, an action to recover treble damages pursuant to CERCLA, and/or the initiation of an enforcement action against Respondents to require Respondents to perform such actions, in addition to any other relief that may be available to EPA pursuant to applicable law.

C. Nothing in this Section or any other provision of this Order shall be construed to limit any powers EPA may have under CERCLA, the NCP, or any other law or regulation.

**VIII. DESIGNATED PROJECT COORDINATOR/REMEDIAL PROJECT MANAGER**

**A. Respondents' Project Coordinator**

(1) Within ten (10) days after the effective date of this Order, Respondents shall designate a Project Coordinator and shall submit the name and qualifications of such person to EPA for review and acceptance. Respondents' Project Coordinator

shall be a technical and/or managerial representative of Respondents and may be a contractor and/or consultant; provided, however, the Respondents' Project Coordinator shall not be its legal representative in this matter.

(2) Respondents' designation of a Project Coordinator shall be subject to acceptance by EPA. In the event EPA does not accept Respondents' designation of a Project Coordinator, Respondents shall, within fourteen (14) days after receipt of EPA's notice not to accept Respondents' designation of a Project Coordinator, submit to EPA a list identifying the names and qualifications of proposed Project Coordinators, that would be acceptable to Respondents. EPA shall then provide Respondents with notice identifying each proposed Project Coordinator on the list whose designation would be accepted by EPA. Respondents shall, within ten (10) days of receipt of EPA's notice identifying acceptable replacement Project Coordinators, select any accepted Project Coordinator from the list and notify EPA of such selection.

(3) EPA may at any time disapprove Respondents' selection of Project Coordinator. In such event, Respondents shall follow the procedures set forth in Section VIII.A (2) in selecting a replacement Project Coordinator.

(4) In the event Respondents wish to change their Project Coordinator, Respondents shall designate a new Project Coordinator in accordance with the procedures set forth in

Section VIII.A (1), above. The designation of a new Project Coordinator must be accepted by EPA in accordance with the procedures set forth in Section VIII.A (2) prior to the effective date of any such replacement.

**B. EPA's Remedial Project Manager**

**1. EPA's Remedial Project Manager is:**

Frank Vavra (JHW23)  
Western Pennsylvania Remedial Section  
U.S. Environmental Protection Agency  
841 Chestnut Building  
Philadelphia, PA 19107  
(215) 597-0676

**2. EPA has the right to change its Remedial Project Manager at any time. In the event EPA makes such a change, EPA will inform Respondents' Project Coordinator of the name, address, and telephone number of the new EPA Remedial Project Manager.**

**3. EPA's Remedial Project Manager shall have the authority vested in a Remedial Project Manager and an On-Scene Coordinator by the NCP. In addition, EPA's Remedial Project Manager shall have the authority, consistent with the NCP, to halt, conduct, or modify any work required by this Order, and to take any necessary response action when the EPA Remedial Project Manager or other EPA official determines that conditions at the Site may present a threat to the public health or welfare or the environment.**

**4. Unless otherwise directed by the EPA Remedial Project Manager, all communications, whether written or oral, from Respondents to EPA shall be directed to the EPA Remedial Project**

Manager.

5. No informal advice or guidance from the EPA Remedial Project Manager shall relieve Respondents from any obligations under this Order.

#### **IX. SITE ACCESS**

A. As of the effective date of this Order, and pursuant to section 106(a) of CERCLA, 42 U.S.C. § 9606(a), Respondents shall provide access to any property owned or controlled by Respondents upon which Work shall be performed pursuant to this Order to EPA and its employees, agents, consultants, contractors, and other designated and/or authorized representatives for the purposes of conducting any activity required by or related to this Order. Such access shall permit EPA and its employees, agents, consultants, contractors, and other designated representatives to conduct all activities described in Paragraph C of this Section IX.

