

BAKER
&
HOSTETLER LLP
COUNSELLORS AT LAW

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WRITER'S DIRECT DIAL NUMBER (216)

861-7957

September 2, 1999

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Ivan Lieben, Attorney
U.S. EPA. Region 5
77 W. Jackson Blvd.
C-14J
Chicago, Illinois 60604

Re: **Declaration of Restriction on Use of Real Property for Mobile Tank
Car Site**

Dear Mr. Lieben:

Enclosed is a copy of the recorded Declaration of Restriction on Use of Real Property and Exhibits A, B and C which was filed with the Cuyahoga County Recorder on August 17, 1999. With the filing of this document we have completely satisfied U.S. EPA's requests regarding the Mobile Tank Car site.

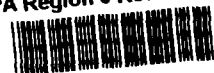
Very truly yours,


Maureen A. Brennan

Enclosures

cc: P. Barz w/enc

EPA Region 5 Records Ctr.



232403

DECLARATION OF RESTRICTION ON USE OF REAL PROPERTY

THIS DECLARATION OF RESTRICTION ON USE OF REAL PROPERTY (this "Declaration") is adopted and made this 2nd day of August, 1999 by the Board of Park Commissioners of the Cleveland Metropolitan Park District (the "Board"), a political subdivision of the State of Ohio organized and operating under Chapter 1545 of the Ohio Revised Code, with its principal office located at 4101 Fulton Parkway, Cleveland, Ohio 44144.

RECITALS:

WHEREAS, the United States Environmental Protection Agency (the "U.S. EPA") has issued, pursuant to Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), two Unilateral Administrative Orders (individually, the "UAO" and collectively, the "UAOs") relating to the former Mobile Tank Car Services Site (the "Site"), of which some real property owned by the Board is a part (the "Property"). The first UAO (the "First UAO"), a copy of which is attached hereto as Exhibit A, was issued on January 24, 1990; the second UAO (the "Second UAO"), a copy of which is attached hereto as Exhibit B, was issued on January 29, 1992;

WHEREAS, the UAOs require removal actions to be undertaken at the Property, including the removal of soils containing Hazardous Substances (as defined under CERCLA) for the protection of the public health and welfare and the environment;

WHEREAS, soils underlying certain portions of the Property described on Exhibit C attached hereto and known as the Restricted Property (the "Restricted Property") presently contain Hazardous Substances at depths of approximately two (2) to six (6) feet below the surface;

WHEREAS, the U.S. EPA has determined under current guidelines that present concentration levels of Hazardous Substances in the soils underlying the Restricted Property could present an actual or threatened imminent and substantial danger to the public health or welfare or the environment if such Hazardous Substances were exposed at the surface of the Restricted Property;

WHEREAS, the Hazardous Substances in the soils underlying the Restricted Property do not pose a known threat to groundwater users in the vicinity of the Restricted Property because, to the best of the U.S. EPA's knowledge, there are no users of the groundwater in the vicinity of the Restricted Property;

WHEREAS, the U.S. EPA has determined that the soils underlying the Restricted Property do not pose a current threat of direct contact with humans in the vicinity of the Restricted Property so long as the Hazardous Substances are not disturbed and remain in place in the soils underlying the Restricted Property in accordance with the restrictions contained herein; and

WHEREAS, the U.S. EPA has determined that any future use of the Restricted Property must not disturb the soils underlying the Restricted Property unless such soils are characterized and remediated in accordance with a U.S. EPA-approved work plan to protect the public health and welfare and the environment;

NOW THEREFORE, by this Declaration there are created, declared and established at the Restricted Property the following restrictive covenants and requirements, which shall run with the land and remain in full force and effect in perpetuity from the date hereof, unless modified or terminated

as hereinafter provided, regardless of any sale, conveyance, alienation or other transfer of any interest or estate in the Property.

1. Restrictions Applicable to the Property. The following restrictions shall bind the Restricted Property:

(a) There shall be no consumptive or other use of the groundwater underlying the Restricted Property from any well or other water source. No new well may be located on the property owned by the Board within fifty (50) feet of the Restricted Property (see OEPA Solid Waste Disposal Regulation 3745-9-04).

(b) There shall be no filling, grading, excavating, drilling, mining, installation, construction, removal or use of any buildings, wells, pipes, ditches, or any other structures on, at or under the Restricted Property which disturbs the soils underlying the Restricted Property except as approved by the U.S. EPA (see Ohio Revised Code § 3734.02(H) and OEPA Solid Waste Disposal Regulation 3745-9-04); and

(c) There shall be no residential use of the Restricted Property.

The restrictions stated above shall continue in full force and effect until such time as the soils underlying the Restricted Property are properly characterized and remediated pursuant to a written petition from the owner of the Property approved by the U.S. EPA, as hereinafter provided.

2. Transfer of Restrictions. The owner agrees to include the following language in any instrument conveying an interest in any portion of the Restricted Property:

**THE INTEREST CONVEYED HEREBY IS SUBJECT TO A
DECLARATION OF RESTRICTIONS, DATED AUGUST 2, 1999,
RECORDED IN THE PUBLIC LAND RECORDS ON August 17,
1999, File No. 199908171024.**

In addition, the owner of the Restricted Property shall provide a copy of this Declaration to all immediate successors, assigns and transferees of the Restricted Property or any portion thereof.

3. Modification or Termination of Restrictions. In the event that the owner of the Restricted Property seeks to undertake an activity which will disturb the soils underlying the Restricted Property, the owner shall submit a soil characterization and remediation work plan to the U.S. EPA for approval (the "Plan"). Upon approval of the Plan, and the proper characterization and remediation of the soils underlying the Restricted Property, the owner may petition the U.S. EPA to modify or terminate the restrictions stated in Paragraph 1 of this Declaration. The petition shall state the specific provisions of Paragraph 1 of this Declaration that the owner seeks to have modified or terminated. A petition may be approved by the U.S. EPA if the owner demonstrates to the reasonable satisfaction of the U.S. EPA that the soils underlying the Restricted Property have been remediated in accordance with the Plan. The U.S. EPA may grant or deny the petition for modification or termination in whole or in part, pursuant to then-applicable standards and guidelines. If the U.S. EPA grants the petition for modification or termination in whole or in part, the owner may record an amendment or termination of this Declaration, as the case may be.

4. Severability. If any provision of this Declaration is declared invalid or unenforceable by any court of competent jurisdiction, the invalidity or unenforceability of such provision

shall not affect the validity of any other provision hereof, and all such other provisions shall continue in full force and effect.

5. Conflict of Laws. If any provision of this Declaration is also the subject of any valid law or regulation established by any federal, state or local government with jurisdiction over the Restricted Property, the stricter of the standards shall prevail.

6. Harmonious Construction. No provision of this Declaration shall be construed so as to conflict with applicable zoning law, regulation or ordinance. If any such conflict arises, the applicable zoning law, regulation or ordinance shall prevail, to the extent that such zoning law, regulation or ordinance is not inconsistent with CERCLA.

7. Authority. The Board represents and certifies that the person executing this Declaration has been duly authorized to execute this Declaration on the Board's behalf.

IN WITNESS WHEREOF, the Board has caused this Declaration to be executed on its behalf by its duly authorized representative this 2ND day of August, 1999.

Witnesses:

**BOARD OF PARK COMMISSIONERS OF THE
CLEVELAND METROPOLITAN PARK
DISTRICT**

Elaine M. Gaughan
Print name Elaine M. Gaughan

By: Vern J. Hartenburg
Vern J. Hartenburg

Its: Executive Director-Secretary

Deborah R. Hairston
Print name DEBORAH R. HAIRSTON

STATE OF OHIO)
) SS.
COUNTY OF CUYAHOGA)

On AUGUST 2, 1999 before me, a notary public in and for said County and State, personally appeared the Board of Park Commissioners of the Cleveland Metropolitan Park District, a political subdivision of the State of Ohio organized and operating under Section 1545 of the Ohio Revised Code, by Vern J. Hartenburg, its Executive Director-Secretary, who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed personally and as such representative, and is the free act of Board of Park Commissioners of the Cleveland Metropolitan Park District.

Deborah R. Hairston
Notary Public

This instrument prepared by:
Lori M. Ambriola, Esq.
Baker & Hostetler LLP
3200 National City Center
1900 East Ninth Street
Cleveland, Ohio 44114-3485

My Commission Expires on SEPT. 1, 2002

DEBORAH R. HAIRSTON
Notary Public, State of Ohio
My Commission Expires Sept. 1, 2002
(Recorded in Cuyahoga County)

Administrative
Admin. R.
JAN 29 1990



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
230 SOUTH DEARBORN ST.
CHICAGO, ILLINOIS 60604

JAN 21 1990

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Cleveland MetroParks Zoo
3900 Brookside Park Drive
Cleveland, Ohio 44109-3137

Re: Mobile Tank Car Services, Inc.
Cleveland, Ohio

Dear Sir:

Enclosed please find a unilateral Administrative Order issued by the U.S. Environmental Protection Agency (EPA) under Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (CERCLA), 42 U.S.C. Section 9601, et seq.

Please note that it allows an opportunity for a conference if requested on or before the effective date of the Order, or if no conference is requested, an opportunity to submit comments on or before the effective date of this Order.

If you have any questions regarding the Order, feel free to contact Felipe Gomez, Assistant Regional Counsel, at (312) 886-6833.

Sincerely,

Basil G. Constantelos

Basil G. Constantelos, Director
Waste Management Division

fu

Enclosure

cc w/encl:
State of Ohio

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION V

IN THE MATTER OF:)

MOBILE TANK CAR SERVICES)
3610 S. BROOKSIDE PARK DRIVE)
CLEVELAND, OHIO)

RESPONDENTS)

SEE ATTACHMENT I)

ADMINISTRATIVE ORDER)
PURSUANT TO SECTION 106)
OF THE COMPREHENSIVE)
ENVIRONMENTAL RESPONSE,)
COMPENSATION, AND)
LIABILITY ACT OF 1980)
AS AMENDED, 42 U.S.C.)
SECTION 9606(A))

DOCKET NO.)

PREAMBLE

This Administrative Order (Order) is issued on this date to Respondents (Attachment I), who are past or present owners/operators of the property and business known as Mobile Tank Car Services, located in Cleveland, Ohio, pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9606(a), as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499 (CERCLA), and delegated to the Administrator of the United States Environmental Protection Agency (U.S. EPA) by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, and further delegated to the Assistant Administrator for Solid Waste and Emergency Response and the Regional Administrators by U.S. EPA Delegation Nos. 14-14A and 14-14B, and to the Director, Waste Management Division, Region V, by delegation No. 14-14C. The State of Ohio has been notified of the issuance of this Order as required by Section 106(a) of CERCLA, 42 U.S.C Section 9606(a).

This Order requires the Respondents listed in Attachment I to complete removal activities at the Mobile Tank Car Services site to abate an imminent and substantial endangerment arising from the actual and threatened release of hazardous substances at the site.

All attachments to this order are hereby incorporated into and made a part of this order.

FINDINGS OF FACT

1. The Mobile Tank Car Services (MTCS) facility is located at 3610 South Brookside Park Drive, Cleveland, Ohio, in Cuyahoga County. The facility consists of two 5-acre contiguous parcels (Field Investigation Team Report, 1985), and is bordered by a parking lot, a foot path, railroad tracks and Big Creek, which is a tributary of the Cuyahoga River. The site is located adjacent to the Cleveland MetroParks Zoo, and is immediately adjacent to the zoo parking lots. The eastern one half of the site has been covered over by a gravel parking lot and is presently utilized as a zoo overflow parking area. (See figures 1 and 2).
2. The MTCS facility has operated as a railroad tank car washing and flushing facility since 1976. The facility reportedly ceased operations in 1985 but has not achieved closure as required by the Resource Conservation and Recovery Act, as amended ("RCRA").
3. The MTCS facility was involved in flushing and cleaning product residues, including hazardous substances, from railroad tank cars employing different steaming, spraying and scraping methods. The sludges, residues and wastewaters generated by the flushing and cleaning processes were stored on site in drums, tanks, uncovered waste piles, and on open cement drying beds.
4. On information and belief, the Respondents listed in Attachment I are or were present or past owners or operators of the MTCS facility and/or the property the MTCS facility is or was located on.
5. Various individuals, including workers from the MTCS facility and nearby residents, reported or complained of the following: questionable operational practices, odors and visible airborne releases emanating from the MTCS facility, direct discharge of wastewater into the nearby Big Creek, and human illness and damaged vegetation allegedly caused by noxious fumes emanating from the facility (See Attachment II).
6. Local, State, and Federal authorities inspected the MTCS facility several times in the past (See Attachment II) in response to the complaints of odors, questionable operational practices, and alleged violations of State and Federal laws. The following conditions were documented by inspectors at the MTCS facility:
 - a. Several inspections noted uncontained and uncovered waste piles resting directly on the ground. These piles of potentially hazardous residue from the tank car cleaning operations were observed to be discolored

and stained. The soils surrounding the waste pile areas were also stained.

- b. Drums were poorly managed at the facility. Unlabeled drums containing unanalyzed materials were haphazardly arranged; drums containing incompatible materials were not segregated, and drums were located in an undiked area. Bulging, leaking, or deteriorated drums were observed on several occasions at the facility.
- c. Inspectors repeatedly observed that the facility lacked security and had unrestricted access during and after its active operational life. Inspectors also noted that potentially hazardous wastes were not analyzed, identified or segregated by the MTCS operators.
- d. Inspectors observed various levels of potentially hazardous substances stored in tanks. These tanks were noted to be of questionable integrity.
- e. Inspectors documented and photographed stained, discolored and apparently contaminated soils at the facility in work station areas, around the cement drying slab, and around the railroad tank car staging areas.
- f. Analytical data from soil samples taken from the grounds of the facility indicated the presence of the following contaminants:

Titanium
Zirconium
Strontium
Acenaphthene
Acenaphthylene
Methyl Naphthalene
Flouranthene
Fluorene
Lead
Magnesium

Naphthalene
Phenanthrene
Pyrene
Zinc
Copper
Carbazole
Aluminum
Yttrium

Antimony
Nickel
Dibenzofuran
Dimethyl Naphthalene
Ethyl Naphthalene
Anthracene
Arsenic
Benzo (A) anthracene
Bis-(2-ethylhexyl)-
phthalate
Cadmium
Chromium
Chrysene
Naphthalene
Di-N-Octyphthalate
Di-N-Butyl phthalate
Mercury
Manganese

7. The U.S. EPA issued a RCRA administrative complaint to the MTCS facility on December 26, 1984. The State of Ohio filed a similar complaint on June 22, 1987. The RCRA administrative matter was settled pursuant to a RCRA Consent Agreement and Final Order (CAFO) on April 22, 1988, between U.S. EPA and MTCS, which requires Respondent MTCS to perform RCRA closure on certain portions of the facility. The State matter was settled concurrently and in conjunction with the RCRA matter.

8. Catherine McCord, a representative of the U.S. EPA's Resource Conservation and Recovery Act (RCRA) Enforcement Section, inspected the facility on April 26, 1988, and observed several leaking drums. On April 28, 1988, pursuant to the McCord report of a potentially dangerous situation existing at the MTCS facility, the U.S. EPA's On-Scene Coordinator (OSC), Ralph Dollhopf, conducted a site assessment. The OSC noted the following conditions at the facility:

- a. An undiked drum storage area contained leaking drums of liquid including drums previously identified and marked sodium sulfate.
- b. Access to the facility was unrestricted.

9. During a subsequent site visit on April 29, 1988, Ralph Dollhopf (previous OSC) observed three zoo-bound buses containing school children enter onto the gravel covered portion of the site, and approach the drum storage area containing leaking and bulging drums.

DETERMINATIONS

1. The Mobile Tank Car Services site constitutes a "facility" within the meaning of Section 101(9) of CERCLA, 42 U.S.C. Section 9601(9).

2. Each Respondent named in the Order is a "person" as that term is defined in Section 101(21) of CERCLA, 42 U.S.C. Section 9601(21). The Respondents are identified in Attachment I, which is attached hereto and made a part of this Order.

3. The Respondent, Roger F. Williams, is the present owner and operator of the MTCS facility within the meaning of Section 101(20) of CERCLA, 42 U.S.C. Section 9601(20) and is a liable party pursuant to Section 107(a) of CERCLA, 42 U.S.C. Section 9607(a). The remaining Respondents (Attachment I) are either past operators of the facility, or persons who arranged for disposal or transport for disposal of hazardous substances at the MTCS facility, or are past or present owners of the property upon which the MTCS facility is or was located, and are therefore potentially liable persons under Section 107(a) of CERCLA, 42

U.S.C. 9607(a), for costs incurred by the Government and for removal activities required by this Order.

