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15-2183

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF
RSR CORPORATION AND
MURPH METALS, INC.,
RESPONDENTS

DOCKET NO. CERCLA VI-5-83
ADMINISTRATIVE ORDER
ON CONSENT

Proceeding under Section 106(a)
of the Comprehensive Environmental
Response, Compensation and
Liability Act of 1980, 42 U.S.C.
Section 9606(a)

This ADMINISTRATIVE ORDER ON CONSENT (ORDER) is issued pursuant to Section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9606(a), by authority delegated by the President of the United States in Executive Order 12316, August 20, 1981, 46 Fed. Reg. 42237, to the Administrator of the United States Environmental Protection Agency (EPA) and redelegated by the Administrator of EPA to the Regional Administrator of EPA, Region 6 (Regional Administrator), and is consistent with the National Oil and Hazardous Substances Contingency Plan (47 Fed. Reg. 31202, July 16, 1982), codified as 40 C.F.R. Part 300.

Pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), the Governor of the State of Texas, the Executive Director of the Texas Department of Water Resources, and the Commissioner
SUPERFUND
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REORGANIZED

RSR CORP
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of the Texas Department of Health have previously been notified of this ORDER.

The Regional Administrator and the Respondents, RSR Corporation (RSR) and Murph Metals, Inc., hereby consent and agree to the ORDER set out below.

FINDINGS OF FACT

This ORDER is entered solely for the purpose of resolving the disputed claims between EPA and Respondents, and is entered upon the recommendation and consent of EPA and Respondents and without (a) any admission of any factual or legal matter, and without (b) any finding of fact relative to whether Respondents have operated the Murph Metals facility in a negligent manner or in a manner constituting either a public or private nuisance. For this reason this ORDER, or any provision hereof, is not to be construed, and will not be construed, to any extent or for any purposes, however and wherever arising, as an admission of liability or violation, directly or indirectly, on the part of the Respondents, their successors or assigns; nor shall this ORDER be admitted into evidence or used in any way, directly or indirectly, in any judicial or administrative proceeding or in any other manner against any party for any purpose other than in further proceedings to enforce the terms of this ORDER. Furthermore, Respondents do not waive any defense which they may have raised to the entry of this ORDER or which might be

raised in any other proceeding brought by EPA or any other person.

Respondents specifically deny that there may be an imminent and substantial endangerment, within the meaning of Section 106(a) of CERCLA, 42 U.S.C. § 9601(a), arising from release of lead at Murph Metals' facility at Dallas, Texas. This ORDER shall be issued without trial or final adjudication on any issue of law or fact.

1. Respondent Murph Metals, Inc., a wholly-owned subsidiary of RSR, is the owner and operator of a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9), in Dallas, Texas. The facility is located at 2815 North Westmoreland Avenue in an area bounded on the west by Westmoreland Avenue, on the north by Singleton Boulevard, on the east by Westerfield Avenue, and on the south by the Lone Star Business Park. Respondents also own other property located in the vicinity of Singleton Boulevard and Westmoreland Avenue.

2. Respondent Murph Metals, Inc. operates a secondary lead smelter at the facility. Lead scrap from battery manufacturing and lead slag are smelted into soft and hard lead metal. Such operations conducted by the Respondents or their predecessors have continued for approximately 37 years at the site. In 1971, RSR acquired Murph Metals, Inc. and established Murph Metals as an operating subsidiary. Murph Metals or its predecessors operated the facility under the name of Southern Lead,

Southern Smelter, or Murph Metals, continuously from 1936 until acquisition of the facility by RSR in 1971.

3. Smelting operations at Respondents' facility result in emissions of lead into the atmosphere. Lead emitted into the atmosphere falls to the land surfaces. The emission of lead from the facility constitutes a release as the term is defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

4. The soil in residential areas in the vicinity of the facility contains lead in excess of background concentrations. Isoplethes resulting from an extensive soil sampling survey conducted in the summer of 1982 indicate soil lead values range from 2500 to 1000 ppm within the immediate neighborhood near Murph Metals' facility to several hundred ppm within a 1/2-mile radius from the main stack at such facility.

5. Within a 1/2-mile radius of the main stack at Murph Metals' facility there are approximately 250 single-family units, 195 multi-family apartment buildings (a number of which are not currently inhabited), two schools, a boys' club and several day care centers. Murph Metals' facility is located in close proximity to residential yards, schools, day care centers, playgrounds and other areas where children are likely to congregate and play. All of these areas where children frequently play may provide a means for direct contact between the lead-contaminated soil and the children. Children are more sensitive to lead exposure than adults.