B. To the extent that the Work required by this Order must be performed on property not presently owned or controlled by Respondents, Respondents shall use best efforts to obtain access agreements from the present owners of such property within thirty (30) days of the effective date of this Order. Respondents shall use best efforts to secure from such persons access for themselves, as well as for EPA, the Commonwealth, and their representatives, as necessary to implement this Order. At a

minimum, best efforts shall include, but shall not be limited to, a certified letter from Respondents to the present owners of such property requesting access agreements which provide that Respondents may perform all Work required by this Order which must be performed on such property and which fulfill the requirements of Paragraphs A and C of this Section IX. Best efforts shall include agreement to reasonable conditions for access and/or the payment of reasonable fees. In the event that the property owners refuse to provide such access or access agreements are not obtained within thirty (30) days of the effective date of this Consent Order, whichever occurs sooner, the Respondents shall immediately notify EPA, in writing, of all efforts to obtain access and the circumstances of their failure to secure access agreements. EPA may, in its discretion, thereafter assist Respondents in obtaining access.

C. EPA and its employees, agents, consultants, contractors, and other designated representatives shall have the authority to enter and freely move about all property subject to this Order at all reasonable times for the purposes of, inter alia, inspecting records, operating logs, and contracts related to the Site; reviewing the progress of the Respondents in carrying out the terms of this Order; conducting such tests and taking such samples as EPA deems necessary; using a camera, sound recording, or other documentary type equipment; and verifying the data submitted to EPA by the Respondents. In addition, EPA and its

employees, agents, consultants, contractors, and other authorized representatives shall have authority to enter, at all reasonable times, all areas in which records related to the performance of the Work required by this Order are retained. Respondents shall permit such persons to inspect and copy all records, files, photographs, documents, and other writings, including all sampling and monitoring data, in any way pertaining to Work undertaken pursuant to this Order. Nothing herein shall be interpreted as limiting the inspection or information gathering authorities of EPA under Federal law.

D. Notwithstanding any provision of this Order, EPA retains all access authorities and rights under CERCLA and any other applicable statute and regulation.

#### X. SAMPLING AND DATA/DOCUMENT AVAILABILITY

A. Unless otherwise directed by EPA, Respondents shall notify EPA in writing not less than thirty (30) days in advance of any sample collection activity undertaken pursuant to this Order.

B.1. Subject to the limitations contained in Section X.B(2) of this Order, EPA and its designated representatives shall have full access to all information maintained or created by, or on behalf of, Respondents in connection with activities conducted pursuant to this Order including, but not limited to, contractual documents, sampling data, and field notes. Except as otherwise



provided in this Order, all such information requested by EPA and maintained by Respondents and/or Respondents' contractors, agents, or assigns (and, where appropriate, information required by Section X.B(2) of this Order) shall be made available to EPA or its designated representative within ten (10) days of receipt of any such request.

2. Respondents' obligation to disclose information required by EPA pursuant to Section X.B(1) of this Order is subject to applicable privileges recognized under Federal law, provided that no sample results or analytical or monitoring data shall be claimed as privileged. Where a claim of privilege is invoked as to information, Respondents shall identify such information and state the basis of any privilege claimed. In the event Respondents withhold a document as privileged, Respondents shall provide EPA with the date, title, author, and addressee/recipient of the document; a description of the nature of the document; and the identity and basis of each privilege asserted.

C. Upon reasonable notice, Respondents and/or its contractors or subcontractors shall make themselves available for such meetings, conferences, and/or inspections with EPA, or its representatives, as may be necessary for EPA to oversee the performance of Work required by this Order.

D. At the request of EPA, Respondents shall provide EPA or its designated representatives with split or duplicate samples of

any material sampled in connection with the implementation of this Order and/or shall permit EPA or its authorized representative to take such split or duplicate samples of any sample taken.

E. Confidential Business Information

1. Respondents may assert a claim of business confidentiality covering part or all of the information or documentation required by or provided under this Order in the manner described in 40 C.F.R. § 2.203(b). Such an assertion shall be substantiated in accordance with 40 C.F.R. § 2.204(e)(4) at the time the assertion is made. Information subject to such a claim will be handled in accordance with the procedures set forth in 40 C.F.R. Part 2, Subpart B. If no claim of business confidentiality accompanies the information or documentation when it is submitted or made available to EPA, it may be made available to the public by EPA without further notice to Respondents.