4. "Hazardous substances" as that term is defined in Section 101(14) of CERCLA, 42 U.S.C. Section 9601(14), including those listed above and including reactive sodium sulfide and ortho-nitroaniline, have been deposited, stored, disposed, placed or otherwise located in the MTCS facility.

5. The past handling, storage and disposal practices involving hazardous substances at the MTCS facility, including the leaking of hazardous substances from the drums within the unrestricted facility, constitutes an actual or threatened "release" as the term is defined in Section 101(22) of CERCLA, 42 U.S.C. Section 9601(22).

6. The conditions presently existing at the MTCS facility meet factors for conducting a removal action set forth in the NCP, Section 300.65(b)(2). The factors met by the MTCS facility include, but are not limited to, the following:

- (a) "actual or potential exposure to hazardous substances or pollutants or contaminants by nearby populations, animals, or food chain"; and
- (b) "hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers that may pose a threat of release."

These two factors are met at the facility due to the existence of contaminated soils and past and potential leaking of hazardous substances in the facility. The facility is situated in close proximity to the Cleveland Metroparks Zoo, and there is unrestricted access into the gravel covered portion of the facility. The OSC determined that leaking, incompatible hazardous wastes could intermix, producing toxic vapors and possible explosions, posing a threat to nearby people and areas.

- (c) "high levels of hazardous substances or pollutants or contaminants in soils, largely at or near the surface, that may migrate."

Analytical data documents the presence of hazardous substances pollutants or contaminants in the surface soils at the facility, and the potential for surface run-off from the contaminated areas to surrounding property and waterways exists. The potential for ground water contamination also exists.

7. The MTCS facility poses a potential and actual threat of imminent and substantial endangerment to human health and the environment.

8. The requirements of this Order are consistent with CERCLA and the National Contingency Plan (NCP), 40 CFR Part 300, as amended, and are reasonable and necessary to protect the public health, welfare, and the environment.

ORDER

Based upon the foregoing Determinations and Findings of fact, on the Administrative Record, and pursuant to Section 106(a) of CERCLA, 42 U.S.C. Section 9606(a), it is hereby Ordered that Respondents undertake the following actions at the facility:

1. Within ten (10) calendar days after the effective date of this Order, the Respondents shall submit to U.S. EPA for approval a Work Plan for the removal activities ordered herein. The Work Plan shall provide a concise description of the activities previously performed as well as those to be conducted to comply with the requirements of this Order. The Work Plan shall be reviewed and approved by U.S. EPA and may be modified in part or in whole by the U.S. EPA.
2. The Work Plan shall contain a site safety and health plan, a sampling and analysis plan, a quality assurance plan, and a schedule of the work to be performed. The site safety and health plan shall be prepared in accordance with the Occupational Safety and Health Administration (OSHA) regulations applicable to Hazardous Waste Operations and Emergency Response at 29 CFR Part 1910.
3. Within five (5) calendar days of the effective date of this Order, Respondents shall retain a contractor(s) qualified to undertake and complete the requirements of the Order, and shall notify U.S. EPA of the name of such contractor(s). U.S. EPA retains the right to disapprove of any, or all, of the contractors and/or subcontractors retained by the Respondents. In the event that U.S. EPA disapproves of the selected contractor, Respondents shall retain a different contractor to perform the work, such selection shall be made within two (2) business days following U.S. EPA's disapproval.
4. Within five (5) calendar days after receipt of U.S. EPA approval of the Work Plan, Respondents shall implement the Work Plan as approved or modified by U.S. EPA. Failure of the Respondents to properly implement all aspects of the Work Plan shall be deemed to be a violation of the terms of this Order. The Work Plan must include, at a minimum the following phase I removal activities, which must be completed by Respondents within thirty (30) calendar days of receipt of U.S. EPA approval:
 - a. Site security, including a fence and/or guard, shall be provided throughout all removal activities, including

during any period of time between planned removal activities.

- b. All materials contained in drums and tanks shall be properly characterized. These materials shall be analyzed for compatibility using testing methods to determine pH, solubility, oxygen reduction potential (ORP), flammability, reactivity, cyanide and sulfide testing, acid neutral screening and metals and PCB screening. Waste streams shall be established based on results of the testing.
 - c. Soil sampling shall be implemented on a grid system based on historical data and the OSC's observations, as delineated in the work plan.
 - d. Within twenty (20) calendar days of completion of phase I removal activities, respondents shall submit a comprehensive Phase I report summarizing all removal activities performed at the site to date, including results and discussion of analytical data. Based on this report the OSC and U.S. EPA will determine whether and what phase II activities shall be implemented at the site if necessary. Phase II activities may include but are not limited to: Ground water monitoring; Treatment and/or removal of contaminated soils, subsoils, groundwater, and any other materials at the site, as necessary to protect human health and the environment. Respondents shall implement and conduct Phase II activities as directed by U.S. EPA.
5. All hazardous materials removed from the site shall be disposed or treated at a facility approved by the On-Scene Coordinator, and, in addition, in accordance with the Resource Conservation and Recovery Act of 1976 (RCRA) 42 U.S.C. Section 6901, et seq., as amended; in accordance with U.S. EPA Revised Off-Site Policy, and in accordance with all other applicable Federal, State, and local requirements.
6. Within three (3) days of the effective date of this Order, the Respondents shall designate a project coordinator, and shall notify U.S. EPA of same. The U.S. EPA has designated Mr. Steven Renninger of the Emergency and Enforcement Response Branch, Response Section I, as its On-Scene Coordinator (OSC). The Project Coordinator shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, communication between the Respondents and the U.S. EPA, and all documents, reports and approvals, and all other correspondences concerning the activities relevant to this Order, shall be directed through the Project Coordinators and OSC.

7. The U.S. EPA and the Respondents shall each have the right to change their respective Project Coordinator. Respondents shall notify U.S. EPA in writing at least four (4) calendar days prior to the change.

8. The U.S. EPA OSC shall have the authority vested in an OSC by CERCLA and the NCP, 40 CFR Part 300, as amended, including the authority to halt, conduct, or direct any work required by this Order.

9. No extensions to the above time frames shall be granted without sufficient cause. All extensions must be requested, in writing, at least five (5) calendar days prior to a forthcoming deadline, and shall not be deemed accepted unless approved, in writing, by U.S. EPA.

10. Respondents shall provide and assure access to the facility to U.S. EPA and Ohio Environmental Protection Agency (OEPA) employees, contractors, agents, and consultants, at reasonable times, and shall permit such person(s) to be present and move freely in the area in order to conduct inspections, including taking photographs and videotapes of the site, to do cleanup/stabilization work, to take samples, to monitor the work under this Order, and to conduct other activities which the U.S. EPA determines to be necessary.

11. Nothing contained herein shall be construed to prevent U.S. EPA from seeking legal or equitable relief to enforce the terms of this Order, or from taking other legal or equitable action as it deems appropriate and necessary, or from requiring the Respondents in the future to perform additional activities at the facility pursuant to CERCLA, 42 U.S.C. Section 9601, et seq., or any applicable law.

12. The provisions of this Order and the directions of the OSC, consistent with this Order, shall be binding on the Respondents and the employees, agents, successors, and assigns of the Respondents.

14. This Order shall be effective seven (7) calendar days after signature by the U.S. EPA Region V Waste Management Director, unless a conference is requested as provided herein. If a conference is requested, this Order shall be effective on the fifth (5) calendar day following the day of the conference unless otherwise ordered by the Waste Management Division Director.

15. On or before the effective date of this Order, Respondents shall provide notice, verbally or in writing, to U.S. EPA stating their intention to comply with the terms of this Order. Verbal notice must be followed in writing, within seven (7) calendar days of the verbal notice. In the event any Respondent

fails to provide such verbal and written notice, said Respondent shall be deemed not to have complied with the terms of this Order.

16. Copies of all records and files relating to hazardous wastes, constituents and substances found on the site shall be made available to the U.S. EPA On-Scene Coordinator prior to the termination of the cleanup of the site.

17. All notices and reports submitted under terms of this Order shall be sent by certified mail, return receipt requested, and addressed to the following:

one copy: Mr. Steven L. Renninger, OSC
Eastern District Office
U.S. EPA, 5SEDO
25089 Center Ridge Road
Westlake, Ohio 44145

one copy: Mrs. Pamela J. Schafer, Chief
Emergency Support Section
U.S. EPA 5HS-11
230 South Dearborn Street
Chicago, Illinois 60604

one copy: Mr. Felipe N. Gomez
Assistant Regional Counsel
U.S. EPA 5CS-TUB3
111 West Jackson 3d Floor
Chicago, Illinois 60605

ACCESS TO ADMINISTRATIVE RECORD

The Administrative Record supporting the above Determinations and Findings is available for review on weekdays between the hours of 8:00 a.m. and 5:00 p.m. in the Office of Regional Counsel, 3rd Floor, United States Environmental Protection Agency, Region V, 111 W. Jackson Blvd., Chicago, Illinois 60605. An Administrative Record Index has been enclosed for your reference as Attachment III to the Order. Please contact Felipe Gomez, Assistant Regional Counsel, at (312) 886-6833 to arrange to review the Administrative Record.

OPPORTUNITY TO CONFER

With respect to the actions required above, Respondents may, on or before the effective date of this Order, request a conference, which shall be held within ten (10) calendar days from the date of request, unless otherwise agreed. At any

conference held pursuant to the request, Respondents may appear in person or by an attorney or other representative. If any Respondent desires such a conference, please contact Mr. Felipe Gomez, Assistant Regional Counsel, at (312) 886-6833. Any comments regarding this Order, its applicability, the correctness of any factual determination upon which the Order is based, the appropriateness of any action which Respondents are ordered to take, or any other relevant and material issue must be reduced to writing and submitted to U.S. EPA at least five (5) calendar days prior to the conference, or if no conference is requested, on or before the effective date of this Order. Any such writing should be directed to Felipe Gomez, Assistant Regional Counsel, at the address cited above.

Respondents are hereby placed on notice that U.S. EPA may take any action which may be necessary in the opinion of U.S. EPA for the protection of human health, welfare and the environment, and that Respondents may be liable, under CERCLA Section 107, for the costs of government actions.

PENALTIES FOR NONCOMPLIANCE

Respondents are advised pursuant to Section 106(b) of CERCLA, 42 U.S.C. Section 9606(b), that willful violation or subsequent failure or refusal to comply with this Order, or any portion thereof, may subject the Respondents to a civil penalty of no more than \$25,000 per day, per violation, for each day in which such violations occur, or such failure to comply continues. Failure to comply with this Order, or any portion thereof, without sufficient cause may also subject the Respondents to liability for punitive damages in an amount three times the amount of any cost incurred by the government as a result of the Respondents' failure to take proper action, pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. Section 9607(c)(3).

COOPERATION AMONG RESPONDENTS

In order to facilitate communication and cooperation among Respondents, a list of the Respondents and their addresses are included in this Order as Attachment I.

By: David A. Wilcox
for Basil G. Constantelos, Director
Waste Management Division
United States Environmental
Protection Agency
Region V

On January 24, 1990

Attachments

ATTACHMENT I

List of Respondents

Mobile Tank Car, Cleveland, Ohio

1. Roger F. Williams
[REDACTED]
2. Don F. Cree
[REDACTED]
3. Daniel Conkey
[REDACTED]
4. James Crawford
c/o Refuse Systems Inc.
866 Addison Street
Cleveland, Ohio 44103-1608
(Property Owner)
5. Craig Crawford
c/o Refuse Systems Inc.
866 Addison Street
Cleveland, Ohio. 44103-1680
(Property Owner)
6. Unissco, Inc.
(aka Refuse Systems Inc.)
866 Addison Street
Cleveland, Ohio 44103-1608
(Property Owner)
7. Refuse Systems Inc.
(formerly Unissco, Inc.)
866 Addison Street
Cleveland, Ohio 44103-1608
(Property Owner)
8. Mobile Wash of Cleveland, Inc.
8007 Ashbottom Road
Louisville, Ky. 40213
(Owner/Operator)
9. Mobile Companies, Inc.
8007 Ashbottom Road

Louisville, Ky. 40213
(Owner/Operator)

10. Mobile Tank Car Services of Cleveland, Inc.
8007 Ashbottom Road
Louisville, Ky. 40213
(Owner/Operator)

11. Mobile Tank Car Services, Inc.
8007 Ashbottom Road
Louisville, Ky. 40213
(Owner-Operator)

12. The Baltimore and Ohio
c/o CSX Transportation, Inc.
Railroad Company, Inc.
2600 Parsons Avenue
Columbus, Ohio 43207
(Property Owner)

13. CSX Transportation, Inc.
500 Water Street
Jacksonville, Fla. 32202
(Property Owner)

14. CSX Corporation
One James Center
Richmond, Va. 23219
(Property Owner)

15. Chessie Systems Railroad
c/o CSX Corporation
One James Center
Richmond, Va. 23219
(Property Owner)

16. Cleveland MetroParks Zoo
3900 Brookside Park Dr.
Cleveland, Ohio 44109-3137
(Property Owner)

ATTACHMENT II

INSPECTIONS

April 1, 1981 - Field Investigation Team (FIT) Report, Ecology and Engineering. Individuals from a nearby company approached FIT members and stated that fumes from the Mobile Tank Car Services (MTCS) operations had caused them to vomit green material. The individuals also complained about MTCS's practices, and claimed they had observed evening dumpings of materials from tank cars into Big Creek. The FIT report also stated that the Coast Guard and Ohio EPA had reported such spills into Big Creek. FIT noticed that the creek banks were discolored at the time of the inspection, and that trees along the site were dead.

May 21, 1981 - FIT sampled the MTCS facility. Analytical data from these samples indicates the presence of lead and arsenic in the waste piles on site. Report notes that Big Creek flow into the Cuyahoga River, which empties into Lake Erie. Report indicates that dumping into Big Creek potentially threatens Cleveland's water supply.

September 16, 1981 - City of Cleveland sends four letters of citizens' complaints to the U.S. EPA. The letters included complaints of chlorine odors, phenol fumes, midnight dumping and site run-off from the MTCS facility. An inspector from the City, who checked the facility following the receipt of the complaints, noted that tanks of Cl_2 , methylamine, H_2SO_4 and vinyl chloride were being cleaned during the inspection, and residues were placed in a pit. The inspector indicated that the chemical treatment did not appear safe or well-regulated. Another inspector for the City saw tank cars labeled sodium nitrate, sulfuric acid, crude oil, varnish, paint increaser compound, tar, diisocyanotoluene, etc. As a result of these inspections, the City issued an Order to the company to cover storage tanks, add better controls to its chlorine scrubber, and improve the flaring system. The City also contacted the Ohio EPA on concerning possible water pollution problems at the facility.

September 30, 1981 - Ohio EPA representative Robert Buda conducts a RCRA interim status inspection. The inspection report notes that access to the site is not restricted. The facility claimed that no malfunctions, explosions or operator errors had occurred at the facility. Contingency plans for emergency situations were not available. Tanks had no freeboard.

August 15, 1984 - Tank car explodes at facility during cleaning. No RCRA violations are reported to be related to the accident,

although serious Occupational Safety and Health Administration violations were noted.

June 7, 1984 - Analytical report from EDI Engineering & Science for samples taken by Chessie Systems after MTCS vacates the land owned by Chessie Systems. Analyses detect naphthalene, fluorene, anthracene, phenanthrene, chrysene, bis-(2-ethylhexyl)-phthalate, benzo(A)anthracene, carbazole, arsenic, and lead in soils from the grounds of the facility. The report states that the presence of these heavy aromatic and substituted benzene compounds at surface may be an indication that lighter chemicals will be found at the water table - EDI suggests sampling the water table.

August 31, 1984 - Inspection by City of Cleveland Division of Fire officials noted ten violations. James McNamee, Chief of the Division, orders the plant to abate violations by October 1, 1984.

December 26, 1984 - U.S. EPA files Administrative Complaint and Finding of Violation against MTCS for RCRA violations, specifically those relating to financial responsibility, liability insurance, contingency planning, personnel training, and closure.

April 22, 1985 - Inspection by Ohio EPA notes probable release of sulfur dichloride.

September 27, 1985 - The City of Cleveland removes eight bulging drums of sulphur dichloride from the facility. The drums were leaking and venting toxic fumes.

December 31, 1985 - FIT inspection report for inspection of December 12, 1985. Report states that all drums neatly stacked and drums storage area fenced. The facility appears to be inactive. The integrity of the two underground tanks is not known.

April 26, 1988 - Catherine McCord, a representative of the U.S. EPA's RCRA Enforcement Section, inspects the facility and observes leaking drums.

April 28, 1988 - U.S. EPA On-Scene Coordinator Ralph Dollhopf inspects the site and determines that immediate action is required. Several drums are leaking or severely rusted, pallets are in poor condition, and the fence around the storage area is deteriorated. Mr. Conkey of MTCS is notified, and MTCS overpacks drums under the OSC's direction. The substances contained in the drums include formaldehyde, o-nitroaniline, creosote, maleic anhydride, ammonium nitrate, sodium sulfide (71 drums), malathion, naphthalene, etc. A total of 203 drums are present at the site, 180 of these are in overpacks.