6. Lead is a "hazardous substance" as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

DETERMINATION

7. After investigation of certain relevant facts, the Regional Administrator has determined that an imminent and substantial endangerment to the public health or welfare or the environment may exist due to actual or threatened releases of a hazardous substance, as defined in Section 101(14) of CERCLA, from the facility owned and operated by Murph Metals, Inc., Respondents. Therefore, the remedial program outlined in this ORDER is necessary to protect public health, welfare or the environment.

8. EPA has determined that Respondents are persons responsible under CERCLA for conducting the response actions ordered herein.

ORDER

9. Pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), it is hereby ordered and agreed that:

a. EPA has worked with the City of Dallas and the State of Texas in the development of the Soil Cleanup and Remedial Program (fully described in the Introduction and Paragraphs 1 through 15 of Appendix A together with Attachments 1 through 5 thereto) in the Order entered by the District Court of Dallas County, Texas, 95th Judicial District, in Cause No. 83-5680,

City of Dallas and State of Texas v. RSR Corporation and Murph Metals, Inc., on October 17, 1983 ("State Order") and EPA hereby agrees that said Program constitutes the appropriate "response" within the meaning of Section 101(25) of CERCLA, 42 U.S.C. §9601(25), and the appropriate extent of remedy as defined in 40 C.F.R. §300.68(j), to the alleged soil lead contamination problem existing in the vicinity of the Murph Metals facility.

b. Respondents shall implement and complete the Soil Cleanup and Remedial Program in the State Order, as more fully described in Paragraphs 1 through 15 of Appendix A, together with Attachments 1 through 5 thereto, of the State Order, which are attached hereto as Exhibit 1 and incorporated by reference.

c. EPA recognizes that the Special Master appointed pursuant to the State Order has full responsibility for and control over the Soil Cleanup and Remedial Program which has been attached hereto and incorporated by reference in this ORDER. In addition, EPA recognizes that the 95th Judicial District Court of Dallas County, Texas has jurisdiction, pursuant to the State Order, to resolve any disputes arising over the work to be performed by the Special Master.

10. All bid proposals, plans, schedules, documents, correspondence, notices, certificates of insurance, or other information to be submitted by Respondents or the Special Master to Plaintiffs under the terms of the State Order referenced in Paragraph 9 of this ORDER shall also be submitted to EPA by Respondents.

11. Respondents shall comply with the on-site remedial program set forth in Exhibit 2 which is attached hereto and incorporated by reference.

12. All correspondence, including plans required under the terms of this ORDER to be submitted to EPA, shall be sent by certified mail, return receipt requested, to the following address:

Chief, Superfund Branch (6AW-S)
Air and Waste Management Division
U. S. Environmental Protection Agency
1201 Elm Street
Dallas, Texas 75270

Copies of all correspondence shall be sent to:

Ms. Callie Struggs, Director
Department of Health and Human Services
City of Dallas
City Hall
Dallas, Texas 75201

and

Mr. Jim Mathews
Environmental Protection Division
Office of the Attorney General
State of Texas
P. O. Box 12548
Austin, Texas 78711

13. All actions carried out by Respondents pursuant to the State Order and this ORDER shall be done in accordance with applicable laws and regulations.

14. The United States Government shall not be liable for any injuries or damages to persons or property resulting from acts or omissions of the Respondents, their officers, employees, agents, receivers, trustees, successors, assigns or

contractors in carrying out the activities pursuant to this ORDER, nor shall the United States Government be held out as a party to any contract entered into by Respondents in carrying out activities pursuant to this ORDER.

15. This ORDER shall apply to and be binding upon Respondents, their employees, agents, receivers, trustees, successors, assigns and contractors.

16. Any failure by Respondents to comply with the terms of this ORDER shall be excused to the extent that such failure is caused by an act of God, or any act or omission of a third party over whom Respondents have no control, or other circumstances beyond Respondents' control, including adverse weather which interferes with work by Respondents. Respondents shall notify EPA in writing as soon as possible, but in no event more than seven (7) days after the occurrence of any event causing in whole or in part such failure, and describe those actions which were and will be taken to mitigate such failure as soon as possible. The burden of proving that any delay is caused in whole or in part by circumstances beyond their control shall rest with Respondents.

17. EPA will periodically monitor the implementation of the Soil Cleanup and Remedial Program in the State Order and the onsite activity described in Exhibit 2 for compliance with this ORDER.