2. Respondents shall not assert confidentiality claims 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 disclosing conditions at or around the Site.

## **XI. QUALITY ASSURANCE**

A. While conducting all sample collection and analysis activities required by this Order, the Respondents shall implement quality assurance, quality control and chain of custody procedures in accordance with "Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA," 1988 (OSWER Directive 9355.3-01); "EPA NEIC Policies and Procedures Manual," May 1978, revised May 1986 (EPA 330/978-001-R); "Interim Guidelines and Specifications for Preparing Quality Assurance Project Plans," December 1980 (QAMS 005/80); "A Compendium of Superfund Field Operations Methods," December 1987 (OSWER Directive 9355-0-14); "Data Quality Objectives for Remedial Response Activities," March 1987 (OSWER Directive 9355.0-7B); EPA's "Guidelines and Specifications for Preparing Quality Assurance Program Documentation," June 1, 1987; "Preparing Perfect Project Plans," October 1989 (EPA/600/9-89-087); and amendments to these guidelines.

B. The Respondents shall consult with EPA in planning for, and prior to, all sampling and analysis required by this Order, and any subsequent EPA-approved plans prepared as part of this Order. Unless otherwise directed by the EPA Remedial Project Manager, Respondents shall not commence sampling until EPA approves the Remedial Action Work Plan and the Sampling and Analysis Plan ["SAP"].

C. In order to provide quality assurance and maintain

quality control regarding all samples collected pursuant to this Order, the Respondents shall:

1. Use only laboratories that have a documented Quality Assurance Program that complies with EPA guidance document QAMS-005/80.
2. Submit to the EPA Remedial Project Manager the selected laboratory's(ies') 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. The SAP must state that all protocols described therein take precedence over protocols listed in the Laboratory QAPP.
3. Ensure that EPA personnel and/or its authorized representatives are allowed reasonable access to the laboratory(ies), records and personnel utilized by the Respondents in implementing this Order.
4. Prepare a SAP, consisting of a Quality Assurance Project Plan ["QAPP"] and a Field Sampling Plan ["FSP"], for sample collection, transportation, analysis, validation and reporting to be conducted pursuant to this Order. The SAP shall be submitted as part of the Remedial Design Work Plan to the EPA Remedial Project Manager for review and approval prior to commencing sampling and analysis. Each plan shall specify, for the phase of activity addressed, the data quality objectives ["DQOs"], sample collection and transportation procedures, data

analysis methods, data reduction, data review, and reporting procedures. The FSP shall also include the types, locations, analytical parameters, and frequency of samples. Selection of analytical methods shall be justified in conjunction with the DQOs. The guidelines referenced in Paragraph A, above, shall be followed in the preparation of the SAP; additional guidance may be provided by EPA when applicable and/or requested by the Respondents.

5. Ensure that the laboratory(ies) analyzing samples pursuant to this Order use appropriate methods. If EPA Contract Lab Program ["CLP"] methods are selected, the laboratory(ies) shall use these methods and submit deliverables delineated in the current "Statement of Work of the EPA Contract Lab Program." If non-CLP methods are selected, all constituents and physical parameters shall be analyzed using methods that are specified (method and reference) and justified in SAP. Non-CLP methods shall be fully described in the QAPjP and approved by the EPA Remedial Project Manager prior to conducting any sampling and analysis. This description shall include, at a minimum, the matrix, calibration, Quality Control ["QC"] samples (type and frequency), corrective measures, and deliverables.

6. Ensure that the laboratory(ies) analyzing samples pursuant to this Order agrees to demonstrate its capability to perform the selected analyses by analyzing Performance Evaluation ["PE"] samples, supplied by EPA. Analysis of PE samples may be

waived by EPA if the laboratory(ies) satisfactorily analyzed PE samples using the selected methods within the six (6) months prior to analysis conducted pursuant to this Order.

Documentation of such PE sample analysis shall be submitted to the EPA Remedial Project Manager for verification.