ATTACHMENT III

ADMINISTRATIVE RECORD INDEX
MOBILE TANK CAR REMOVAL SITE
CLEVELAND, OHIO



ME	PAGES	DATE	TITLE	AUTHOR	RECIPIENT	DOCUMENT TYPE	DOCNUMBER
3		00/11/19	Letter re: Mobil Tank Car Services (MICS), INC., stating that due to certain circumstances, it is virtually impossible to accurately predict identity and quantity of potential hazardous waste streams	R. Williams, President Mobile Tank Car Services		Correspondence	1
15		00/11/19	Letter re: Item IV- Description of Hazardous Waste (Attachments)	R. Williams, President, Mobile Companies Inc.	OEPA	Correspondence	2
26		01/09/16	Transmittal letter, enclosing: minutes of 10/30/88 meeting, various narrative (inspection) reports, permit applications, and citizen complaints. This letter is in response to request for attached info.	K. Djukic, for T. Kinder, City of Cleveland, Bureau of Field Services	J. Balmat, USEPA	Correspondence	3
1		01/09/17	Letter requesting OEPA to perform a RCRA Interim Status Standards Inspection of Mobile Tank Car facility; also stating that referenced site has been subject of complaints	J. Balmat, USEPA	M. Becker, OEPA	Correspondence	4
26		01/12/15	Transmittal letter and ISS Inspection for Mobile Tank - letter states the facility hadn't applied for Ohio hazardous waste permit	P. Cotter, OEPA	J. Balmat, USEPA	Correspondence	5
5		02/04/22	Letter re: Interim Status Acknowledgement, stating that USEPA has completed	K. Klepitsch, Waste Mgt. Branch, USEPA	D. Conkay, Mobile Tank	Correspondence	6

ADMINISTRATIVE RECORD INDEX
MOBILE TANK CAR REMOVAL SITE
CLEVELAND, OHIO

LINE	PAGES	DATE	TITLE	AUTHOR	RECIPIENT	DOCUMENT TYPE	DOCNUMBER
			processing Part A Permit Application				
2		82/07/22	Letter listing deficiencies noted during 6/22/82 inspection of facility	R.Buda,OEPA	D.Cree,Mobile Tank	Correspondence	7
3		83/02/10	Letter listing violations noted during 1/13/83 inspection of facility	R.Beals,OEPA	D.Cree,Mobile Tank	Correspondence	8
1		83/05/04	Letter informing recipient that Mobile Tank Car has been in violation of major hazardous waste handling regulations for more than one year	R.Maynard,OEPA	D.Cree,Mobile Tank	Correspondence	9
2		83/05/06	Letter listing violations noted during 4/18/83 reinspection of facility	R.Beals,OEPA	D.Cree,Mobile Tank	Correspondence	10
1		83/07/15	Letter responding to 7/12/83 oral request for policy for treating materials within the transporting vessel(RR car)	D.Conkey,Mobile Tank Car	R.Beals,OEPA	Correspondence	11
2		83/08/23	Letter summarizing the Agency's understanding of NICS' operations in regards to the State Hazardous Waste Regulations (reply to 7/15/83 letter from NICS re:policy for treating materials within transport vessels)	R.Beals,OEPA	D.Conkey,Mobile Tank	Correspondence	12
2		83/10/18	Letter listing violations noted during 10/12/83 reinspection of facility	R.Beals,OEPA	D.Cree,Mobile Tank	Correspondence	13
1		83/12/08	Letter stating that certain violations still existed and were noted	R.Beals,OEPA	D.Cree,Mobile Tank	Correspondence	14

ADMINISTRATIVE RECORD INDEX
MOBILE TANK CAR REMOVAL SITE
CLEVELAND, OHIO

ME	PAGES	DATE	TITLE	AUTHOR	RECIPIENT	DOCUMENT TYPE	DOCU NUMBER
			during 11/22/83 reinspection				
2		03/12/19	Letter referencing 12/6/83 conversation, stating intent to make certain changes in order to comply with OEPA's requests (facility drawing attached)	D.Conkey, Mobile Tank Car	R.Beals, OEPA	Correspondence	15
2		03/12/29	Letter stating that two items must be submitted by Mobile Tank Car, to initiate proposed changes (12/19/83 ltr is referenced)	R.Beals, OEPA	D.Conkey, Mobile Tank	Correspondence	16
2		04/01/06	Letter asking formal request for submittal of Part B of the permit application for NTCS	K.Klepitsch, USEPA	D.Conkey, Mobile Tank	Correspondence	17
2		04/01/12	Letter responding to 1/3/84 conversation regarding intent to sell 400 drums of various materials removed from RR tank cars by NTCS	R.Beals, OEPA	D.Conkey, Mobile Tank	Correspondence	18
3		04/04/16	Letter stating that NTCS is subject to Ohio's adopted financial responsibility rules for hazardous waste facilities; timetable is listed in which NTCS must submit documentation of compliance	D.Tegtmeier, OEPA	D.Conkey, Mobile Tank	Correspondence	19
2	5	04/05/89	Letter listing violations noted during 5/1/84 inspection of facility	R.Beals, OEPA	D.Cree, Mobile Tank	Correspondence	20

ADMINISTRATIVE RECORD INDEX
MOBILE TANK CAR REMOVAL SITE
CLEVELAND, OHIO

NO	PAGES	DATE	TITLE	AUTHOR	RECIPIENT	DOCUMENT TYPE	DOCRNUMBER
3		04/05/16	Letter re: resolution of permit status	R. Maynard, OEPA	D. Conkey, Mobile Tank	Correspondence	21
3		04/05/16	Letter stating that MICS will immediately file for hazardous waste generator activity permit and move to the new plant site within 60 days	R. Williams, Mobile Tank Car Services (MICS)	V. Adankus, USEPA	Correspondence	22
3		04/05/21	Letter re: 5/1/04 inspection, responding to several violations cited in referenced inspection	D. Cree, Mobile Tank Car	R. Beals, OEPA	Correspondence	23
1		04/05/25	Letter responding to 5/25/04 letter re: exemption from normal permitting requirements in order to move facility without ceasing operations; this letter clarifies OEPA's position on this matter	S. White, OEPA	R. Williams, Mobile Tank	Correspondence	24
4		04/07/23	Letter referencing 6/26/04 meeting to review MICS' compliance with respect to state and federal hazardous waste law and regulations; stating that a site inspection revealed numerous violations	S. White, OEPA	D. Conkey, Mobile Tank	Correspondence	25
10		04/07/31	Letter stating that there is no ground contamination from previous operations, giving formal notification of closure of property formerly leased by BLO RR	D. Conkey, Mobile Tank Car	R. Beals, OEPA	Correspondence	26

ADMINISTRATIVE RECORD INDEX
MOBILE TANK CAR REMOVAL SITE
CLEVELAND, OHIO

NO	PAGES	DATE	TITLE	AUTHOR	RECIPIENT	DOCUMENT TYPE	DOCU NUMBER
			(Attachments)				
0		04/07/31	Transmittal Letter, forwarding report which demonstrates high lead contamination	D.Conkey, Mobile Tank Car; Metro Service Laboratories, Chemical Analysts&Consultants	R.Beals, OEPA	Correspondence	27
3		04/08/31	Letter re: 3610 Brookside Park Drive inspection; violations of the Municipal Code are noted	J.McNamee, City of Cleveland	D.Conkey, Mobile Tank	Correspondence	28
2		04/09/28	Letter stating that NTCS must submit a formal notification of closure	R.Beals, OEPA	D.Conkey, Mobile Tank	Correspondence	28
25		04/12/26	Letter re: Findings of Violation and Compliance Order, transmitting Complaint and Findings of Violation (Compliance Order equivalent)	B.Constantelos, USEPA	C.T. Corporation, Age nt	Correspondence	28
7		05/02/21	Letter commenting on 1/7/85 submittal of NTCS Closure Plan	R.Beals, OEPA	D.Conkey, Mobile Tank	Correspondence	31
3	2	05/03/07	Letter in addendum to 2/21/85 letter sent to recipient	R.Beals, OEPA	D.Conkey, Mobile Tank	Correspondence	32
4		05/04/22	Letter listing violations noted during 4/3/85 site inspection	R.Beals, OEPA	D.Conkey, Mobile Tank	Correspondence	33
2		05/05/01	Letter commenting on various items referred to in inspection report	R.Williams, President Mobile Tank Car Services	R.Beals, OEPA	Correspondence	34
2		05/05/10	Letter responding to 5/1/85 reply to inspection letter dtd 4/22/85	R.Beals, OEPA	R.Williams, Mobile Tank	Correspondence	35
1	1	05/05/13	Letter requesting immediate action be taken and remaining waste be removed from property to avoid harm to lives or	H.Hovan, Fire Marshal	D.Conkey, Mobile Tank	Correspondence	36

ADMINISTRATIVE RECORD INDEX
MOBILE TANK CAR REMOVAL SITE
CLEVELAND, OHIO

NAME	PAGES	DATE	TITLE	AUTHOR	RECIPIENT	DOCUMENT TYPE	DOCNUMBER
			property				
1		05/05/16	Letter stating that the process to remove all waste materials from the property started nine weeks ago & will continue until all material is removed	D.Conkey, Mobile Tank	M.Hoven, CLE Fire Marshall	Correspondence	37
2		05/06/04	Letter re: Letter to Roger Williams, dated 5/10/85; responding to replies to referenced letter, concerning various violations	D.Conkey, Vice President, Mobile Tank Car	R.Beals, OEPA	Correspondence	38
3		05/06/25	Letter listing violations noted during reinspection of site on 6/5/85	R.Beals, OEPA	D.Conkey, Mobile Tank	Correspondence	39
3		05/07/30	Letter re: Telephone Conversation 7/29/85 concerning 55-gallon drum waste at Mobile Tank Car Services	D.Conkey, Mobile Tank Car	Lt.Scott, City of CLE	Correspondence	40
2		05/08/12	Letter summarizing 8/8/85 conversation concerning disposal options for eight 55 gallon drums of sulfur dichloride stored at MTCS	R.Beals, OEPA	S.Gard, Mobile Tank Atty.	Correspondence	41
1		05/09/19	Letter stating that OEPA has determined that MTCS' procedure is unauthorized, all operations should be ceased immediately within 72 hours	J.McNamee, Chief Division of Fire	D.Conkey, Mobile Tank	Correspondence	42
2		05/09/24	Letter written with reference to proposed overpacking of eight drums of sulfur dichloride	S.White, OEPA	D.Conkey, Mobile Tank	Correspondence	43
2		05/09/25	Letter re: Letter to MTCS	H.Fox, City of Cleveland	J.McNamee, City of	Correspondence	44

ADMINISTRATIVE RECORD INDEX
MOBILE TANK CAR REMOVAL SITE
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NAME	PAGES	DATE	TITLE	AUTHOR	RECIPIENT	DOCUMENT TYPE	DOCUMENT NUMBER
			9-19-85, concerning 7 drums of sulphur dichloride	Division of Fire	CLE		
3		05/10/78	Letter listing specific comments concerning NICS closure plan	A.Sasson,OEPA	D.Conkey,,Mobile Tank	Correspondence	45
2		05/11/07	Letter re:Status Report-Mobile Tank Car Services of Cleveland, Inc.	M.Drake,Asst.Reg.Counsel	J.F.Greene,Admin.La w J.	Correspondence	46
5		05/11/14	Letter enclosing a list of materials that Mobile Tank has cleaned from railroad cars, starting with 1981-1985, as requested in 10/22 meeting between author and recipient	D.Conkey,President Mobile Tank Car Services	A.Sasson,OEPA	Correspondence	47
2		05/11/15	Letter re:clarification of the meaning of 40 CFR 261.7, stating that interpretation differs to the point that Kentucky applies the rule to tank cars and Ohio does not	D.Conkey,Vice President, Mobile Tank Car	M.Williams,USEPA	Correspondence	48
2		05/11/22	Letter responding to 9/27/85 letter concerning the treatment of sulfur dichloride at NICS	R.Beals,OEPA	R.Williams,Mobile Tank	Correspondence	49
2		05/11/25	Letter presenting a combined list of comments on NICS' closure plan that necessitate revisions to said plan before it can be approved	R.Beals,OEPA	D.Conkey,Mobile Tank	Correspondence	50
1	1	05/12/12	Letter responding to 11/15/85 inquiry regarding the exemption of residues of hazardous waste in	M.Williams,USEPA	D.Conkey,Mobile Tank	Correspondence	51

ADMINISTRATIVE RECORD INDEX
MOBILE TANK CAR REMOVAL SITE
CLEVELAND, OHIO

ME	PAGES	DATE	TITLE	AUTHOR	RECIPIENT	DOCUMENT TYPE	DOCNUMBER
			empty containers				
25		06/04/22	Letter transmitting the revised closure plan dated 2/4/86, submitted on behalf of client, Mobile Tank Car Services	S.Gard, Attorney for Mobile Tank Car	M.Drake,USEPA	Correspondence	82
2		06/06/17	Letter summarizing previously noted deficiencies that to date of ltr. had not been adequately addressed	R.Beals,OEPA	S.Gard,MICS Atty.	Correspondence	83
32		08/07/12	Letter giving brief site history/description; summation of observations made at site; location map and photographs attached	J.Klein,Neston-Sper	S.Faryan,USEPA	Correspondence	84
10		08/07/10	Letter re:Mobile Tank Car Services, Inc.; summarizing observations made during site inspection; site location map and photographs attached	S.Renninger,Neston-Sper	S.Faryan,USEPA	Correspondence	85
1		08/08/88	Diagram of Drum Storage Area	Neston-Sper		Diagrams	86
3		03/04/20	Minutes of the Meeting Mobile Tank Car Services April 20, 1983 10:20am	Northeast Ohio Regional Sewer District		Meeting Notes	87
1		08/10/16	Memo recommending the following: on site evaluation and evaluation of Mobile Tank Permit(PartA) application, and monitoring of Cuyahoga River to determine if runoff from site is entering the river	M.Michael, Ecology and Environment, Inc.	W.Goods,OEPA	Memorandum	88

ADMINISTRATIVE RECORD INDEX
MOBILE TANK CAR REMOVAL SITE
CLEVELAND, OHIO

NAME	PAGES	DATE	TITLE	AUTHOR	RECIPIENT	DOCUMENT TYPE	DOCKNUMBER
	2	01/01/28	Memo re: Request for RCRA Inspection-Mobile Tank Car Services	M. Miner, USEPA	R. Bartelt, USEPA	Memorandum	60
	2	01/05/25	Memo re: inspection conducted on 5/25/01, as follow-up to 4/1/01 inspection at which time sampling was deemed inappropriate to obtain representative samples	J. Oskvarek, Ecology and Environment, Inc.	File	Memorandum	60
		04/08/22	Memo re: sample from Mobile Car Co., stating that the sample constitutes an explosive hazard in an enclosed environment	F. Haiss, Cleveland Division of Air Pollution Control	R. Dell, Div. Air/Poll. Ctrl.	Memorandum	61
	2	00/00/00	Chronology of Events			Other	62
	48	04/05/00	Complainant's Pre-hearing Exchange Information (5/8/04 Final RCRA Civil Penalty Policy, list of Docs. offered as exhibits, 10/10/00 Narrative Report, 6/21/04 letter re: Part B Application, 7/16/04 response letter to 6/21/04 attached)	USEPA		Other	63
	7	05/00/00	Respondent's answer to USEPA's 1994 Complaint, with transmittal ltr.	S. Gard, Mobile Tank Atty.	USEPA	Other	64
	54	05/07/26	Transmittal ltr. and Respondent's Pre-Hearing Exchange, with Exhibits 8, 11, 13, 15, and 17	S. Gard, Mobile Tank Atty.	USEPA	Other	65
	13	05/08/10	Complainant's Prehearing Memorandum	M. Drake, Atty. for Complainant		Other	66
	8	05/08/30	Complainant's Prehearing Reply Memorandum	M. Drake, Atty. for Complainant		Other	67