18. At least 15 days prior to the completion of the Soil Cleanup and Remedial Program by the Special Master under

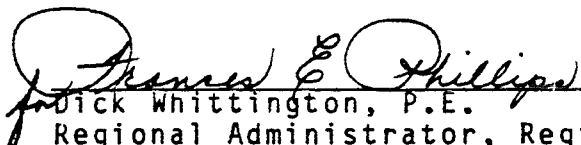
the State Order and prior to the completion of the onsite activity described in Exhibit 2, Respondents shall notify EPA in writing of the anticipated completion date. Respondents shall notify EPA in writing when the work has been completed to allow EPA the opportunity to review the work for compliance with this ORDER. EPA will advise the Respondents, the Special Master, the State of Texas and the City of Dallas of the results of EPA's review not later than 30 days following the receipt of written notice from Respondents that the work has been completed. If, in the opinion of EPA, the work has not been completed in accordance with this ORDER, EPA will advise the District Court of Dallas County, Texas, 95th Judicial District, in writing prior to the Court's entry of a final order in Cause No. 83-5680, City of Dallas and State of Texas v. RSR Corporation and Murph Metals, Inc. Upon entry of the final order in the above cause after a determination by EPA that the Soil Cleanup and Remedial Program under the State Order and the onsite activity described in Exhibit 2 have been completed, this ORDER shall constitute release of any and all claims against Respondents under CERCLA relative to the agreement by Respondents to complete the Soil Cleanup and Remedial Program under the State Order and the onsite activity described in Exhibit 2 which relates to soil lead contamination in the vicinity of Murph Metals' facility.

19. Except as specifically provided herein, this ORDER shall not be construed to limit the Administrator's rights under

Sections 104, 106 and 107 of CERCLA. Furthermore, nothing in herein shall be construed to waive any rights which Respondents may have under applicable law to recover from any responsible third party any cost incurred by Respondents in the implementation and completion of the Soil Cleanup and Remedial Program under the State Order and the onsite activity described in Exhibit 2.

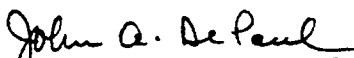
Dated, entered and effective as of this 21st day of October, 1983, with the agreement and consent of the parties.

U. S. ENVIRONMENTAL PROTECTION AGENCY


Dick Whittington, P.E.
Regional Administrator, Region VI
U. S. Environmental Protection Agency
1201 Elm Street, Dallas, Texas 75270

10-21-1983
Date

RSR CORPORATION AND
MURPH METALS, INC.


John A. DePaul
Vice-President

10-21-1983
Date

EXHIBIT 1

APPENDIX A

SOIL CLEANUP AND REMEDIAL PROGRAM

INTRODUCTION

The purpose of this soil cleanup and remedial program is to protect the public health and welfare by removing and/or isolating lead contaminated soil from the human environment. This program was developed with cooperation and input from the United States Environmental Protection Agency, the Texas Department of Water Resources, the Texas Department of Health, the Centers for Disease Control, United States Public Health Service, Department of Health and Human Services, and from various private individuals with knowledge in this field.

At the request of the State of Texas and the City of Dallas, the program has been reviewed by Dr. Vernon N. Houk, Director, Center for Environmental Health, Centers for Disease Control, United States Public Health Services, Atlanta, Georgia, and Dr. Philip Landrigan, Director, Division of Surveillance, Hazard Evaluations and Field Studies, National Institute for Occupational Safety and Health, Centers for Disease Control, Cincinnati, Ohio. These physicians, experienced in the field of lead-related health concerns, have expressed their opinions that the program set forth herein will protect the public health.

The program provides for the removal of the top six inches (6") of soil in a zone that contains lead contaminated soil, the replacement of that soil with tested, clean soil, and the establishment of vegetation on top of the clean soil. In other areas outside that zone, but within approximately one-half mile of the defendants' Dallas Plant site, a vegetative barrier will be established to isolate soil containing lesser lead levels from the human environment.

Although RSR and Murph Metals shall bear the expense of this program, the cleanup activities shall be implemented by an independent contractor under the direct supervision and control of a Special Master, acting as the Court's representative. The

Special Master or his representative shall be available to hear and respond, within the bounds of this Order, to the concerns of persons owning property or living within the area affected by this soil cleanup and remedial program.

The ultimate success of the program will depend in large part on the support and cooperation of the community. Before any cleanup or remedial activities begin, the Special Master must obtain the consent of the property owners. Residents' cooperation is necessary to establish and maintain the vegetative barrier. Those residents who cooperate and assist in the implementation of this program shall receive a credit on their monthly water and sewage bill during the period required to establish a new vegetation cover. Perhaps the most compelling reason for community support and cooperation in the implementation of this proposal is the knowledge that it will restore the environment and protect the health and welfare of the community.

SOIL CLEANUP PROGRAM

1. The Special Master shall hire and supervise one or more independent contractors or subcontractors (hereinafter referred to as "contractor") to implement the soil cleanup plan set forth in this Order.