7. At the request of EPA, conduct one or more independent audits of the selected laboratory(ies) to verify analytical capability and compliance with the SAP. Auditors shall conduct lab audits at sometime during the time the laboratory(ies) are analyzing samples collected pursuant to this Order. The lab audit shall be conducted according to procedures available from the EPA Environmental Services Division Quality Assurance Branch ["QA Branch"]. Audit reports shall be submitted to the EPA Remedial Project Manager within fifteen (15) days of completion of the audit. The Respondents shall report serious deficiencies, including all those which adversely affect data quality, reliability or accuracy, and take action to correct such deficiencies within twenty-four (24) hours of the time the Respondents know or should have known of the deficiency.

8. Conduct at least one independent field audit (to be described in the QAPjP) during initial sampling activities to verify that field samplers are correctly following sampling procedures described in the SAP. A report of the field audit shall be submitted to the EPA Remedial Project Manager within fifteen (15) days of completion of the audit. Respondents shall

report the scope of the audit and the deficiencies noted, and take action to correct such deficiencies within twenty-four (24) hours of the time the Respondents know or should have known of the deficiency. EPA shall have the option to audit any stage of the field activities.

9. Provide data validation of analyses completed by the laboratory(ies), to determine data usability. If the data are derived by CLP methods, the data validation shall be performed in accordance with the most recent National Functional Guidelines for Data Review and Region III Modifications (available from EPA's QA Branch). For non-CLP methods, the data validation shall be performed as described in the SAP and in accordance with the QC data validation criteria set forth in that method. The quality assurance data validation reports shall be prepared using EPA Region III format (available from the QA Branch) and shall be submitted, along with the validated data summary sheets and the laboratory sample results, to the EPA Remedial Project Manager.

D. At the request of EPA, Respondents shall allow split or duplicate samples to be taken by EPA and/or its authorized representatives, of any samples collected by the Respondents pursuant to this Order. Unless otherwise directed by EPA, the Respondents shall notify EPA not less than thirty (30) days in advance of any such sample collection activity. In addition, EPA shall have the right to take any additional samples that EPA

deems necessary.

E. In addition to other obligations contained in this Order requiring Respondents to submit data, Respondents shall, within ten (10) days of Respondents' receipt of a request by EPA, submit to EPA the results of all sampling and/or tests or other data obtained or generated by or on behalf of Respondents with respect to the Site and/or implementation of this Order.

F. Notwithstanding any provision of this Order, the United States hereby retains all of its information gathering and inspection authorities and rights, including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statute and regulation.

### **XII. RECORD PRESERVATION**

A. Respondents shall preserve and retain, during the pendency of this Order and for a minimum of ten (10) years after its termination, all records and documents now in their possession or control or which come into their possession or control that relate in any manner to implementation of this Order, despite any corporate document retention policy to the contrary.

B. Respondents shall use their best efforts to obtain copies of all documents relating in any way to the Site and which are in the possession of their employees, agents, accountants, contractors, or attorneys. After expiration of the ten (10) year



document retention period, Respondents shall notify EPA at least ninety (90) days prior to the destruction of any documents relating to the Site. Upon request by EPA and subject to Sections X.B and X.E of this Order, Respondents shall make available to EPA such records or copies of any such records. In no event shall Respondents destroy such records or documents until EPA responds in writing approving such destruction.

C. Respondents shall ensure that any agreement between Respondents and any agent, contractor, consultant, or other person retained to perform or oversee Work pursuant to this Order shall explicitly require said agent, contractor, consultant, or other person to maintain and preserve, during the pendency of this Order and for a minimum of ten (10) years after termination of this Order, all data, records, and documents within their respective possession or control which relate in any manner to this Order or to hazardous substance management and disposal at the Site.