ADMINISTRATIVE RECORD INDEX
MOBILE TANK CAR REMOVAL SITE
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AME	PAGES	DATE	TITLE	AUTHOR	RECIPIENT	DOCUMENT TYPE	DOCKNUMBER
10		05/09/03	Reply of Respondent to Complainant's Pre-Hearing Memorandum	S.Gard, Mobile Tank Atty.	USEPA	Other	68
10		05/10/10	USEPA Administrative Hearing in the Matter of: Mobile Tank Car Services, Respondent. Docket No. RCRA-V-W-05-R-013 (US Federal Courthouse, Cleveland, OH)	B.Beard, Reporters, Etc.		Other	69
6	2	06/04/07	Notice of Trial	J.F.Greene, Administrative Law Judge		Other	70
	2	07/08/24	Status Report, in The Matter Of: Mobile Tank Car Services (Certificate of Service Attached)	T.Conway, Asst.Reg.Counsel		Other	71
	8	00/10/30	Permit Applications	Mobile Tank Car	OEPA	Permits	72
2	81	00/11/10	Part A-Permit Applications, and Corrections to Part As	Mobile Tank Car	USEPA	Permits	73
1	6	01/04/01	Photographs of Site	D.Sewall, Ecology and Environment, inc.	OEPA	Photographs	74
3	5	01/05/21	Field Photography Log Sheets	Ecology and Environment, inc.	OEPA	Photographs	75
14	33	00/00/00	State of Ohio's Complaint	State of Ohio Asst.Atty.General		Pleadings/Orders	76
5	8	05/00/19	MEMORANDUM OF LAW, in the matter of Mobile Tank Car Services, Inc., respondent; Docket No.RCRA-V-W-05-R-013	S.Gard, Atty for Respondent	USEPA	Pleadings/Orders	77
14	2	07/05/11	ORDER for status report, with CERTIFICATE OF SERVICE	USEPA	Mobile Tank	Pleadings/Orders	78
2	2	07/05/22	Status Report provided	USEPA	Mobile Tank	Pleadings/Orders	79

ADMINISTRATIVE RECORD INDEX
MOBILE TANK CAR REMOVAL SITE
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ME	PAGES	DATE	TITLE	AUTHOR	RECIPIENT	DOCUMENT TYPE	DOCUMENT NUMBER
			on behalf of Complainant, USEPA; CERTIFICATION of SERVICE attached	M. Drake, Asst. Reg. Counsel			
2		07/07/15	ORDER, in the Matter of Mobile Tank Car Services, Respondent (Certificate of Service Attached)	J.F. Greene, Administrative Law Judge, USEPA		Pleadings/Orders	80
2		00/00/00	Closure Plan Comments	Mobile Tank Car Services		Reports/Studies	81
		00/00/00	Inspection Log for Mobile Tank Car Services			Reports/Studies	82
3		00/00/00	Waste Analyses Plan	Mobile Tank Car	OEPA	Reports/Studies	83
3		00/00/00	Waste Disposal Procedures	Mobile Tank Car Services	OEPA	Reports/Studies	84
11		00/10/17	Site Inspection Report	R. Freese, Ecology and Environment, Inc.	OEPA	Reports/Studies	85
3		01/02/05	Process Description of Chemicals as They Are Cleaned From Tank Cars	D. Conkey, Mobile Tank Car Services, Inc.	OEPA	Reports/Studies	86
12		01/04/01	Site Inspection Report (site map attached)	C. Bachunas, Ecology and Environment, Inc.	USEPA	Reports/Studies	87
		01/04/01	List of Inspections, from 4/1/01 through 4/20/00		USEPA	Reports/Studies	88
10		01/05/21	Site Inspection Report	J. Oskvarek, Ecology and Environment	USEPA	Reports/Studies	89
3		01/06/09	Notification of Hazardous Waste Site (Letter attached)	Baltimore and Ohio (B&O) Railroad Company	USEPA	Reports/Studies	90
3		01/07/29	Narrative Report	K. Djukic, City of Cleveland, Division of Air Pollution Control		Reports/Studies	91
11		02/06/22	Inspection Report	OEPA		Reports/Studies	92
15		03/01/13	RCRA Interim status Inspection Report	OEPA		Reports/Studies	93

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MOBILE TANK CAR REMOVAL SITE
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LINE	PAGES	DATE	TITLE	AUTHOR	RECIPIENT	DOCUMENT TYPE	DOCKNUMBER
9		03/01/13	Inspection Report	OEPA		Reports/Studies	84
14		04/05/01	RCRA Interim status Inspection Report	OEPA		Reports/Studies	85
19		04/07/31	Contingency Plan	D.Conkey, Mobile Tank Car	OEPA	Reports/Studies	86
3		04/08/15	City of Cleveland Fire Prevention Bureau Hazardous Material Emer- gency Report	City of Cleveland Fire Prevention Bureau		Reports/Studies	87
0	5	04/09/21	Dun&Bradstreet Reports	Dun&Bradstreet		Reports/Studies	88
27		04/09/20	Preliminary Assessment (With Attachments)	OEPA	USEPA	Reports/Studies	89
29		04/10/03	Report on Explosion at Mobile Tank Car Services, Inc. Cleveland, Ohio (With Attachments, News- paper articles)	OEPA	R.Strom, USEPA	Reports/Studies	100
18		05/04/03	RCRA Interim status Inspection Report	OEPA	USEPA	Reports/Studies	101
3	11	05/05/02	Closure Plan, Mobile Tank Car Services of Cleveland, OH	Mobile Tank Car	OEPA	Reports/Studies	102
1	10	05/08/06	Dun&Bradstreet Reports	Dun&Bradstreet		Reports/Studies	103
1		05/09/10	City of Cleveland Fire Prevention Bureau Hazardous Material Emergency - report on what happened at site during attempt to overpack drums	B.Garrett, Inspector		Reports/Studies	104
1		05/09/27	City of Cleveland Dept. of Public Safety Division of Fire Reinspection Report	C.Gance, Chief Inspector City of Cleveland		Reports/Studies	105
20		05/12/31	Inspection Report	CH2M HILL	USEPA	Reports/Studies	106

ADMINISTRATIVE RECORD SAMPLING/DATA INDEX
MOBILE TANK CAR REMOVAL SITE
DOCUMENTS NOT COPIED, MAY BE REVIEWED AT THE
USEPA REGION V OFFICES, CHICAGO, ILLINOIS.

DATE	TITLE	AUTHOR	RECIPIENT	DOCUMENT TYPE
02/02/10	Review of Region V Contractor Data; Received for Review on 1/20/02	USEPA		Sampling/Data
02/11/01	Results obtained on analysis of composited soil samples	Metro Service Laboratories		Sampling/Data
02/11/01	Results obtained on analysis of composited soil samples	Metro Service Laboratories		Sampling/Data
03/01/78	Soil Sample Results	Metro Service Laboratories		Sampling/Data
04/05/14	Transmittal letter and sample analysis requested by recipient	H. Bode, NE Ohio Regional Sewer Dist.	R. Baals, CEPA	Sampling/Data
04/06/07	Report for samples submitted	R. Rediske, EDI Engineering & Science	J. Rupp, Chasle RR Systems	Sampling/Data
04/09/12	Results of samples submitted by Mobile Tank Cleveland Operation	Metro Service Laboratories	Mobile Tank Car Services	Sampling/Data



CLEVELAND

MAP 14

SCALE 120 FT=1" IN

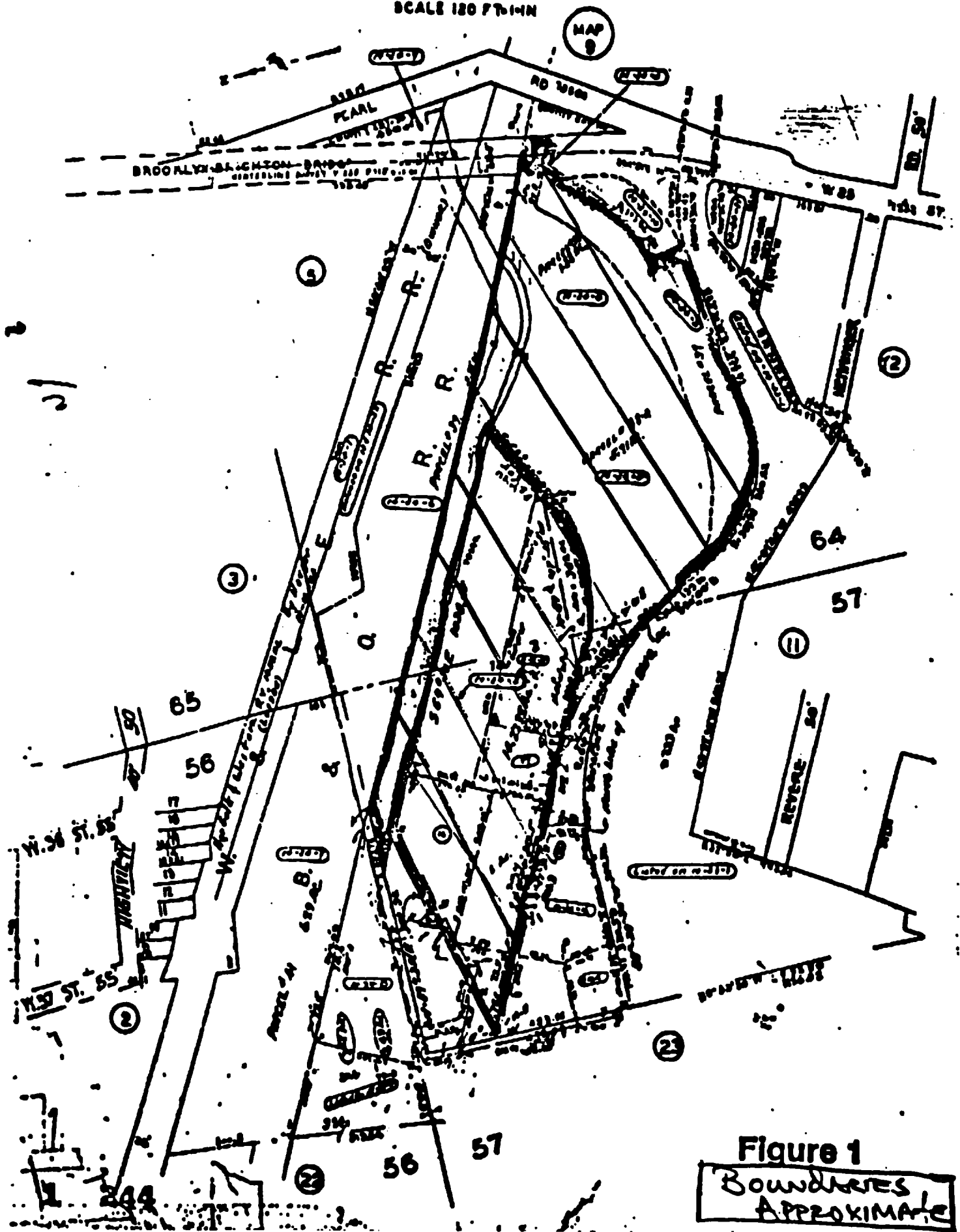


Figure 1

BOUNDARIES APPROXIMATE

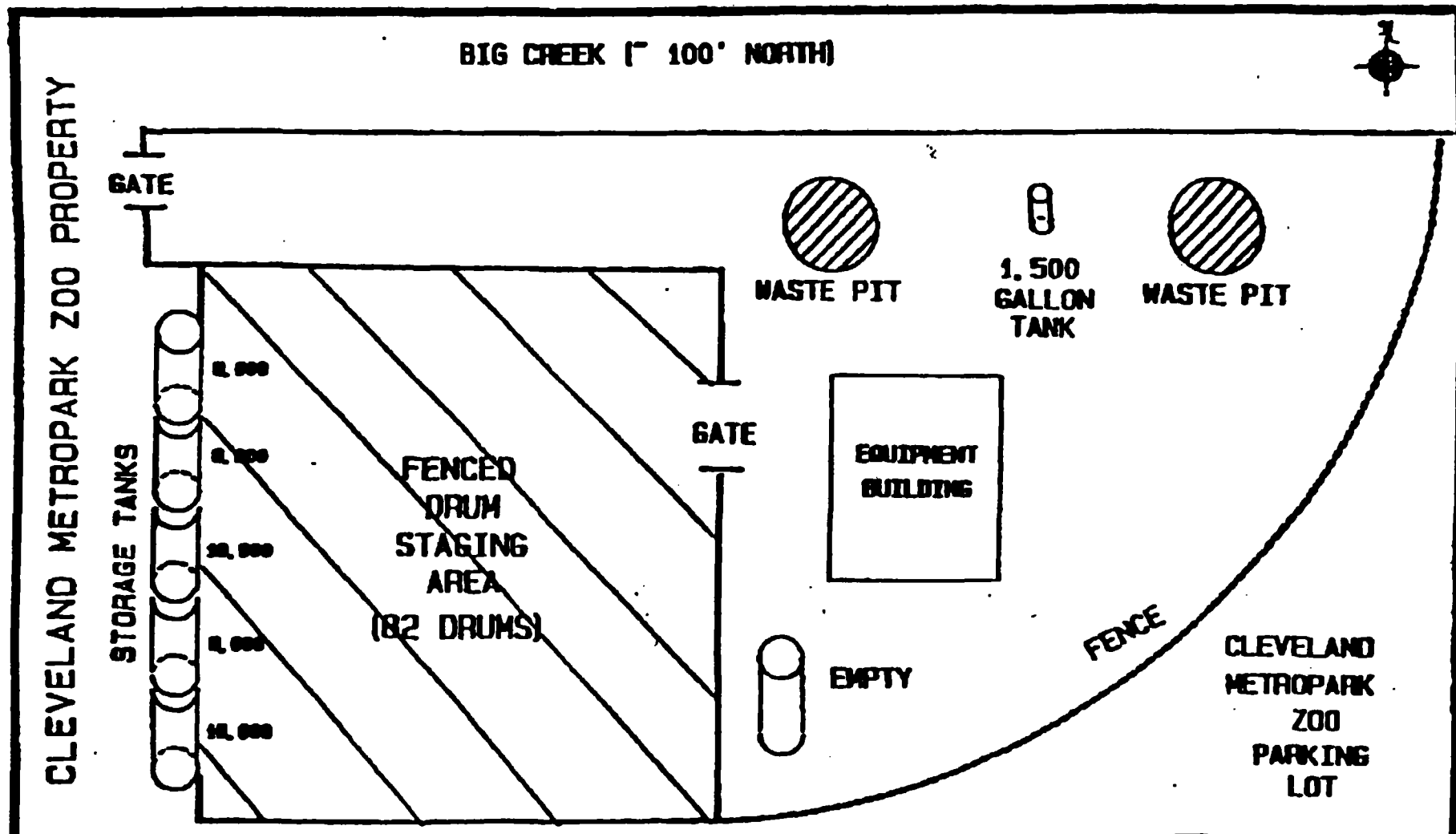


FIGURE 2
 SITE MAP - SITE PROPER
 MOBILE TANK CAR SERVICES
 CLEVELAND, CUYAHOGA COUNTY, OHIO

NOT TO SCALE - BOUNDARIES APPROXIMATE

WESTON MAJOR PROGRAMS DIVISION
 REGION V TECHNICAL ASSISTANCE TEAM

W. E. Ullrich



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JAN 29 1992

5HS-12
REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Cleveland Metroparks Zoo
c/o Maureen Brennan
Baker & Hostetler
3200 National City Center
Cleveland, Ohio 44114
Re: Mobile Tank Car Services

RECEIVED
BAKER & HOSTETLER
MAUREEN BRENNAN
DATE 2-3-92

Dear Sir/Madam:

Enclosed please find a unilateral Administrative Order issued by the U.S. Environmental Protection Agency (EPA) under Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (CERCLA), 42 U.S.C. Section 9601, et seq.

Please note that the Order allows an opportunity for a conference if requested within ten (10) calendar days after the date of issuance (signature) of the Order, or if no conference is requested, an opportunity to submit comments within ten (10) calendar days after issuance of the Order.

If you have any questions regarding the Order, feel free to contact Felipe Gomez, Assistant Regional Counsel, at (312) 886-6833.

Sincerely yours,

W. E. Ullrich

for

David A. Ullrich, Director
Waste Management Division

Enclosure

cc: Ohio Superfund Coordinator

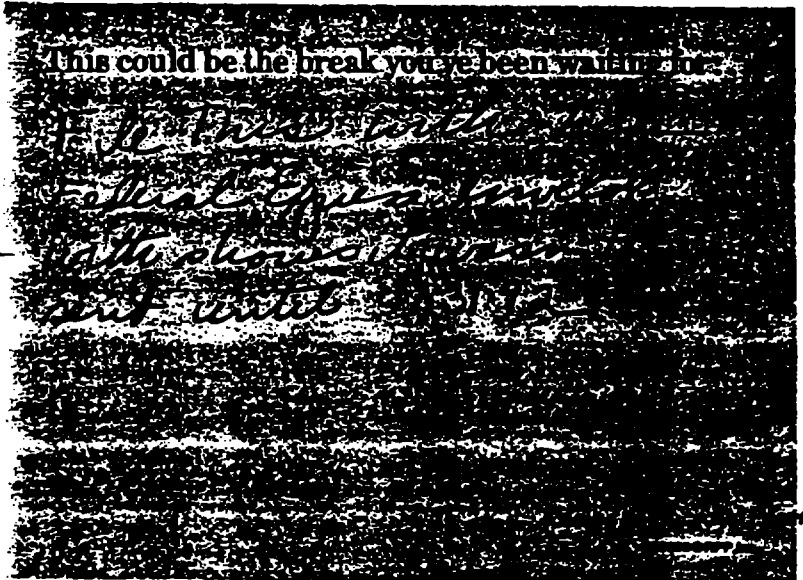


EXHIBIT 'B'

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION V

IN THE MATTER OF:

MOBILE TANK CAR SERVICES

Respondents:

SEE ATTACHMENT I

) Docket No. ~~W-92~~ **W-92-G-136**
)
) ADMINISTRATIVE ORDER
) PURSUANT TO SECTION 106
) OF THE COMPREHENSIVE
) ENVIRONMENTAL RESPONSE,
) COMPENSATION, AND
) LIABILITY ACT OF 1980
) as amended, 42 U.S.C.
) Section 9606(a)
)

PREAMBLE

This Administrative Order (Order) is issued on this date to the Respondents listed in Attachment I.