2. The contractor shall provide insurance coverage satisfactory to the Special Master, plaintiffs and defendants to provide protection against personal injury and property damage claims which may arise as a result of the implementation of the soil cleanup program. Certificates of insurance evidencing such coverage shall be provided to all parties and the Special Master at the time the contract is signed. The City of Dallas; State of Texas; Boys' Club of Dallas, Inc.; Dallas Child Care; RSR Corporation; Murph Metals, Inc.; and the Special Master shall be named as additional insured parties.

3. This Court, through the Special Master, shall require each contractor to furnish a performance bond in favor of the Special Master and the defendants in an amount not less than

one hundred percent (100%) of the total original contract costs of each contract for soil cleanup. This bond, properly executed, shall be delivered prior to the commencement of the soil cleanup work. In the event no total original contract cost can be set at the time of the execution of each contract for the soil cleanup program, the Special Master shall set an amount for each bond equal to the Special Master's best assessment of an amount constituting one hundred percent (100%) of the estimated cost of the work for soil cleanup under that contract.

THE BASIC REMEDIAL PLAN

4. There are two primary zones to be addressed in the soil cleanup program. These two zones shall be specified Zone A and Zone B and are defined on the map incorporated herein as Attachment 2.

5. The following remedial plan shall be made available to all property owners in Zone A:

a. The top six inches (6") of soil in its natural compacted state shall be removed and shall be replaced with six inches (6") of clean compacted topsoil capable of supporting vegetation, except in areas around trees, shrubs and in unpaved driveway areas, which shall be treated as specified below. Replacement topsoil shall come from the minimum number of locations possible. The Special Master shall test representative samples of the replacement soil to verify that the soil contains no unacceptable levels of organic or inorganic contaminants. Test results shall be made available to all parties and shall be approved in writing by the Special Master, the Texas Department of Health, and the Texas Department of Water Resources before any soil is replaced. The Special Master shall retest representative samples of replacement soil as soon as possible after placement and again within 30-45 days after it has been placed in Zone A, and shall make the test results available to all parties.

b. Soil surrounding trees shall be treated in the following manner: In the area circumscribed by the outside crown of the tree branches, soil shall be removed only to a depth of three inches (3") and shall be replaced with three inches (3") of clean compacted topsoil capable of supporting vegetation.

c. Soil supporting plant life, such as shrubs and ornamental bushes, shall be treated in the same manner as soil surrounding trees or in accordance with the decision of the Special Master after consultation with the affected property owner.

d. Unpaved driveways shall have the top three inches (3") of existing surface or soil materials removed and these surface or soil materials shall be replaced with limestone having a size of one inch (1") or less.

e. It is recognized that the soil cleanup and replacement activities may result in artificial and temporary elevation of the ambient air levels of both suspended particulate matter and lead particulate matter. The best available procedures shall be used to accomplish a thorough cleanup and to minimize re-entrainment of soil in the air during the implementation of this cleanup program. These procedures include, at minimum, the following:

(1) Building roofs and gutters shall be rinsed with water, where feasible, prior to soil removal.

(2) The soil shall be wetted as necessary to minimize re-entrainment during the removal process.

(3) All soil being transported in the area shall be in covered vehicles.

(4) During soil removal, soil is to be washed off truck bodies and truck wheels after the trucks are loaded and before the trucks are moved.

(5) During loading of trucks, maximum efforts shall be made to prevent soil from being spilled. Any spilled soil shall be promptly removed.

(6) The remedial action shall proceed on a block-to-block basis (or other unit basis as approved by the Special Master), with soil being removed, replaced, and resodded in one area before soil is removed in a new area.

f. All soil removed shall be taken to disposal sites which have been approved by the Texas Department of Health and the Texas Department of Water Resources.

g. New sod or vegetation in Zone A shall be planted and maintained in accordance with Paragraphs 7 through 9 below.

6. The following remedial plan shall be made available to property owners in Zone B:

a. The Special Master shall determine those areas that are without sufficient vegetation to isolate lead from the human environment; and utilizing the advice of appropriate experts, will designate areas that require sodding or other means of establishing vegetative cover.

b. New vegetation in Zone B shall be planted or established in a manner prescribed by the Special Master and maintained in accordance with Paragraphs 7 through 9 below.

c. In Zone B, the following areas shall receive the treatment specified in addition to the treatment made available throughout Zone B.

(1) The remedial plan for Amelia Earhart Elementary School and Thomas A. Edison Junior High School shall include the following:

(a) The athletic field at Thomas A. Edison Junior High School shall have soil removed and replaced and be revegetated in the same manner as other areas in Zone A.

(b) Areas containing playground equipment (See Attachment 3) shall receive soil removal to a depth of twelve inches (12"), the installation of a retaining device and drainage system, and

the addition of twelve inches (12") of washed sand.

(c) The Dallas Independent School District shall receive compensation from the escrow account fund for the cost of placing additional hardtop in non-play areas where vegetation cannot be maintained, as indicated on Attachment 3 of Appendix A.