### **XIII. PLANS AND REPORTS REQUIRING EPA APPROVAL**

A. Unless otherwise specified by the EPA Project Manager, five (5) copies of all documents, including plans, reports, and other items required to be submitted to EPA for approval pursuant to this Order, shall be submitted to the EPA Remedial Project Manager designated pursuant to Section VIII of this Order in accordance with the requirements of this Section. Two (2) copies

of each such document shall simultaneously be submitted to the Commonwealth (to provide the Commonwealth an opportunity to review and comment to EPA) at the following address:

Mr. Samuel Sloan  
PA Department of Environmental Resources  
Hazardous Sites Clean Up Program  
One Ararat Boulevard  
Harrisburg, PA 17110-9714

The following documents shall be signed by a Duly Authorized Representative of Respondents certifying the information contained in the foregoing document as set forth below: the Remedial Design Work Plan required by Section VI.E(1) of this Order; any treatability study work plan which may be required by Section VI.E(1) of this Order; the final Remedial Design required by Section VI.E(3) of this Order; the Construction Management Plan required by Section VI.E(7) of this Order; any work plan submitted pursuant to Section VI.F (Additional Response Actions) of this Order; any written notification of anticipated inability to perform submitted pursuant to Section VII.A (Failure to Perform/Performance Events) of this Order; and the written reports required by Section XVII (Certification of Completion) of this Order. The certification statement accompanying the document shall state the following:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those person

directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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."

B. Following review of any document submitted to EPA pursuant to Section XIII.A of this Order, EPA may:

- (1) approve the document in full;
- (2) approve portions of the document, and
  - (a) modify non-approved portions of the document and require Respondents to implement such document as modified by EPA; and/or
  - (b) direct Respondents to fully respond to EPA's comments regarding non-approved portions of the document and submit a modified document, or portions thereof, for EPA approval;
- (3) disapprove the document, and
  - (a) modify the document and require Respondents to implement such document as modified by EPA; and/or
  - (b) direct Respondents to submit a modified document for EPA approval that fully responds to EPA's comments; or
- (4) disapprove the document and perform all or any part of the response action.

C. Unless otherwise specified by EPA, Respondents shall undertake all actions required by documents, or portions of

documents, approved by EPA.

D. Upon receipt of a notice of disapproval of all or any portion of any document submitted hereunder, Respondents shall, within fifteen (15) days or such other time as may be specified by EPA in its notice of disapproval, submit a modified document which is responsive to all directions contained in EPA's notice of disapproval.

E. Modified documents required pursuant to Section XIII:D of this Order shall be submitted, and subject to, EPA approval in accordance with this Section.

F. In the event EPA disapproves all or any portion of any document submitted for EPA approval, Respondents shall be deemed to be in violation of this Order.

G. EPA shall make all decisions regarding the sufficiency or acceptability of all documents and of any activities performed pursuant to this Order.

H. No failure by EPA to approve, disapprove, or otherwise respond to a document submitted to EPA for approval shall be construed as an approval of such document.

I. All plans, reports, and other items required to be submitted to EPA under this Order shall, upon modification by EPA and/or approval by EPA, be deemed to be incorporated in and an enforceable part of this Order. In the event EPA approves a portion of a plan, report, or other item required to be submitted to EPA under this Order, the approved portion shall be deemed to

be incorporated in and enforceable as part of this Order.

J. To the maximum extent possible, communications from the Respondents to EPA and all documents including, but not limited to, plans, reports, and other correspondence concerning Work performed pursuant to this Order, shall be directed to the EPA Remedial Project Manager by overnight mail or equivalent delivery.

#### XIV. RESERVATION OF RIGHTS

A. EPA reserves all rights, claims, interests, and defenses it has under CERCLA or any other law or in equity.

B. Nothing herein shall be construed to prevent EPA from seeking legal or equitable relief to enforce the terms of this Order; to seek injunctive relief, and/or to seek the imposition of statutory penalties.

C. EPA reserves the right to disapprove of Work performed by Respondents pursuant to this Order, to require that Respondents correct and/or re-perform any and all Work disapproved by EPA, and to require that Respondents perform response actions in addition to those required by this Order.