It is issued pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9606(a), as amended by the Superfund Amendments and Reauthorization Act of 1986 Pub. L. 99-499 (CERCLA), and delegated to the Administrator of the United States Environmental Protection Agency (U.S. EPA) by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, and further delegated to the Assistant Administrator for Solid Waste and Emergency Response and the Regional Administrators by U.S. EPA Delegation Nos. 14-14-A and 14-14-B, and to the Director, Waste Management Division, Region V, by Regional Delegations 14-14-A and 14-14-B.

By copy of this Order the State of Ohio has been notified of the issuance of this Order as required by Section 106(a) of CERCLA, 42 U.S.C. Section 9606(a).

This Order requires the Respondents to undertake and complete emergency removal activities to abate a potential imminent and substantial endangerment to the public health and welfare or the environment that may be presented by the actual and threatened release of hazardous substances at the site.

FINDINGS

Based on available information, including the Administrative Record in this matter, U.S. EPA hereby finds:

1. The Mobile Tank Car Services (MTCS) facility is located at 3610 South Brookside Park Drive, Cleveland, Ohio, in Cuyahoga County. The site consists of several contiguous parcels and is adjacent to Big Creek and the Cleveland Metroparks Zoo. Approximately one-half of the site has been covered over by a cement/gravel parking lot and has been utilized in the past as a zoo overflow parking area during peak months (May-September).
2. The MTCS facility has operated as a railroad tank car washing and flushing facility since 1976. The facility reportedly ceased operations in 1985 but has not achieved closure as required by the Resource Conservation and Recovery Act, as amended (RCRA).
3. The MTCS facility was involved in flushing and cleaning product residues, including hazardous substances, from railroad tank cars employing different steaming, spraying and scraping methods. The sludges, residues and wastewaters generated by the flushing and cleaning processes were stored on site in drums, tanks, uncovered waste piles, and open cement drying beds. According to site records, over 1,500,000 gallons of wastewaters (hazardous and non-hazardous) were generated as a result of site operations.
4. During the operational life of the facility, various individuals, including workers from the MTCS facility and nearby residents, reported or complained of the following: questionable operational practices, odors and visible airborne releases emanating from the MTCS facility, direct discharge of wastewater into nearby Big Creek, and human illness and damaged vegetation allegedly caused by noxious fumes emanating from the facility (see Attachment II).
5. Between 1976 and 1988, local, State, and Federal authorities inspected the MTCS facility several times (See Attachment II) in response to the complaints of odors, questionable operational practices, and alleged violations of State and Federal laws. The following conditions were documented by inspectors at the MTCS facility:
 - a. Several inspections noted uncontained and uncovered waste piles resting directly on the ground. These piles of potentially hazardous residue from the tank car cleaning operations were observed to be discolored and stained.

- b. Drums were poorly managed at the facility. Unlabeled drums containing uncharacterized materials were haphazardly arranged; drums containing incompatible materials were not segregated, and drums were located in an undiked area. Bulging, leaking, or deteriorated drums were observed on several occasions at the facility.
- c. Inspectors repeatedly observed that the facility lacked security and had unrestricted access during and after its active operation life. Inspectors also noted that potentially hazardous wastes were not analyzed, identified or segregated by the MTCS operators.
- d. Inspectors observed various levels of potentially hazardous substances stored in tanks. These tanks were noted to be of questionable integrity.
- e. Inspectors documented and photographed stained, discolored and apparently contaminated soils at the facility in work station areas, around the cement drying slab, and around the railroad tank car staging areas.
- f. Analytical data from soil samples taken from the grounds of the facility by U.S. EPA, OEPA and the landowners indicated the presence of the following contaminants, most of which are known to be common constituents of substances contained in tank cars being cleaned by MTCS:

Titanium
 Zirconium
 Strontium
 Acenapthalene
 Methyl Napthalene
 Fluoranthene
 Fluorene
 Lead

Magnesium
 Napthalene
 Phenanthrene
 Pyrene
 Zinc
 Copper
 Carbazole
 Aluminum

Antimony
 Nickel
 Dibenzofuran
 Dimethyl Napthalene
 Ethyl Napthalene
 Anthracene
 Arsenic
 Benzo (A) anthracene
 Bis-(2-ethylhexyl)-
 phthalate

Cadmium
 Chromium
 Chrysene
 Di-N-Octyphthalate
 Di-N-Butyl phthalate
 Mercury
 Manganese
 Yttrium

6. The U.S. EPA issued a RCRA administrative complaint to the MTCS facility on December 26, 1984. The State of Ohio filed a similar complaint on June 22, 1987. The RCRA administrative matter was settled pursuant to a RCRA Consent Agreement and final Order (CAFO) on April 22, 1988, between U.S. EPA and MTCS, which requires Respondent MTCS to perform RCRA closure on certain portions of the facility. The State matter was settled concurrently and in conjunction with the RCRA matter. To date, MTCS has failed to satisfy the requirements of the CAFO. According to bankruptcy court files, MTCS has been dissolved and its parent Mobile Cos. is in bankruptcy. Subsequently, CERCLA enforcement investigations were initiated by U.S. EPA to identify PRPs. A title search was ordered, and efforts to identify generators were initiated.

7. Catherine McCord, a representative of the U.S. EPA's Resource Conservation and Recovery Act (RCRA) Enforcement Section, inspected the facility on April 26, 1988, and observed several leaking drums. On April 28, 1988, pursuant to the McCord verbal report of a potentially dangerous situation existing at the MTCS facility, the U.S. EPA's On-Scene-Coordinator (OSC), Ralph Dollhopf, conducted a site assessment. The OSC noted the following conditions at the facility:
 - a. An undiked drum storage area contained leaking drums of liquid including drums previously identified and marked sodium sulfide.
 - b. Access to the facility was unrestricted.

8. During a subsequent site visit on April 29, 1988, Ralph Dollhopf observed three zoo-bound buses containing school children enter onto the gravel covered portion of the site, and approach the drum storage area containing leaking and bulging drums. As a result of this inspection and subsequent U.S. EPA directions, an MTCS contractor overpacked 182 drums on May 3, 1988. The drums were segregated according to chemical class, placed on wooden pallets, and secured in a fenced staging area. Most of the drums were labeled as hazardous waste as a precautionary measure, although the precise contents were not known.

9. On February 14, 1989, U.S. EPA OSC Joe Fredle, the U.S. EPA Emergency Response Team (ERT), and U.S. EPA Technical Assistance Team (TAT) conducted sampling of a portion of the 137 drums which were left on site. A select number of drums from each suspected chemical category were sampled. Site records indicated that the on-site drum inventory potentially included: ammonia nitrate, methanol, dimethyl

formamide, sodium sulfide, naphthalene, nathenic acid, phthalic anhydride, raffinate, and cresylic acid.

10. The U.S. EPA issued a CERCLA unilateral administrative order to MTCS owners/operators ("phase I respondents") listed in Attachment III on January 24, 1990. The CERCLA administrative order required the phase I respondents to submit a work plan and complete the following phase I removal activities:
 - a. Site security, including fencing.
 - b. Characterize for disposal all material contained in drums and tanks properly. Waste streams were established based on results of the testing. According to the work plan schedule, such work was to have been completed on or before July 23, 1990.
 - c. Soil sampling.
 - d. Submission of a comprehensive phase I report summarizing all removal activities performed at the site to date.
11. On June 21, 1990, following partial revisions by the respondents, U.S. EPA OSC Steven Renninger conditionally approved the phase I work plan submitted via ERM-Midwest (phase I contractor) by those respondents who committed to undertake the requirements of the phase I Order.¹ Phase I sampling activities were conducted between June 27, 1990 and August 30, 1990, and included groundwater, surface water, sediment, soil, and waste media. A U.S. EPA TAT representative conducted split sampling with ERM-Midwest at ten predetermined locations during this period.
12. A September 27, 1990, U.S. EPA TAT report based on the phase I split sample results indicated elevated concentrations of inorganic contaminants in site soils including: cyanide, beryllium, chromium, copper, lead, magnesium, manganese, mercury, nickel, selenium, vanadium and zinc. Organic contaminants are also present at elevated concentrations in

¹ The following entities comprised the Phase I committing respondent group: CSX Transportation, Cleveland Metroparks Zoo, Unissco, Refuse Systems, James Crawford, and Craig Crawford. The U.S. EPA could not issue full approval of the work plan due to the failure of respondents to fully address U.S. EPA's May 6, 1990, comments. Many of the conditions set forth in the June 21, 1991, approval have not been met by respondents, including the submission of a revised work plan. Thus, U.S. EPA was unable to enter the work plan into the Administrative Record.

site soils. Split samples from Waste Pit #1 and Tank #2 were found to contain RCRA F-List solvents, cyanide, and phenolic compounds.

13. On October 26, 1990 phase I committing respondents submitted a draft report to U.S. EPA via ERM-Midwest entitled "final report on phase I Site Assessment, Mobile Tank Car Services, Cleveland, Ohio". This report was determined by U.S. EPA to be deficient in several respects.
14. On February 22, 1991, U.S. EPA issued a general notice letter to several potentially responsible parties, including all phase I respondents, requesting that additional removal activities be performed at the facility. The general notice letter was based in part on qualitative portions of the phase I committing respondents' draft phase I report, and also on the U.S. EPA TAT report.
15. On March 1 and March 28, 1991, OEPA inspected the MTCS facility. Additionally, on March 27, 1991, OSC Steven Renninger visited the facility. During the inspections, the following conditions were noted:
 - a. Drums were noted to be poor condition and rusting;
 - b. Two uncovered waste pits containing liquid waste presented "a threat to human health and safety";
 - c. Various debris and miscellaneous items (e.g. drums labelled as containing decontamination water, old deteriorated drums), were scattered about the site;
 - d. The site was unsecured. It was possible to walk through gaps in the wooden plank fences into the MTCS site proper, since some of the planks had been removed. Evidence of persons actually being on-site was also noted.²
16. On April 23, 1991, U.S. EPA tendered comments on the deficient phase I report to phase I committing respondents. Due to the failure of committing respondents to fully address and correct the deficiencies, U.S. EPA was forced to make the revisions itself.³ A copy of the U.S. EPA-revised

² Site security was at this time the responsibility of the Phase I respondents, as required by the Phase I Order and work plan.

³ The U.S. EPA-approved work plan requires respondents to address U.S. EPA comments and revisions, and submit a revised draft of the report.

report is included in the Administrative Record. In general the report qualitatively supports the TAT report findings.⁴ The phase I respondents' report noted, and U.S. EPA agrees, that previous site activity appears to have impacted soils on a site-wide basis, and possibly groundwater. The following contaminants were consistently identified in phase I samples:⁵ semi-volatile organic compounds, metals, and cyanide. Results of tank liquid and sludge samples indicated these materials contained solvents and metals and were corrosive. Drum sampling results indicated at least three hazardous waste streams. These compounds are common constituents of numerous substances which were brought into the site in railroad tank cars.

17. Pursuant to an agreement between U.S. EPA and Sun Marketing and Refining, Inc. (Sun), Sun agreed to remove and dispose of 71 drums of hazardous substances. On May 2, 1991, OSC Steven Renninger conditionally approved Sun's work plan for drum removal activities. On or about May 13, 1991, Sun completed drum repackaging activities under U.S. EPA TAT oversight. The repackaged drums were removed from the site prior to May 31, 1991, and have been destroyed. On August 28, 1991, U.S. EPA executed an Administrative Order on Consent which embodies the activities performed by Sun.

DETERMINATIONS

Based on the foregoing Findings, U.S. EPA has determined that:

1. Mobile Tank Car Services is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. Section 9601(9).
2. Each Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. Section 9601(21).
3. Respondents (see Attachment I) are either the past or present "owners" and "operators" of the MTCS facility, as defined by Section 101(20) of CERCLA, 42 U.S.C. Section 9601(20), or arranged for disposal or transport for disposal of hazardous substances at the MTCS facility. Respondents

⁴ U.S. EPA has been unable to determine the validity of the quantitative data contained in the report due to the committing respondents' failure to timely submit required supporting documentation.

⁵ Since Toxicity Characteristic Leaching Procedure ("TCLP") testing was not performed by Phase I respondents, the wastes shall be analyzed for these parameters during Phase II activities.

are therefore liable persons under Section 107(a) of CERCLA, 42 U.S.C. Section 9607(a).

4. Those substances listed under "Findings" #5f, 12, and 16 are "hazardous substances" as defined by Section 101(14) of CERCLA, 42 U.S.C. Section 9601(14), and have been disposed of at the site.
5. U.S. EPA has determined that the existence of the contaminants (see "Findings" #5f, 12, and 16) found at the facility constitute an actual or threatened "release" as that term is defined in Section 101(22) of CERCLA, 42 U.S.C. Section 9601(22).
6. The actual or threatened release of hazardous substances from the facility may present an imminent and substantial endangerment to the public health, welfare, or the environment.
7. The actions required by this Order, if properly performed, are consistent with the National Contingency Plan (NCP), 40 CFR Part 300, as amended, and CERCLA; and are reasonable and necessary to protect the public health, welfare and the environment.
8. The conditions present at the facility constitute a threat to public health or welfare or the environment based upon consideration of the factors set forth in the NCP, Section 300.415(b)(2). These factors include, but are not limited to, the following:
 - a. actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances or pollutants or contaminants;

This factor is present at the facility due to the existence of contaminated soils, hazardous substances in pit and vats, and due to past and potential leaking and migration of hazardous substances at and from the facility, in combination with the presence of nearby human populations.

Phase I soil sampling identified hazardous substances including, but not limited to, semi-volatiles, metals and cyanide in close proximity to the Cleveland Metroparks Zoo and gravel parking lot. Sampling has indicated hazardous substances are located beneath the gravel parking lot. Pedestrians may pass over the gravel parking lot and may walk immediately adjacent to contaminated areas, presenting the potential for exposure to the contamination noted in these areas. Potential trespassing and access to the contaminated areas, as well as to the vats, pits and tanks containing hazardous substances, has also been noted.

- b. hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers that may pose a threat of release;

This factor is present at the Facility due to the existence of hazardous substances stored in above ground tanks and/or vats or pits.

- c. high levels of hazardous substances in soils largely at or near the surface that may migrate;

Phase I sampling data documented the presence of hazardous substances including semi-volatiles, metals, and cyanide in the surface soils at the facility. The potential for surface run-off from the contaminated areas to the surrounding property exists, as well as the possibility of migration into groundwater.

ORDER

Based upon the foregoing Findings and Determinations, and pursuant to Section 106(a) of CERCLA, 42 U.S.C. Section 9606(a), it is hereby Ordered that Respondents undertake the following actions at the Facility:

1. Within twenty-one (21) calendar days after the effective date of this Order, the Respondents shall submit to U.S. EPA for approval, a draft phase II work plan (work plan) for the phase II removal activities ordered as set forth in Paragraph 4 below. The draft work plan shall provide a concise description of the activities to be conducted to comply with the requirements of this Order. As provided by paragraph 5 of this Order, the draft Plan shall be reviewed by U.S. EPA, which may approve, disapprove, require revisions, or unilaterally modify the draft work plan.

Once approved, the work plan, shall be deemed to be incorporated into and made a fully enforceable part of this Order.

2. The work plan shall contain a site safety and health plan, a site security plan, a plan for sampling, removal and disposal of all contaminated and potentially contaminated media (other than soils), a soil sampling and analysis plan, a plan for preparation and submission of a draft and final soil sampling report, a contaminated soil excavation and disposal plan, a groundwater monitoring plan, a Quality Assurance and Procedures Plan, and a schedule of the work to be performed. The site safety and health plan shall be prepared in accordance with the Occupational Safety and Health Administration (OSHA) regulations applicable to

Hazardous Waste Operations and Emergency Response, 29 CFR Part 1910. The work plan and other submitted documents shall demonstrate that the Respondent can properly conduct the actions required by this Order.