(d) The Dallas Independent School District shall receive from the escrow account fund a one-time payment in compensation for the establishment of a turf maintenance program at the rate of \$1.00 per square yard for 30,167 square yards.

(2) Day Care Centers and Family Day Homes within Zone B are listed in Attachment 4. Playground areas that cannot maintain a vegetation cover shall receive the following treatment: removal of soil to a depth of twelve inches (12"), the installation of a retaining device and drainage system, and the addition of twelve inches (12") of washed sand.

(3) The playground areas in the Dallas Housing Authority George Loving Project that cannot maintain a vegetation cover shall receive the following treatment: removal of soil to a depth of twelve inches (12"), the installation of a retaining device and drainage system, and the addition of twelve inches (12") of washed sand.

(4) Established vegetable gardens in Zone B shall receive the following treatment: the top six inches (6") of soil shall be removed and shall be replaced with six inches (6") of clean compacted topsoil, tested as for Zone A, and capable of supporting vegetation.

PLANTING AND MAINTENANCE OF NEW VEGETATION

7. The topsoil shall be appropriately aerated and fertilized in all areas in Zone A and in Zone B where new vegetation is to be planted. Generally, sod will be planted in residential areas. The Special Master, in his discretion, may authorize other methods of establishing vegetation in open areas. The Special Master, utilizing the advice of experts, shall determine the type of grass that will be planted to establish an effective barrier as soon as possible. Generally, Bermuda grass will be planted in sunny areas; St. Augustine grass will be planted in heavily shaded areas. Property owners who have established lawns of St. Augustine may specify St. Augustine as replacement vegetation. Vegetation shall not be planted in garden areas.

8. New sod or other vegetation shall be thoroughly soaked by the contractor when first planted. A credit of up to \$30.00 dollars per month shall be given by the City of Dallas (to be reimbursed from the escrow account fund) on the water and sewer (but not garbage) bills of persons residing in Zone A to compensate them for their efforts in watering to establish a new lawn. A proportionate credit shall also be given on the monthly water bills of persons residing in Zone B if new vegetation is planted at their residence, based on the amount of new vegetation planted. These credits shall begin the month new vegetation is planted and shall continue until September 1, 1984. With respect to the property areas, other than single-family residential property areas and the Dallas Independent School District property on which new vegetation is planted, the contractor shall be responsible for the watering of the new vegetation until September 1, 1984.

9. At any time until September 1, 1984, the Special Master may require that vegetation be replaced in areas where an effective living grass barrier has not been established. The Special Master shall not require newly planted vegetation to be replaced in areas where the property owners or residents have failed to exercise due diligence in watering or caring for the

newly planted vegetation, or in those areas where the Special Master determines that vegetation cannot be established.

NOTICE TO AFFECTED PERSONS

10. The Special Master shall, as soon as possible after appointment by the Court, publicize and hold at least two public meetings for the property owners and residents of Zone A and Zone B. These meetings shall be for the following purposes:

a. to inform all affected persons of the nature of the soil cleanup program that will be available under this Order and to seek their cooperation in the implementation of the plan,

b. to inform all affected persons of the estimated dates of implementation and completion of the cleanup plan,

c. to inform all affected persons of protective measures to be taken during the period of soil removal,

d. to inform all affected persons of the importance of, and methods for, establishing and maintaining the new vegetation planted pursuant to this Order,

e. to inform all affected persons of a telephone number and other procedures for communicating with the Special Master,

f. to answer any questions raised by any affected person about the soil cleanup and remedial program, and

g. for such other purposes that the Special Master deems appropriate.

11. Following the public meetings, the Special Master shall make maximum efforts to contact all property owners in Zone A and those property owners in Zone B whose property is potentially affected by the implementation of this Order, for the purpose of securing their written consent to the remedial action offered for their property under this Order. The written consent of the property owner shall be provided by use of the consent forms attached hereto as Attachment 5. Records of contacts with property owners shall be maintained. Consent forms shall be filed with the Court, with copies to all parties

Time for Completion

Action to be Completed

10 working days from date bid proposal recommendation is received by Special Master.

Special Master submits final bid proposal to parties for their approval.

10 working days from date parties receive bid proposal.

Parties approve bid proposal or petition Court for modifications.

10 working days from date bid proposal is finalized.

Submittal of consent form by Special Master to affected property owners in Zone A and Zone B.

30 days from the date of receipt of the consent form by the property owners.

Special Master identifies land-owners participating in the remedial actions.

10 days from date of identification of participating property owners.

Special Master mails out notice of bid.

50 days from date notice of bid was mailed.

Contract entered into between Special Master and contractor.