D. EPA reserves the right to take enforcement actions, including actions for monetary penalties, for any violation of law, regulation, or of this Order. Failure to comply with this Order may subject Respondents to the assessment of civil penalties of up to \$25,000 per day and/or punitive damages in an

amount up to three times the amount of any costs incurred by EPA as a result of such failure pursuant to sections 106(b) and 107(c) of CERCLA, 42 U.S.C. §§ 9606(b) and 9607(c). EPA may also undertake other actions as it may deem necessary or appropriate for any purpose, including, but not limited to, actions pursuant to sections 104 and/or 106 of CERCLA, 42 U.S.C. §§ 9604 and/or 9606.

E. EPA reserves the right to undertake removal and/or remedial actions, including all actions required by this Order, at any time such actions are appropriate under CERCLA and the NCP and to seek reimbursement from Respondents for any costs incurred. Performance by EPA of any portion of the Work required by this Order shall not release Respondents of their obligation to comply with all other requirements of this Order and shall not release Respondents from liability for penalties and/or damages for any violations of this Order.

F. EPA reserves the right to bring an action against Respondents pursuant to section 107 of CERCLA, 42 U.S.C. § 9607, for recovery of all response costs incurred by the United States in connection with this Order and not reimbursed by Respondents, as well as any other costs incurred by the United States in connection with response actions conducted pursuant to CERCLA at the Site.

G. Without limitation of any other provision in this Order, EPA reserves the right to bring actions against, and/or issue

orders to, Respondents pursuant to applicable authorities for any purpose including, but not limited to, performance of response actions other than those performed by Respondents pursuant to this Order.

#### XV. GENERAL PROVISIONS

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

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

C. Nothing herein shall constitute or be construed as a satisfaction or release from liability of Respondents or any other person.

D. Invalidation of any provision or requirement of this Order shall not affect the validity of any other provision or requirement of this Order.

**XVI. EFFECTIVE DATE, OPPORTUNITY TO CONFER, AND  
NOTICE OF INTENT TO COMPLY**

A. Not later than twenty (20) days from the date of issuance of this Order, Respondents may confer with EPA to discuss the scope and applicability of this Order, the findings upon which this Order is based, the appropriateness of any action or activity required to be undertaken hereby, or other issues directly relevant to issuance of this Order. Such a conference is not, and shall not be deemed to be, an adversarial hearing or part of a proceeding to challenge this Order, and no official stenographic record of such proceeding shall be kept. Any request for a conference within the prescribed timeframe shall be made to:

Daniel Isaacs (JRC22)  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
841 Chestnut Building  
Philadelphia, PA 19107  
(215) 597-4774

B. This Order is deemed "issued" on the date it is signed by the Regional Administrator of EPA Region III. This Order shall become effective thirty (30) days following the date on which it is issued.

C. No later than two (2) days after the effective date of this Order, each Respondent shall provide notice in writing to the individual identified in Section XVI.A of this Order stating whether such Respondent intends to comply with the terms of this Order. Failure by Respondents to provide such notice shall be a



violation of this Order and deemed to be a decision by Respondents not to comply with the terms of this Order. In the event any Respondent elects not to comply with this Order, such Respondent shall identify all reasons supporting such decision Respondents claims as "sufficient cause" within the meaning of section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3).

**XVII. CERTIFICATION OF COMPLETION AND TERMINATION**

**A. Completion of the Remedial Action**

1. Within sixty (60) days after Respondents conclude that the Remedial Action has been fully performed, Respondents shall so certify to EPA and the Commonwealth and shall schedule and conduct a pre-certification inspection to be attended by Respondents, EPA, and the Commonwealth. If, after the pre-certification inspection, the Respondents still believe that the Remedial Action has been fully performed, Respondents shall submit a written report to EPA and the Commonwealth, for approval by EPA, within thirty (30) days of the inspection. In the report, a registered professional engineer ["RPE"] and a Duly Authorized Representative of the Respondents shall certify, pursuant to Section XIII (Plans and Reports Requiring EPA Approval) of this Order, that the Remedial Action has been completed in full satisfaction of the requirements of this Order. The written report shall include as-built drawings signed and stamped by an RPE and certified as required by Section XIII

(Plans and Reports Requiring EPA Approval) of this Order. If, after completion of the pre-certification inspection and receipt and review of the written report as described above, EPA determines that the Remedial Action or any portion thereof has not been completed in accordance with this Order, EPA will notify Respondents in writing of the activities that must be undertaken to complete the Remedial Action. EPA will set forth in the notice a schedule for performance of such activities consistent with the Order or require the Respondents to submit a schedule for approval by EPA. Respondents shall perform all activities described in the notice in accordance with the specifications and schedules established pursuant to this Paragraph.