3. Respondents shall retain a contractor qualified to undertake and complete the requirements of this Order, and shall notify U.S. EPA of the name of such contractor within five (5) calendar days of the effective date of this Order. U.S. EPA retains the right to disapprove of any, or all, of the contractors and/or subcontractors retained by the Respondent(s). In the event U.S. EPA disapproves of a selected contractor, Respondents shall retain a different contractor to perform the work, and such selection shall be made within two (2) calendar days following U.S. EPA's disapproval.
4. Within five (5) calendar days after U.S. EPA approval of the work plan (unless otherwise directed in the approved work plan schedule), Respondents shall implement the work plan, as approved or modified by U.S. EPA. Failure of the Respondents to timely and properly implement all aspects of the work plan, including failure to meet the schedule contained therein, shall be deemed to be a violation of the terms of this Order. The work plan shall require the Respondents to perform, and complete within forty-five (45) calendar days after approval of the work plan (unless otherwise provided by the approved work plan schedule), at a minimum, the following removal activities at the facility:
 - a. Provide site security, including competent fencing and daily inspections of the fencing, throughout all removal activities, including during any period of time between planned removal activities.
 - b. Properly sample, remove and dispose of all remaining drums containing hazardous substances.
 - c. Properly sample (including TCLP), remove and dispose of all hazardous substances and contaminated media (other than soils), including liquids and sludges, contained in tanks, pits, vats, or other containers. All tanks and other containers shall be properly sampled, removed, decontaminated and/or disposed of.
 - d. Perform soil sampling and analysis (including TCLP) to delineate the precise boundaries and depths of the areas of contaminated soil to be excavated, in accordance with the work plan (soil sampling and analysis plan). Areas to be addressed include but are not limited to areas in the vicinity of sample locations CDS-1, CDS-3, CSD-1, AGST, RR-6, RR-7, and

RR-8 (as labelled in the phase I report), and soils underlying the removed vats, tanks and pits.

- e. Prepare and submit draft and revised soil sampling reports for U.S. EPA review, comment and approval, according to the approved work plan schedule.

The soil sampling report shall array and discuss soil sampling results, and shall propose the boundaries and depths of the areas of contaminated soil to be excavated, including clean-up levels, consistent with CERCLA, the NCP, and EPA guidance and policy. Respondents shall submit all soil sampling sample logs, raw data analysis, field data sheets, analytical data packages, quality assurance/quality control information, chain-of-custody, stamped traffic reports, calibration data, boring and drilling logs, and sample descriptions concurrently with the draft report. Failure to submit any such required documentation shall be considered a violation of the terms of this Order.

The U.S. EPA approved soil sampling report shall serve as the basis for preparation of the soil excavation and disposal plan.

- f. Prepare and submit draft and revised soil excavation and disposal plan for U.S. EPA review, comment and approval, according to the approved work plan schedule for all soils proposed for excavation pursuant to the approved soil sampling plan.
- g. Collect and dispose of contaminated soil as directed in the work plan (U.S. EPA approved soil excavation and disposal plan).
- h. Sample and dispose of all contaminated and potentially contaminated debris located at the facility, including materials generated as a result of the removal activities (e.g. decontamination water, discarded or used protective gear, etc.).
- i. Install additional ground water monitoring wells and perform groundwater monitoring in accordance with the U.S. EPA approved work plan (ground water monitoring plan).
- j. Confirm that all area residents potentially affected by groundwater contamination are not utilizing the underlying aquifers.
- k. Implement institutional controls (e.g. deed notification and deed restrictions) to address

contaminated subsoils located under portions of the site, as determined appropriate by U.S. EPA.

- l. Assure that development (e.g. paving) of the Zoo property is coordinated with and approved by the OSC, and that such activities do not interfere with this removal action. In any conflict between development of the Zoo's lot and the required removal activities, the removal activities shall be deemed to have priority.
- m. Submit a draft and a revised phase II report, detailing and discussing all activities taken pursuant to this Order, and complying with paragraph 18 below.

All relevant documentation not previously submitted, including but not limited to permits, manifests, analytical data packages, chain-of-custody forms, sample logs, raw data analysis, field data sheets, quality assurance data and reviews, traffic reports, calibration data, boring and drilling logs, sample descriptions, waste profile sheets, delivery orders, daily work orders, logbooks, site security logs/reports, daily work reports, entry/exit logs, equipment and materials logs, hot zone log, daily cost reports, incident /obligation logs, contractor invoices, air monitoring logs, photo/video documentation, maps, and inventories, shall be submitted accompanying the draft phase II report.

5. Review and Comment Process for Documents. The Respondents will be responsible for preparing, submitting to U.S. EPA, revising and finalizing all documents generated pursuant to this Order. Such documents include, but are not limited to, the work plan (and all plans and documents which comprise the work plan, including the soil sampling, excavation and disposal plans), and all plans and reports required pursuant to this Order or required pursuant to the work plan. Documents shall not be considered final until approved or conditionally approved by U.S. EPA.

Respondents shall submit drafts of all documents to U.S. EPA in accordance with the deadlines and schedules established in this Order or pursuant to this Order (e.g. in the work plan schedule or in any U.S. EPA disapproval, conditional approval, or approval letter).

The U.S. EPA has the right to review and comment upon such draft documents, and such review may concern all aspects of the document (including but not limited to technical aspects of the documents, consistency with CERCLA, the NCP, and U.S. EPA guidance and policy). Representatives of the Respondents shall make themselves readily available to U.S.

EPA during the review and comment period for purposes of informally responding to questions and comments on the draft document.

Within ten (10) calendar days after receipt of U.S. EPA's comments on the draft document, Respondents shall make all the U.S. EPA required revisions to the document in accordance with the U.S. EPA's comments and shall resubmit the revised document to U.S. EPA for approval.

U.S. EPA may disapprove a document that fails to incorporate U.S. EPA comments, and any such failure shall be deemed to be a failure to comply with the requirements of this Order. Additionally, or alternatively, U.S. EPA may advise Respondents that Respondents failed to incorporate U.S. EPA's comments and may then unilaterally amend and approve or conditionally approve the document.

Within ten (10) calendar days of any disapproval, any conditional approval, or any unilateral amendment, Respondents shall resubmit a corrected copy of the disapproved, conditionally approved, or unilaterally amended document. However, Respondents shall comply with any schedules and requirements of such disapproval, conditional approval or unilateral amendment independent of the submission of the corrected document.

Failure to comply with any portion of this paragraph, including failure to address all U.S. EPA comments, failure to make all revisions or failure to timely resubmit a document or revised document, or failure to fully comply with the requirements and schedules of any disapproval, conditional approval or unilateral amendment shall be deemed to be a violation of this Order.

6. All materials containing hazardous substances, pollutants or contaminants removed pursuant to this Order shall be disposed of or treated at a facility approved by the On-Scene Coordinator and in accordance with the Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. Section 6901, et seq., as amended, the U.S. EPA Revised Off-Site Policy, and all other applicable Federal, State, and local requirements.
7. Within three (3) calendar days of the effective date of this Order, the Respondents shall designate a Project Coordinator. To the greatest extent possible, the Project Coordinator shall be present on site or readily available during site work. The U.S. EPA has designated Steven Renninger of the Emergency and Enforcement Response Branch, Response Section I, as its On-Scene Coordinator. The On-Scene Coordinator and the Project Coordinator shall be

responsible for overseeing the implementation of this Order. To the maximum extent possible, communication between the Respondents and the U.S. EPA, and all documents, reports and approvals, and all other correspondence concerning the activities relevant to this Order, shall be directed through the On-Scene Coordinator and the Project Coordinator.

8. The U.S. EPA and the Respondents shall each have the right to change their respective designated On-Scene Coordinator or Project Coordinator. Respondents shall notify U.S. EPA, as early as possible before such a change is made, but in no case less than 24 hours before such a change. Notification may initially be verbal, but shall promptly be reduced to writing.
9. The U.S. EPA On-Scene Coordinator shall have the authority vested in an On-Scene Coordinator by the NCP, 40 CFR Part 300, as amended, including the authority to halt, conduct, or direct any work required by this Order, or to direct any other response action undertaken by U.S. EPA or the Respondents at the facility.
10. No extensions to the above time frames shall be granted without sufficient cause. All extensions must be requested, in writing, and shall not be deemed accepted unless approved, in writing, by U.S. EPA.
11. All instructions, directions and schedules consistent with this Order set by the U.S. EPA On-Scene Coordinator or his designated alternate shall be binding upon the Respondents. Failure to comply with any such instructions or schedules shall be deemed to be a violation of this Order.
12. To the extent that the Facility or other areas where work under this Order is to be performed is owned by, or in possession of, someone other than the Respondents, Respondents shall obtain all necessary access agreements. In the event that after using their best efforts Respondents are unable to obtain such agreements, Respondents shall immediately notify U.S. EPA. U.S. EPA may then assist Respondents in gaining access, to the extent necessary to effectuate the response activities described herein, using such means as it deems appropriate.
13. Respondents shall provide access to the Facility to U.S. EPA employees, contractors, agents, and consultants at reasonable times, and shall permit such persons to be present and move freely in the area in order to conduct inspections, including taking photographs and videotapes of the Facility, to do cleanup/stabilization work, to take samples to monitor the work under this Order, and to conduct

other activities which the U.S. EPA determines to be necessary.

14. Nothing contained herein shall be construed to prevent U.S. EPA from seeking legal or equitable relief to enforce the terms of this Order, or from taking other legal or equitable action as it deems appropriate and necessary, or from requiring the Respondents in the future to perform additional activities pursuant to CERCLA, 42 U.S.C. Section 9601 et seq., or any other applicable law.
15. This Order shall be effective ten (10) calendar days following issuance (signature) unless a conference is requested as provided herein. If a conference is requested, this Order shall be effective on the second (2d) business day following the day of the conference unless modified in writing by U.S. EPA.
16. On or before the effective date of this Order, Respondents shall provide notice, verbally or in writing, to U.S. EPA stating their intention to comply with the terms of this Order. Verbal notification must be followed in writing within two (2) business days. In the event any Respondent fails to provide such notice, that Respondent shall be deemed not to have complied with the terms of this Order.
17. Copies of all records and files generated by Respondents and Respondents' contractor(s) pursuant to this Order, and any records relating to hazardous substances found on the site shall be retained for six years following completion of the activities required by this Order and shall be made available to the U.S. EPA as directed above, but in no case prior to U.S. EPA approval of the final phase II report.
18. As directed above, the Respondents shall submit a phase II report discussing and detailing the actions taken to comply with this Order. The report shall contain, at a minimum: identification of the facility, a description of the locations and types of hazardous substances encountered at the facility upon the initiation of work performed under this Order, a chronology and description of the actions performed (including both the organization and implementation of response activities), a listing of the resources committed to perform the work under this Order (including financial, personnel, mechanical and technological resources), identification of all items that affected the actions performed under the Order and discussion of how all problems were resolved, a listing of quantities and types of materials removed, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destination of those materials, and a presentation of the analytical results of all sampling

and analyses performed and accompanying appendices containing all relevant paperwork accrued during the action (e.g., manifests, invoices, bills, contracts, permits). The final report shall also include an affidavit from a person who supervised or directed the preparation of that report. The affidavit shall certify under penalty of law that based on personal knowledge and appropriate inquiries of all other persons involved in preparation of the report, the information submitted is true, accurate and complete to the best of the affiant's knowledge and belief. The report shall be submitted within thirty (30) days of completion of the work required by the U.S. EPA (unless otherwise directed by the approved work plan schedule).

19. All notices, reports and requests for extensions submitted under terms of this Order shall be sent by certified mail, return receipt requested, and addressed to the following:

one copy: Steven Renninger
On-Scene Coordinator
U.S. EPA
25089 Center Ridge Road
Westlake, Ohio 44145

one copy: Felipe Gomez
Assistant Regional Counsel
U.S. EPA
111 West Jackson Street-3d Flr.
Chicago, Illinois 60604

20. If any provision of this Order is deemed invalid or unenforceable, the balance of this Order shall remain in full force and effect.

ACCESS TO ADMINISTRATIVE RECORD

The Administrative Record and liability documentation supporting the above Determinations and Findings is available for review on normal business days between the hours of 9:00 a.m. and 5:00 p.m. in the Office of Regional Counsel, United States Environmental Protection Agency, Region V, 111 W. Jackson Blvd., Third Floor, Chicago, Illinois. Please contact Felipe Gomez, Assistant Regional Counsel, at (312) 886-6833 to review the Administrative Record and liability documentation. An index of the Administrative Record is attached hereto.

OPPORTUNITY TO CONFER

With respect to the actions required above, Respondent(s) may within ten (10) calendar days after issuance of this Order, request a conference with the U.S. EPA. Any such conference shall be held within seven (7) calendar days from the date of request unless extended by mutual agreement of the parties. At any conference held pursuant to the request, Respondents may appear in person, or be represented by an attorney or other representative. If any Respondent desires such a conference, the Respondent shall contact Felipe Gomez, Assistant Regional Counsel, at (312) 886-6833.

If such a conference is held, Respondents may present any evidence, arguments or comments regarding this Order, its applicability, any factual determinations upon which the Order is based, the appropriateness of any action which Respondents are ordered to take, or any other relevant and material issue. Any such evidence, arguments or comments should be reduced to writing and submitted to U.S. EPA within three (3) calendar days following the conference. If no conference is requested, any such evidence, arguments or comments must be submitted in writing within ten (10) calendar days following issuance (signature) of this Order. Any such writing should be directed to Felipe N. Gomez, Assistant Regional Counsel, at the address cited above.

Respondents are hereby placed on notice that U.S. EPA will take any action which may be necessary in the opinion of U.S. EPA for the protection of public health and welfare and the environment, and Respondent(s) may be liable under Section 107(a) of CERCLA, 42 U.S.C. Section 9607(a), for the costs of those government actions.

PENALTIES FOR NONCOMPLIANCE

Respondents are advised pursuant to Section 106(b) of CERCLA, 42 U.S.C. Section 9606(b), that willful violation or subsequent failure or refusal to comply with this Order, or any portion thereof, may subject the Respondents to a civil penalty of no more than \$25,000 per day for each day in which such violation occurs, or such failure to comply continues. Failure to comply with this Order, or any portion thereof, without sufficient cause may also subject the Respondents to liability for punitive damages in an amount three times the amount of any cost incurred by the government as a result of the failure of Respondents to take proper action, pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. Section 9607(c)(3).

By: W. E. Moore (Acting)
David A. Ullrich, Director
Waste Management Division
United States Environmental
Protection Agency
Region V

Jan. 29, 1992

ATTACHMENT I

LIST OF RESPONDENTS

Brookside Development Company
5801 Train Avenue
Cleveland, OH 44102

Roger Williams
[REDACTED]

Craig Crawford
c/o Daniel C. Buser, Esq.
Chattman, Garfield, et al.
6200 Rockside Road
Cleveland. 44131

James Crawford
c/o Daniel C. Buser, Esq.
Chattman, Garfield, et al.
6200 Rockside Road
Cleveland, OH 44131

Randy L. Crawford
c/o Daniel C. Buser, Esq.
Chattman, Garfield, et al.
6200 Rockside Road
Cleveland, OH 44131

Don F. Cree
c/o R.F. Linton, Esq.
Weston Hurd et al.
2500 Terminal Tower
Cleveland, OH 44113-2241

Daniel Conkey
[REDACTED]

CSX Transportation, Inc.
c/o Dennis P. Reis
Sidley & Austin
One First National Plaza
Chicago, Illinois 60603

Cleveland Metroparks Zoo
c/o Maureen Brennan
Baker & Hostetler
3200 National City Center
Cleveland, OH 44114

E.I. Dupont de Nemours and Company, Inc.
Attn: Ross E. Martin
Legal Department
1007 N. Market Street
Wilmington, DE 19898

Refuse System, Inc.
c/o Daniel C. Buser
Chattman, Garfield, et al.
6200 Rockside Road
Cleveland, OH 44131

US Steel (USX)
c/o Stephan K. Todd
600 Grant Street
Pittsburgh, PA 15219-4776

Unissco, Inc.
c/o Daniel C. Buser
Chattman, Garfield, et al.
6200 Rockside Road
Cleveland, OH 44131

ATTACHMENT II

INSPECTIONS

April 1, 1981 - Field Investigation Team (FIT) Report, Ecology and Engineering. Individuals from a nearby company approached FIT members and stated that fumes from the Mobile Tank Car Services (MTCS) operations had caused them to vomit green material. The individuals also complained about MTCS's practices, and claimed they had observed evening dumpings of materials from tank cars into Big Creek. The FIT report also stated that the Coast Guard and Ohio EPA had reported such spills into Big Creek. FIT noticed that the creek banks were discolored at the time of the inspection, and that trees along the site were dead.