15. When the soil removal, replacement, and planting of new vegetation is deemed by the Special Master to be substantially complete, the Special Master shall give notice to all parties, the Environmental Protection Agency, and the Court. Within thirty (30) days, the parties and the Environmental Protection Agency shall inspect the work and file written comments with the Court. The Special Master shall continue to report to the Court throughout the period of establishing vegetation and making final payments to contractors. When the Court finds that the Special Master has concluded all responsibilities contemplated under this Order, the Court shall enter an Order discharging the Special Master.

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APPENDIX A

ATTACHMENT 1

SPECIAL MASTER
DUTIES, RESPONSIBILITIES & COMPENSATION

1. The Special Master shall be the Court's representative in the implementation of the soil cleanup and remedial program and is under the general supervision of the Court. The Special Master is responsible to the Court for the administration, supervision and implementation of the soil cleanup program established in Appendix A and incorporated into the Court's Order.

2. The Special Master is acting in a fiduciary capacity as a representative of the Court. He shall take an oath to faithfully discharge the duties of his office and shall post a bond in the amount of \$100,000 in favor of the Court to insure the faithful performance of those duties.

After the Special Master has taken the oath and posted the bond, the Clerk of the Court shall disburse \$100,000 to the Special Master from the \$1,000,000 deposited by the defendants into the Registry of the Court pursuant to Paragraph II of this Order. The Special Master shall deposit those funds disbursed to him by the Clerk in a federally insured, interest bearing checking account, to be known as the escrow account fund. The Special Master shall have the authority to contract for the expenditure of such funds to implement the soil cleanup program set forth in Appendix A of this Order, and shall have the authority to make disbursements from such fund as described herein without the necessity of a Court Order.

From time to time, as the balance in the escrow account fund decreases, the Special Master shall request an order from the Court authorizing the District Clerk to disburse additional funds from the Registry of the Court to the Special Master for the escrow account fund. Such requests should coincide with the Special Master's monthly report to the Court which shall include an accounting of the escrow account fund. At no time shall the balance in the escrow account fund controlled by the Special Master exceed \$100,000.

The Special Master shall have the power to bring suit on behalf of the Court for recovery of moneys due to the escrow account fund.

3. The duties of the Special Master include all duties enumerated in the Order of the Court and in Appendix A incorporated therein, as well as those duties in this Attachment 1 to Appendix A. The Special Master shall file interim reports with the Court every thirty (30) days, detailing the status of the soil cleanup and remedial program and the escrow account fund.

The Special Master shall be responsible for informing the Court when additional sums are required to pay the anticipated costs of implementation of the soil cleanup and remedial program described in Appendix A of this Order.

The Special Master shall, as soon as possible after receiving bids from contractors, submit to the Court a proposed budget for the soil cleanup and remedial program. The budget shall also include projected costs for the services of the Special Master. Copies of this budget shall be provided to all parties when filed with the Court. The Special Master, simultaneous with filing the budget with the Court, shall request the Court to enter an Order requiring defendants to deposit additional sums into the Registry of the Court to cover the total projected costs of the soil cleanup and remedial program. Such additional sums shall be invested and disbursed in the same manner as the original funds deposited by defendants under this Order. This requirement does not remove defendants' continuing obligation to place additional sums into the Registry of the Court should such additional sums become necessary under the terms of this Order to pay the costs of the soil cleanup and remedial program.

4. The Special Master is authorized to establish protocols for action in implementing the soil cleanup and remedial program except where protocols are specifically prescribed by this Order. In establishing such protocols, the Special Master may consult with appropriate specialists and experts knowledgeable in the relevant disciplines or sciences. Copies of any

written protocols developed by the Special Master during the implementation of this program shall be provided to all parties.

5. Any party may, with notice to all other parties, petition the Court concerning the Special Master's implementation of the soil cleanup and remedial program.

6. The Special Master shall be entitled to accomplish his duties and responsibilities without the intervention of any party or any other person, except as noted within the Order or Appendix A and its Attachments.

7. The Special Master shall implement the soil cleanup and remedial program in the most expeditious manner possible. The Special Master shall, when exercising his discretionary functions, give due consideration to protecting the public health and welfare, minimizing the disruption of the residents of Zone A and Zone B, and on obtaining the maximum utility of funds expended in cleanup activities. The Special Master may waive the time restrictions of Appendix A, paragraph 11 for good cause or for the purpose of providing full implementation of the soil cleanup program set forth in this Order.

8. The Special Master shall reimburse the City of Dallas for the water and sewage credits given to residents in Zone A and Zone B pursuant to Appendix A, paragraph 8. Reimbursement shall occur on a monthly basis after the City presents the Special Master with an itemized list of all such credits given. Copies of these itemized statements shall be provided to all parties.