2. If EPA concludes, based on the initial or any subsequent Certification of Completion by Respondents, that the Remedial Action has been fully performed in accordance with this Order, EPA will so certify in writing to Respondents. This certification shall constitute the Certification of Completion of the Remedial Action for purposes of this Order. Certification of Completion of the Remedial Action shall not affect Respondents' obligations under this Order that continue beyond the Certification of Completion, including, but not limited to, access, operation and maintenance, record retention, indemnification, insurance, and any work to be conducted under Sections VI.F (Additional Response Actions) or VI.H (EPA Periodic Review) of this Order.

3. Completion of the Work

1. Within ninety (90) days after Respondents conclude that all phases of the Work, including O & M, have been fully performed, Respondents shall so certify to the United States and the Commonwealth by submitting a written report by an RPE certifying that the Work has been completed in full satisfaction of the requirements of this Order and that the Performance Standards have been achieved. The report shall also contain the certification required by Section XIII (Plans and Reports Requiring EPA Approval) of this Order. If, after review of the written report, EPA determines that any portion of the Work has not been completed in accordance with this Order or that the Performance Standards have not been achieved, EPA will notify Respondents in writing of the activities that must be undertaken to complete the Work or to achieved the Performance Standards. EPA will set forth in the notice a schedule for performance of such activities consistent with the Order or require the Respondents to submit a schedule for approval by EPA. Respondents shall perform all activities described in the notice in accordance with the specifications and schedules established therein.

2. If EPA concludes, based on the initial or any subsequent Certification of Completion by Respondents, that the Work has been fully performed in accordance with this Order and that the Performance Standards have been achieved, EPA will so

notify the Respondents in writing.

**C. Termination**

1. This Order shall terminate upon Respondents' receipt of written notice from EPA pursuant to Section XVII.B(2) that the Work has been fully performed in accordance with this Order.

2. Notwithstanding Section XVII.C(1) of this Order, this Order may be terminated at any time in writing by the EPA Region III Regional Administrator.

3. EPA reserves all rights under applicable laws and regulations and termination of this Order shall not alter or in any way affect such rights.

**XVIII. ADMINISTRATIVE RECORD**

The Administrative Record compiled in support of this Order is available for review at the EPA Region III offices and may be seen after contacting the EPA Remedial Project Manager.

**XIX. LIABILITY OF THE UNITED STATES**

Neither EPA nor the United States, by issuance of this Order, assumes any liability for any acts or omissions by Respondents or by Respondents' employees, agents, contractors, or consultants in carrying out any action or activity pursuant to this Order, nor shall EPA or the United States be held as a party to any contract entered into by Respondents, Respondents'

employees, agents, contractors, or consultants in carrying out activities pursuant to this Order.

**XX. COMMUNITY RELATIONS**

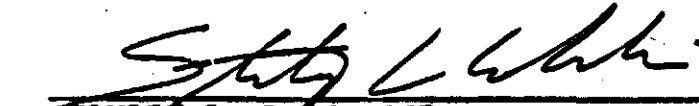
As requested by EPA, Respondents shall participate in the preparation of all appropriate information to be disseminated to the public and in public meetings which may be held or sponsored by EPA to explain activities at or concerning the Site.

**XXI. MODIFICATIONS**

A. Except as provided in Section XXI.B of this Order, the provisions of this Order may be modified at any time, in writing, solely by the EPA Region III Regional Administrator.

B. Modification to any document submitted to, and approved or accepted by EPA pursuant to this Order, may be made in writing by EPA. The effective date of such modifications shall be the date on which Respondents receive notice of such modification.

IT IS SO ORDERED.