May 21, 1981 - FIT sampled the MTCS facility. Analytical data from these samples indicates the presence of lead and arsenic in the waste piles on site. Report notes that Big Creek flow into the Cuyahoga River, which empties into Lake Erie. Report indicates that dumping into Big Creek potentially threatens Cleveland's water supply.

September 16, 1981 - City of Cleveland sends four letters of citizens' complaints to the U.S. EPA. The letters included complaints of chlorine odors, phenol fumes, midnight dumping and site run-off from the MTCS facility. An inspector from the City, who checked the facility following the receipt of the complaints, noted that tanks of Cl_2 , methylamine, H_2SO_4 and vinyl chloride were being cleaned during the inspection, and residues were placed in a pit. The inspector indicated that the chemical treatment did not appear safe or well-regulated. Another inspector for the City saw tank cars labeled sodium nitrate, sulfuric acid, crude oil, varnish, paint increaser compound, tar, diisocyanotoluene, etc. As a result of these inspections, the City issued an Order to the company to cover storage tanks, add better controls to its chlorine scrubber, and improve the flaring system. The City also contacted the Ohio EPA on concerning possible water pollution problems at the facility.

September 30, 1981 - Ohio EPA representative Robert Buda conducts a RCRA interim status inspection. The inspection report notes that access to the site is not restricted. The facility claimed that no malfunctions, explosions or operator errors had occurred at the facility. Contingency plans for emergency situations were not available. Tanks had no freeboard.

August 15, 1984 - Tank car explodes at facility during cleaning. No RCRA violations are reported to be related to the accident,

although serious Occupational Safety and Health Administration violations were noted.

June 7, 1984 - Analytical report from EDI Engineering & Science for samples taken by Chessie Systems after MTCS vacates the land owned by Chessie Systems. Analyses detect naphthalene, fluorene, anthracene, phenanthrene, chrysene, bis-(2-ethylhexyl)-phthalate, benzo(A)anthracene, carbazole, arsenic, and lead in soils from the grounds of the facility. The report states that the presence of these heavy aromatic and substituted benzene compounds at surface may be an indication that lighter chemicals will be found at the water table - EDI suggests sampling the water table.

August 31, 1984 - Inspection by City of Cleveland Division of Fire officials noted ten violations. James McNamee, Chief of the Division, orders the plant to abate violations by October 1, 1984.

December 26, 1984 - U.S. EPA files Administrative Complaint and Finding of Violation against MTCS for RCRA violations, specifically those relating to financial responsibility, liability insurance, contingency planning, personnel training, and closure.

April 22, 1985 - Inspection by Ohio EPA notes probable release of sulfur dichloride.

September 27, 1985 - The City of Cleveland removes eight bulging drums of sulphur dichloride from the facility. The drums were leaking and venting toxic fumes.

December 31, 1985 - FIT inspection report for inspection of December 12, 1985. Report states that all drums neatly stacked and drums storage area fenced. The facility appears to be inactive. The integrity of the two underground tanks is not known.

April 26, 1988 - Catherine McCord, a representative of the U.S. EPA's RCRA Enforcement Section, inspects the facility and observes leaking drums.

April 28, 1988 - U.S. EPA On-Scene Coordinator Ralph Dollhopf inspects the site and determines that immediate action is required. Several drums are leaking or severely rusted, pallets are in poor condition, and the fence around the storage area is deteriorated. Mr. Conkey of MTCS is notified, and MTCS overpacks drums under the OSC's direction. The substances contained in the drums include formaldehyde, o-nitroaniline, creosote, maleic anhydride, ammonium nitrate, sodium sulfide (71 drums), malathion, naphthalene, etc. A total of 203 drums are present at the site, 180 of these are in overpacks.

ATTACHMENT III

List of Respondents (January 24, 1990 phase I order)

Mobile Tank Car, Cleveland, Ohio

1. Roger F. Williams
[REDACTED]
2. Don F. Cree
[REDACTED]
3. Daniel Conkey
[REDACTED]
4. James Crawford
c/o Refuse Systems Inc.
866 Addison Street
Cleveland, Ohio 44103-1608
(Property Owner)
5. Craig Crawford
c/o Refuse Systems Inc.
866 Addison Street
Cleveland, Ohio. 44103-1680
(Property Owner)
6. Unissco, Inc.
(aka Refuse Systems Inc.)
866 Addison Street
Cleveland, Ohio 44103-1608
(Property Owner)
7. Refuse Systems Inc.
(formerly Unissco, Inc.)
866 Addison Street
Cleveland, Ohio 44103-1608
(Property Owner)
8. Mobile Wash of Cleveland, Inc.
8007 Ashbottom Road
Louisville, Ky. 40213
(Owner/Operator)
9. Mobile Companies, Inc.
8007 Ashbottom Road

- Louisville, Ky. 40213
(Owner/Operator)
10. Mobile Tank Car Services of Cleveland, Inc.
8007 Ashbottom Road
Louisville, Ky. 40213
(Owner/Operator)
 11. Mobile Tank Car Services, Inc.
8007 Ashbottom Road
Louisville, Ky. 40213
(Owner-Operator)
 12. The Baltimore and Ohio
c/o CSX Transportation, Inc.
Railroad Company, Inc.
2600 Parsons Avenue
Columbus, Ohio 43207
(Property Owner)
 13. CSX Transportation, Inc.
500 Water Street
Jacksonville, Fla. 32202
(Property Owner)
 14. CSX Corporation
One James Center
Richmond, Va. 23219
(Property Owner)
 15. Chessie Systems Railroad
c/o CSX Corporation
One James Center
Richmond, Va. 23219
(Property Owner)
 16. Cleveland MetroParks Zoo
3900 Brookside Park Dr.
Cleveland, Ohio 44109-3137
(Property Owner)

ATTACHMENT IV



ADMINISTRATIVE RECORD INDEX
MOBILE TANK CAR REMOVAL SITE
CLEVELAND, OHIO

4E	PAGES	DATE	TITLE	AUTHOR	RECIPIENT	DOCUMENT TYPE	DOCNUMBER
3		00/11/10	Letter re: Mobil Tank Car Services (MICS), INC., stating that due to certain circumstances, it is virtually impossible to accurately predict identity and quantity of potential hazardous waste streams	R. Williams, President Mobil Tank Car Services		Correspondence	1
15		00/11/10	Letter re: Item IV- Description of Hazardous Waste (Attachments)	R. Williams, President, Mobile Companies Inc.	OEPA	Correspondence	2
26		01/09/16	Transmittal letter, enclosing: minutes of 10/30/80 meeting, various narrative (inspection) reports, permit applications, and citizen complaints. This letter is in response to request for attached info.	K. Djukic, for T. Kinder, City of Cleveland, Bureau of Field Services	J. Balmat, USEPA	Correspondence	3
1		01/09/17	Letter requesting to perform a RCRA Interim Status Standards Inspection of Mobile Tank Car facility; also stating that referenced site has been subject of complaints	J. Balmat, USEPA	M. Becker, OEPA	Correspondence	4
26		01/12/15	Transmittal letter and ISS inspection for Mobile Tank - letter states the facility hadn't applied for Ohio hazardous waste permit	P. Cotter, OEPA	J. Balmat, USEPA	Correspondence	5
5		02/04/22	Letter re: Interim Status Acknowledgement, stating that USEPA has completed	K. Klepisch, Waste Mgt. Branch, USEPA	D. Conkey, Mobile Tank	Correspondence	6

ADMINISTRATIVE RECORD INDEX
MOBILE TANK CAR REMOVAL SITE
CLEVELAND, OHIO

NAME	PAGES	DATE	TITLE	AUTHOR	RECIPIENT	DOCUMENT TYPE	DOCNUMBER
			processing Part A Permit Application				
	2	02/07/22	Letter listing deficiencies noted during 6/22/02 inspection of facility	R.Buda,OEPA	D.Cree,Mobile Tank	Correspondence	7
	3	03/02/10	Letter listing violations noted during 1/13/03 inspection of facility	R.Beals,OEPA	D.Cree,Mobile Tank	Correspondence	8
	1	03/05/04	Letter informing recipient that Mobile Tank Car has been in violation of major hazardous waste handling regulations for more than one year	R.Maynard,OEPA	D.Cree,Mobile Tank	Correspondence	
	2	03/05/06	Letter listing violations noted during 4/10/03 reinspection of facility	R.Beals,OEPA	D.Cree,Mobile Tank	Correspondence	10
	1	03/07/15	Letter responding to 7/12/03 oral request for policy for treating materials within the transporting vessel(RR car)	D.Conkey,Mobile Tank Car	R.Beals,OEPA	Correspondence	11
	2	03/08/23	Letter summarizing the Agency's understanding of NICS' operations in regards to the State Hazardous Waste Regulations (reply to 7/15/03 letter from NICS re:policy for treating materials within transport vessels)	R.Beals,OEPA	D.Conkey,Mobile Tank	Correspondence	12
D	2	03/10/10	Letter listing violations noted during 10/12/03 reinspection of facility	R.Beals,OEPA	D.Cree,Mobile Tank	Correspondence	13
12	1 -	03/12/08	Letter stating that certain violations still existed and were noted	R.Beals,OEPA	D.Cree,Mobile Tank	Correspondence	14

ADMINISTRATIVE RECORD INDEX
MOBILE TANK CAR REMOVAL SITE
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IE	PAGES	DATE	TITLE	AUTHOR	RECIPIENT	DOCUMENT TYPE	DOCNUMBER
			during 11/22/83 reinspection				
2		03/12/19	Letter referencing 12/6/83 conversation, stating	D.Conkey, Mobile Tank Car	R.Beals, OEPA	Correspondence	15
			intent to make certain changes in order to comply with OEPA's requests (facility drawing attached)				
2		03/12/29	Letter stating that two items must be submitted by Mobile Tank Car, to initiate proposed changes (12/19/83 ltr is referenced)	R.Beals, OEPA	D.Conkey, Mobile Tank	Correspondence	16
2		04/01/86	Letter asking formal request for submittal of Part B of the permit application for NICS	K.Klepitsch, USEPA	D.Conkey, Mobile Tank	Correspondence	17
2		04/01/12	Letter responding to 1/3/84 conversation regarding intent to sell 400 drums of various materials removed from RR tank cars by NICS	R.Beals, OEPA	D.Conkey, Mobile Tank	Correspondence	18
3		04/04/16	Letter stating that NICS is subject to Ohio's adopted financial responsibility rules for hazardous waste facilities; timetable is listed in which NICS must submit documentation of compliance	D.Legtmeier, OEPA	D.Conkey, Mobile Tank	Correspondence	19
2	5	04/05/88	Letter listing violations noted during 5/1/88 inspection of facility	R.Beals, OEPA	D.Cree, Mobile Tank	Correspondence	20

ADMINISTRATIVE RECORD INDEX
MOBILE TANK CAR REMOVAL SITE
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LINE	PAGES	DATE	TITLE	AUTHOR	RECIPIENT	DOCUMENT TYPE	DOCNUMBER
3		04/05/16	Letter re: resolution of permit status	R. Maynard, OEPA	D. Conkey, Mobile Tank	Correspondence	21
3		04/05/16	Letter stating that NICS will immediately file for hazardous waste generator activity permit and move to the new plant site within 60 days	R. Williams, Mobile Tank Car Services (NICS)	Y. Adankus, USEPA	Correspondence	22
3		04/05/21	Letter re: 5/1/04 inspection, responding to several violations cited in referenced inspection	D. Cree, Mobile Tank Car	R. Beals, OEPA	Correspondence	23
1		04/05/25	Letter responding to 5/25/04 letter re: exemption from normal permitting requirements in order to move facility without ceasing operations; this letter clarifies OEPA's position on this matter	S. White, OEPA	R. Williams, Mobile Tank	Correspondence	24
4		04/07/23	Letter referencing 6/26/04 meeting to review NICS' compliance with respect to state and federal hazardous waste law and regulations; stating that a site inspection revealed numerous violations	S. White, OEPA	D. Conkey, Mobile Tank	Correspondence	25
10		04/07/31	Letter stating that there is no ground contamination from previous operations, giving formal notification of closure of property formerly leased by B&O RR	D. Conkey, Mobile Tank Car	R. Beals, OEPA	Correspondence	26

ADMINISTRATIVE RECORD INDEX
MOBILE TANK CAR REMOVAL SITE
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LINE	PAGES	DATE	TITLE (Attachments)	AUTHOR	RECIPIENT	DOCUMENT TYPE	DOCNUMBER
8		04/07/81	Transmittal Letter, forwarding report which demonstrates high lead contamination	D.Conkey, Mobile Tank Car; Metro Service Laboratories, Chemical Analysts & Consultants	R.Beals, OEPA	Correspondence	27
3		04/08/81	Letter re: 3610 Brookside Park Drive inspection; violations of the Municipal Code are noted	J. McNamee, City of Cleveland	D.Conkey, Mobile Tank	Correspondence	28
2		04/09/80	Letter stating that NTCSS must submit a formal notification of closure	R.Beals, OEPA	D.Conkey, Mobile Tank	Correspondence	29
25		04/12/85	Letter re: Findings of Violation and Compliance Order, transmitting Complaint and Findings of Violation (Compliance Order equivalent)	B.Constantelos, USEPA	C.T. Corporation, Age nt	Correspondence	30
1	7	05/02/81	Letter commenting on 1/7/85 submittal of NTCSS Closure Plan	R.Beals, OEPA	D.Conkey, Mobile Tank	Correspondence	31
17	2	05/03/81	Letter in addendum to 2/21/85 letter sent to recipient	R.Beals, OEPA	D.Conkey, Mobile Tank	Correspondence	32
1	4	05/04/82	Letter listing violations noted during 4/3/85 site inspection	R.Beals, OEPA	D.Conkey, Mobile Tank	Correspondence	33
5	2	05/05/81	Letter commenting on various items referred to in inspection report	R.Williams, President Mobile Tank Car Services	R.Beals, OEPA	Correspondence	34
7	2	05/05/80	Letter responding to 5/1/85 reply to inspection letter dtd 4/22/85	R.Beals, OEPA	R.Williams, Mobile Tank	Correspondence	35
10	1	05/05/83	Letter requesting immediate action be taken and remaining waste be removed from property to avoid harm to lives or	M.Hoven, Fire Marshal	D.Conkey, Mobile Tank	Correspondence	36

ADMINISTRATIVE RECORD INDEX
MOBILE TANK CAR REMOVAL SITE
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LINE	PAGES	DATE	TITLE	AUTHOR	RECIPIENT	DOCUMENT TYPE	DOCNUMBER
			property				
1		05/05/16	Letter stating that the process to remove all waste materials from the property started nine weeks ago & will continue until all material is removed	D.Conkey, Mobile Tank	M.Hoven, CLE Fire Marshall	Correspondence	37
2		05/06/04	Letter re: Letter to Roger Williams, dated 5/10/05; responding to replies to referenced letter, concerning various violations	D.Conkey, Vice President, Mobile Tank Car	R.Beals, OEPA	Correspondence	38
3		05/06/25	Letter listing violations noted during reinspection of site on 6/5/05	R.Beals, OEPA	D.Conkey, Mobile Tank	Correspondence	39
3		05/07/30	Letter re: Telephone Conversation 7/29/05 concerning 55-gallon drum waste at Mobile Tank Car Services	D.Conkey, Mobile Tank Car	Lt.Scott, City of CLE	Correspondence	40
2		05/08/12	Letter summarizing 8/8/05 conversation concerning disposal options for eight 55 gallon drums of sulfur dichloride stored at NTCS	R.Beals, OEPA	S.Gard, Mobile Tank Atty.	Correspondence	41
1		05/09/19	Letter stating that OEPA has determined that NTCS' procedure is unauthorized, all operations should be ceased immediately within 72 hours	J.McNamee, Chief Division of Fire	D.Conkey, Mobile Tank	Correspondence	42
3	2	05/09/24	Letter written with reference to proposed overpacking of eight drums of sulfur dichloride	S.White, OEPA	D.Conkey, Mobile Tank	Correspondence	43
10	2	05/09/25	Letter re: Letter to NTCS	M.Fox, City of Cleveland	J.McNamee, City of	Correspondence	44