9. The Special Master shall make payments from the escrow account fund, from time to time, upon receipt by the Special Master of a request from the contractor signed by the contractor's representative, a copy of which request shall be concurrently delivered to the parties. Such request shall:

(a) be accompanied by a certificate signed by the contractor's duly authorized representative stating with respect to each payment as follows:

(1) the name and address of the person, firm, or corporation to whom payment is to be made;

(2) the expenditure, in summary form, for which the payment or reimbursement is requested;

(3) that the amount requested to be paid has been properly incurred and is for necessary and appropriate services or materials for the soil cleanup program, and that, to the best of the individual's knowledge, the fair market value of such services or materials is not exceeded by the amount requested to be paid, and

(4) that no part of the several amounts requested to be paid, as stated in such certificate, has been or is the basis for the payment of any money in any previous or then pending payment;

(b) be accompanied by a bill, invoice or statement of account for such obligation.

10. The Special Master may rely fully on any such request and certificate delivered pursuant to the immediately preceding paragraph 9 and shall not be required to make any investigation in connection therewith; provided, however, that within a reasonable time after the submission of any such request and certificate and before or after payment of the amounts requested, the duly authorized representatives of the State of Texas, the City of Dallas, and the defendants may inspect the invoices and statements which are the basis of the request for payment by the Special Master. In the event that the State of Texas, the City of Dallas, or defendants wish to challenge the reasonableness or basis for the requested payment, such challenge shall be presented in writing to the Special Master and to the Court within thirty (30) days from the date of the contractor's filing of the request for payment and accompanying certificate. Determinations regarding the reasonableness or basis of a contractor's requested payment or payment previously made to the contractor by the Special Master shall be subject to final resolution by the Court.

11. The Special Master shall submit to a final audit prior to closing out the escrow account fund or disposing of any sur-

plus therein as provided in paragraph 13 hereof. Such audit shall be conducted by defendants' auditors and accountants, and the expense of such audit shall be paid by the Special Master from the escrow account fund. Such audit shall contain a detailed statement concerning the receipt and disposition of all money deposited into the escrow account fund, and an asset or balance sheet for the escrow account fund. The original of such audit shall be filed with the Court and copies of the same shall be provided to all parties.

12. The Special Master shall be compensated at the rate of _____ per hour for services performed in accordance with this Order. The Special Master shall withdraw out of the escrow account fund any amounts required to compensate the Special Master for his services and for payment of the administrative and other necessary expenses which are incurred by the Special Master as the result of the performance of his duties and responsibilities on behalf of the Court. Expenses anticipated to be incurred by the Special Master include, but are not limited to, on-site office rent, compensation of additional personnel required to implement the Order, printing and mailing expenses, telephone expenses, and bond premiums.

The Special Master may pay compensation for himself and his staff from the escrow account fund every two (2) weeks without the necessity of filing any request for same. The Special Master shall submit statements of his time and expenses to the Court for its review and approval, along with his monthly interim reports. Copies of these statements shall be provided to all parties. Approval of such requests for reimbursement of administrative and other necessary expenses lies wholly within the domain of the Court.

13. If, upon completion of the soil cleanup program, there are any surplus funds remaining in the escrow account fund not required to provide for the payment of the soil cleanup program, the Special Master or his administrative and other necessary expenses, or the auditor's and accountant's fees and expenses incurred for the final audit, such funds (including