  
STANLEY L. LASKOWSKI  
Acting Regional Administrator  
U.S. Environmental Protection Agency  
Region III

12/29/92  
DATE

ORIGINAL  
FILED

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III**

**IN THE MATTER OF:**

**WESTINGHOUSE ELEVATOR COMPANY  
PLANT SUPERFUND SITE;  
ADAMS COUNTY, PENNSYLVANIA**

**WESTINGHOUSE ELECTRIC CORPORATION**

**AND**

**SCHINDLER ELEVATOR CORPORATION**

**Respondents**

**Proceeding Under Section 106 of  
the Comprehensive Environmental  
Response, Compensation, and  
Liability Act of 1980, as amended,  
42 U.S.C. § 9606.**

**Docket No. III-93-12-DC**

**MODIFICATION NO. 1 TO THE ADMINISTRATIVE ORDER  
FOR REMEDIAL DESIGN AND REMEDIAL ACTION**

Having determined the necessity for implementation of remedial activities at the Westinghouse Elevator Company Plant Superfund Site in Adams County, Pennsylvania, the United States Environmental Protection Agency ("EPA") issued an Administrative Order corresponding to EPA Docket No. III-93-12-DC to the above-captioned parties on December 29, 1992 ("Administrative Order"). Pursuant to Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9606(a), and as provided in Section XXI of the Administrative Order, EPA hereby modifies the Administrative Order as hereinafter set forth. Notice of the issuance of this Modification No. 1 has been given to the

Commonwealth of Pennsylvania.

**I. MODIFICATION**

1. Section VI.B. of the Administrative Order is MODIFIED and now reads:

**B. Notice of Order in Property Records**

1. Within fifteen (15) days after the effective date of this Order, the Respondents shall record a certified copy of this Order with the Registry of Deeds, or other office where land ownership and transfer records are maintained, in such manner as shall be effective to bring this Order to the attention of any person examining or researching the state and/or quality of the title to the real property constituting the Plant property or searching for any encumbrances, covenants, easements, liens, restrictions, or other limitations relating to said property.

2. Respondents shall, at least thirty (30) days prior to the conveyance of any interest in the Plant property, give written notice of this Order to the grantee and written notice to EPA and the Commonwealth of the proposed conveyance, including the name and address of the grantee, and the date on which notice of the Order was given to the grantee. In the event of any such conveyance, the Respondents' obligations under this Order shall continue to be met by the Respondents. In addition, if EPA approves, the grantee may perform some or all of the Work under this Order. In no event shall the conveyance of an interest in

property that includes, or is a portion of, the Plant property release or otherwise affect the liability of the Respondents to comply with this Order.

2. The first sentence of Section VI.D.2. of the Administrative Order is MODIFIED and now reads:

Within thirty (30) days after the effective date of this Order, Respondents shall notify EPA in writing of the name, title and qualifications of any contractor proposed to be the Supervising Contractor.

3. The first sentence of Section VI.E.1. of the Administrative Order is MODIFIED and now reads:

Within sixty (60) days after EPA approval of Respondents' Supervising Contractor, Respondents shall submit to EPA and the Commonwealth, for approval by EPA, a work plan for the design of the Remedial Action at the Site ["Remedial Design Work Plan"].

4. Section VI.E.2. of the Administrative Order is MODIFIED and now reads:

Within sixty (60) days after EPA approval of Respondents' Supervising Contractor, Respondents shall submit to EPA and the Commonwealth a Health and Safety Plan for field design activities, if any, which conforms to the applicable Occupational Safety and Health Administration and EPA requirements including, but not limited to, 29 C.F.R. § 1910.120.




**II. LIMITATION ON MODIFICATION**

Except as otherwise stated herein, nothing in this Modification No. 1 shall alter or otherwise affect any term or condition set forth in the Administrative Order.

**III. EFFECTIVE DATE**

This Modification No. 1 is effective on the date it is signed by the Regional Administrator, EPA Region III.

  
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**STANLEY L. LASKOWSKI**  
Acting Regional Administrator  
U.S. Environmental Protection Agency  
Region III

2/4/93  
**DATE**