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MOBILE TANK CAR REMOVAL SITE
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LINE	PAGES	DATE	TITLE	AUTHOR	RECIPIENT	DOCUMENT TYPE	DOCNUMBER
			9-19-85, concerning 7 drums of sulphur dichloride	Division of Fire	CLE		
3		05/10/20	Letter listing specific comments concerning NICS closure plan	A.Sasson,OEPA	D.Conkey,,Mobile Tank	Correspondence	45
2		05/11/07	Letter re:Status Report-Mobile Tank Car Services of Cleveland, Inc.	M.Drake,Asst.Reg.Counsel	J.F.Greene,Admin.La w J.	Correspondence	46
3		05/11/14	Letter enclosing a list of materials that Mobile Tank has cleaned from railroad cars, starting with 1981-1985, as requested in 10/22 meeting between author and recipient	D.Conkey,President Mobile Tank Car Services	A.Sasson,OEPA	Correspondence	47
2		05/11/15	Letter re:clarification of the meaning of 40 CFR 261.7, stating that interpretation differs to the point that Kentucky applies the rule to tank cars and Ohio does not	D.Conkey,Vice President, Mobile Tank Car	M.Williams,USEPA	Correspondence	48
10	2	05/11/22	Letter responding to 9/27/85 letter concerning the treatment of sulfur dichloride at NICS	R.Beals,OEPA	R.Williams,Mobile Tank	Correspondence	49
12	2	05/11/25	Letter presenting a combined list of comments on NICS' closure plan that necessitate revisions to said plan before it can be approved	R.Beals,OEPA	D.Conkey,Mobile Tank	Correspondence	50
14	1	05/12/12	Letter responding to 11/15/85 inquiry regarding the exemption of residues of hazardous waste in	M.Williams,USEPA	D.Conkey,Mobile Tank	Correspondence	51

ADMINISTRATIVE RECORD INDEX
MOBILE TANK CAR REMOVAL SITE
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NAME	PAGES	DATE	TITLE	AUTHOR	RECIPIENT	DOCUMENT TYPE	DOCUMENT NUMBER
			empty containers				
25		06/04/22	Letter transmitting the revised closure plan dated 2/4/86, submitted on behalf of client, Mobile Tank Car Services	S.Gard, Attorney for Mobile Tank Car	M.Drake,USEPA	Correspondence	52
2		06/06/17	Letter summarizing previously noted deficiencies that to date of itr. had not been adequately addressed	R.Beals,DEPA	S.Gard,MTCS Atty.	Correspondence	53
32		08/07/12	Letter giving brief site history/description; summation of observations made at site; location map and photographs attached	J.Klein,Weston-Sper	S.Faryan,USEPA	Correspondence	54
10		08/07/10	Letter re:Mobile Tank Car Services, Inc.; summarizing observations made during site inspection; site location map and photographs attached	S.Renninger,Weston-Sper	S.Faryan,USEPA	Correspondence	55
2	1	00/00/00	Diagram of Drum Storage Area	Weston-Sper		Diagrams	56
3	3	03/04/20	Minutes of the Meeting Mobile Tank Car Services April 20, 1983 10:20am	Northeast Ohio Regional Sewer District		Meeting Notes	57
1		00/10/16	Memo recommending the following: on site evaluation and evaluation of Mobile Tank Permit(PartA) application, and monitoring of Cuyahoga River to determine if runoff from site is entering the river	M.Michael, Ecology and Environment, Inc.	M.Goods,OEPA	Memorandum	58

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FRAME	PAGES	DATE	TITLE	AUTHOR	RECIPIENT	DOCUMENT TYPE	DOCNUMBER
1	2	01/01/80	Memo re: Request for RCRA Inspection-Mobile Tank Car Services	W. Miner, USEPA	R. Bartelt, USEPA	Memorandum	59
5	2	01/05/85	Memo re: inspection conducted on 5/25/81, as follow-up to 4/1/81 inspection at which time sampling was deemed inappropriate to obtain representative samples	J. Oskvarek, Ecology and Environment, Inc.	File	Memorandum	60
7	1	04/08/82	Memo re: sample from Mobile Car Co., stating that the sample constitutes an explosive hazard in an enclosed environment	F. H. Cleveland Division of Air Pollution Control	R. Dell, Div. Air/Poll. Ctrl.	Memorandum	61
28	2	00/00/80	Chronology of Events			Other	62
310	48	04/05/80	Complainant's Pre-hearing Exchange Information (5/8/84 Final RCRA Civil Penalty Policy, list of Docs. offered as exhibits, 10/10/80 Narrative Report, 6/21/84 letter re: Part B Application, 7/16/84 response letter to 6/21/84 attached)	USEPA		Other	63
G2	7	05/00/80	Respondent's answer to USEPA's 1984 Complaint, with transmittal ltr.	S. Gard, Mobile Tank Atty.	USEPA	Other	64
G9	54	05/07/80	Transmittal ltr. and Respondent's Pre-Hearing Exchange, with Exhibits 8, 11, 13, 15, and 17	S. Gard, Mobile Tank Atty.	USEPA	Other	65
D7	13	05/00/80	Complainant's Prehearing Memorandum	M. Drake, Atty. for Complainant		Other	66
5E6	8	05/00/80	Complainant's Prehearing Reply Memorandum	M. Drake, Atty. for Complainant		Other	67

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LINE	PAGES	DATE	TITLE	AUTHOR	RECIPIENT	DOCUMENT TYPE	DOCNUMBER
10		05/09/03	Reply of Respondent to Complainant's Pre-Hearing Memorandum	S.Gard, Mobile Tank Atty.	USEPA	Other	60
10		05/10/10	USEPA Administrative Hearing in the Matter of: Mobile Tank Car Services, Respondent. Docket No. RCRA-V-W-85-R-013 (US Federal Courthouse, Cleveland, OH)	D.Beard, Reporters, Etc.		Other	69
2		06/04/07	Notice of Trial	J.F.Greene, Administrative Law Judge		Other	70
2		07/08/24	Status Report, in the Matter Of: Mobile Tank Car Services (Certificate of Service Attached)	T.Conway, Asst. Reg. Counsel		Other	71
8		08/10/30	Permit Applications	Mobile Tank Car	OEPA	Permits	72
2	81	08/11/18	Part A-Permit Applications, and Corrections to Part A	Mobile Tank Car	USEPA	Permits	73
8		01/04/01	Photographs of Site	D.Sewall, Ecology and Environment, Inc.	OEPA	Photographs	74
1	5	01/05/21	Field Photography Log Sheets	Ecology and Environment, Inc.	OEPA	Photographs	75
14	33	00/00/00	State of Ohio's Complaint	State of Ohio Asst. Atty. General		Pleadings/Orders	76
5	9	05/08/10	MEMORANDUM OF LAW, in the matter of Mobile Tank Car Services, Inc., respondent; Docket No. RCRA-V-W-85-R-013	S.Gard, Atty for Respondent	USEPA	Pleadings/Orders	77
14	2	07/05/11	ORDER for status report, with CERTIFICATE OF SERVICE	USEPA	Mobile Tank	Pleadings/Orders	78
2	2	07/05/22	Status Report provided	USEPA	Mobile Tank	Pleadings/Orders	79

ADMINISTRATIVE RECORD INDEX
MOBILE TANK CAR REMOVAL SITE
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ME	PAGES	DATE	TITLE	AUTHOR	RECIPIENT	DOCUMENT TYPE	DOCNUMBER
			on behalf of Complainant, M. Drake, Asst. Reg. Counsel USEPA; CERTIFICATION of SERVICE attached				
2		07/07/15	ORDER, in the Matter of Mobile Tank Car Services, Law Judge, USEPA Respondent (Certificate of Service Attached)	J.F. Greene, Administrative		Pleadings/Orders	00
2		00/00/00	Closure Plan Comments	Mobile Tank Car Services		Reports/Studies	01
		00/00/00	Inspection Log for Mobile Tank Car Services			Reports/Studies	02
3		00/00/00	Waste Analyses Plan	Mobile Tank Car	OEPA	Reports/Studies	03
3		00/00/00	Waste Disposal Procedures	Mobile Tank Car Services	OEPA	Reports/Studies	04
11		00/10/17	Site Inspection Report	R. Freese, Ecology and Environment, Inc.	OEPA	Reports/Studies	05
3		01/02/05	Process Description of Chemicals as They Are Cleaned From Tank Cars	D. Conkey, Mobile Tank Car Services, Inc.	OEPA	Reports/Studies	06
2	12	01/04/01	Site Inspection Report (site map attached)	C. Bachunas, Ecology and Environment, Inc.	USEPA	Reports/Studies	07
1	2	01/04/01	List of Inspections, from 4/1/01 through 4/20/00		USEPA	Reports/Studies	08
3	10	01/05/21	Site Inspection Report	J. Oskvarek, Ecology and Environment	USEPA	Reports/Studies	09
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02/11/01	Results obtained on analysis of compacted soil samples	Metro Service Laboratories		Sampling/Data
03/01/20	Soil Sample Results	Metro Service Laboratories		Sampling/Data
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Course No. 7

Thence South $41^{\circ}-41'-26''$ West, 91.86 feet to a point;

Course No. 8

Thence South $63^{\circ}-33'-33''$ West, 114.37 to a point;

Course No. 9

Thence South $76^{\circ}-31'-30''$ West, 89.36 feet to a point;

Course No. 10

Thence South $86^{\circ}-35'-12''$ West, 119.86 feet to a point;

Course No. 11

Thence South $75^{\circ}-39'-06''$ West, 143.77 feet to a point;

Course No. 12

Thence North $59^{\circ}-50'-17''$ West, 89.36 feet to a point;

Course No. 13

Thence North $30^{\circ}-51'-50''$ West, 264.13 feet to a point;

Course No. 14

thence North $38^{\circ}-45'-52''$ West, 75.65 feet to a point;

Course No. 15

Thence North $54^{\circ}-17'-21''$ West, 57.21 feet to a point;

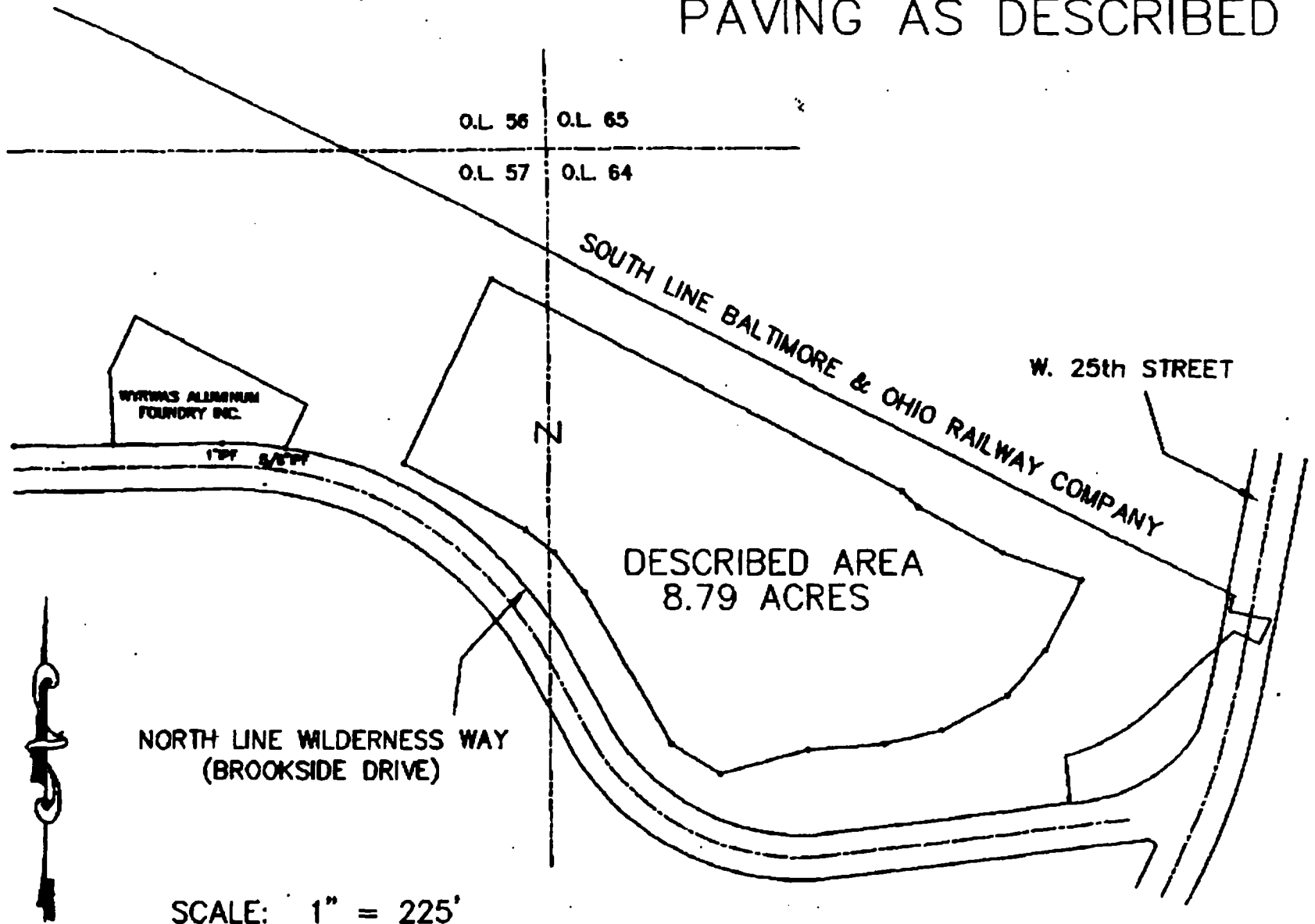
Course No. 16

Thence North $62^{\circ}-48'-15''$ West, 217.33 feet to the place of beginning containing 8.790 acres of land according to a December, 1998 survey by the Design Department of Cleveland Metroparks;

Bearings are based on a 1978 survey and map of Brookside Development Corporation by William Halishak and Associates.

END

AREA BOUNDED BY ASPHALT PAVING AS DESCRIBED



Legal Description

Paved Area at East end of Cleveland Metroparks Zoo for Environmental Protection Agency

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of original Brooklyn Township Lot Nos. 57 and 64, bounded and described as follows:

Beginning on the northerly line of Park Boulevard at its intersection with the easterly line of land conveyed to the City of Cleveland by deed dated July 14, 1894, and recorded in Volume 574, Page 600 of Cuyahoga County Deed Records;

Thence North $88^{\circ}-38'-30''$ East along the said northerly line of Park Boulevard 320.59 feet to a 1" iron pin, being a point of curve;

Thence continuing along said northerly line of Park Boulevard 71.28 feet along the arc of a curve deflecting to the right having a radius of 610.31 feet, a central angle of $6^{\circ}-41'-30''$ and a chord bearing South $88^{\circ}-00'-45''$ east, 71.24 feet to a $5/8''$ iron pin, being a point on curve;

Thence 28.00 feet along the arc of a curve deflecting to the right having a radius of 610.31 feet, a central angle of $2^{\circ}-37'-43''$ and a chord bearing South $83^{\circ}-21'-08''$ East, 28.00 feet to a $5/8''$ iron pin, being at the southeasterly corner of land conveyed to Wyrwas Aluminum Foundry, Inc., by deed dated November 7, 1979, and recorded in Volume 15204, Page 635 of Cuyahoga County Deed Records;

Thence South $83^{\circ}-13'-56''$ East, 183.81 feet to the principal place of beginning of the parcel of land herein described;

Course No. 1

Thence North $25^{\circ}-39'-34''$ East, 314.88 feet to a point;

Course No. 2

Thence South $63^{\circ}34'-12''$ East, 725.51 feet to a point;

Course No. 3

Thence South $44^{\circ}-58'-26''$ East, 33.35 feet to a point,

Course No. 4

Thence South $62^{\circ}-49'-25''$ East, 148.29 feet to a point;

Course No. 5

Thence South $71^{\circ}-18'-37''$ East, 130.07 feet to a point;

Course No. 6

Thence South $27^{\circ}-10'-30''$ West, 121.54 feet to a point;

Course No. 7

Thence South $41^{\circ}-41'-26''$ West, 91.86 feet to a point;

Course No. 8

Thence South $63^{\circ}-33'-33''$ West, 114.37 to a point;

Course No. 9

Thence South $76^{\circ}-31'-30''$ West, 89.36 feet to a point;

Course No. 10

Thence South $86^{\circ}-35'-12''$ West, 119.86 feet to a point;

Course No. 11

Thence South $75^{\circ}-39'-06''$ West, 143.77 feet to a point;

Course No. 12

Thence North $59^{\circ}-50'-17''$ West, 89.36 feet to a point;

Course No. 13

Thence North $30^{\circ}-51'-50''$ West, 264.13 feet to a point;

Course No. 14

thence North $38^{\circ}-45'-52''$ West, 75.65 feet to a point;

Course No. 15

Thence North $54^{\circ}-17'-21''$ West, 57.21 feet to a point;

Course No. 16

Thence North $62^{\circ}-48'-15''$ West, 217.33 feet to the place of beginning containing 8.790 acres of land according to a December, 1998 survey by the Design Department of Cleveland Metroparks;

Bearings are based on a 1978 survey and map of Brookside Development Corporation by William Halishak and Associates.

END

AREA BOUNDED BY ASPHALT PAVING AS DESCRIBED