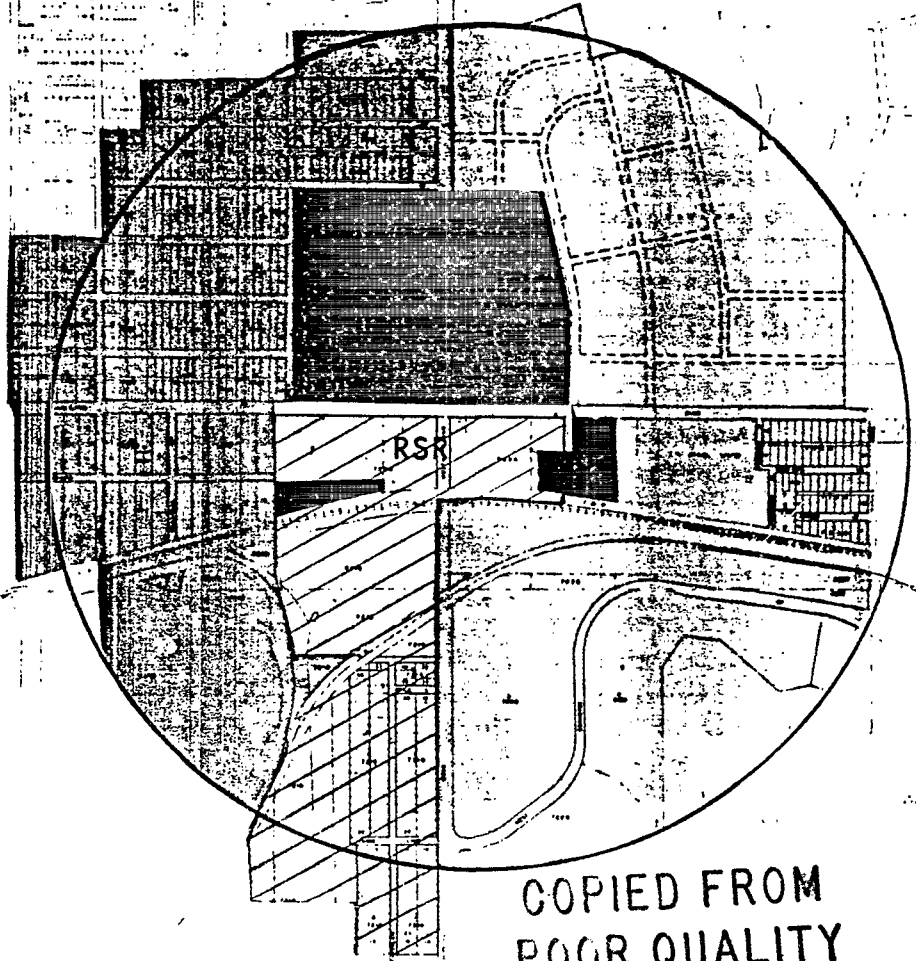
any interest received from moneys deposited in such account), shall, upon written request of the defendants, be conveyed to defendants upon approval of the Court.

1755E

RSR PROPERTY

ZONE A

ZONE B



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DAY CARE CENTERS AND FAMILY DAY HOMES
AND PLAYGROUNDS IN ZONE B

A. Day Care Centers

1. Maro Booth Day Nursery, 2930 Toronto
2. Tabernacle Day Care, 3403 McBroom
3. George Loving Place Community Center, Rupert & Dennison
4. Parent-Child Care Center, 2805 Singleton

B. Family Day Homes

1. Juanita Alexander, 3103 N. Westmoreland
2. Lee Hopkins, 3427 Morris

GENERAL CONSENT FORM

CONSENT FOR REMEDIAL ACTION

THE STATE OF TEXAS §

COUNTY OF DALLAS §

THIS AGREEMENT is made and entered into this ____ day of _____, 198_, by and between _____, Special Master (appointed by Honorable Nathan L. Hecht, Judge of the District Court of Dallas County, Texas, 95th Judicial District) and _____, fee title owner(s) of the property situated in Dallas County, Texas, known as _____ (address). Said property being more accurately described as Lot _____ Block _____, _____ Addition, City of Dallas or as described on the attached exhibit.

WITNESSETH:

WHEREAS, the City of Dallas, the State of Texas, the Texas Air Control Board, RSR Corporation, and Murph Metals, Inc., Boy's Clubs of Dallas, Inc., and Dallas Child Care, Inc., agreed to the entry of an Order on the ____ day of October, 1983, in the proceeding styled City of Dallas and State of Texas, et al. v. RSR Corporation and Murph Metals, Inc., Cause No. 83-5680; and

WHEREAS, said Order sets forth a soil cleanup program under the direction and control of the Special Master (said Order is incorporated herein by reference and made a part of this Agreement for all purposes); and

WHEREAS, the Special Master made the remedial plan addressed in the said Order available to the fee title owner(s) set out hereinabove; and

WHEREAS, the fee title owner(s) listed above warrant that he/she/they own said property; and

WHEREAS, the fee title owner(s) identified herein desire(s) that the remedial actions identified in Appendix A be undertaken and completed on the aforementioned property at no cost to the fee title owner(s).

APPENDIX A ATTACHMENT 5a.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereby concur as follows:

A. The fee title owner(s) of said property grant the Special Master and the contractors and subcontractors retained directly or indirectly by him access to the aforementioned property for the purpose of inspection, preparation for remedial action, remedial action, and review of remedial action related to the soil cleanup process.

B. The parties agree that contractors and subcontractors shall perform only these remedial actions identified in Appendix A.

C. The parties further agree that the remedial actions identified in Appendix A shall be subject to the requirements set out in said Order.

D. The parties agree that, pursuant to the express terms of the Order, acceptance of the benefits of these remedial actions does not resolve any claim between persons not parties to Cause No. 83-5680 mentioned above nor does it affect in any manner any defenses the parties hereto may have to claims brought by persons who are not parties in Cause No. 83-5680.

E. The parties also agree that the Special Master shall be the interpreter of compliance with the requirements of the Consent for Remedial Action as modified by said Order.

Executed by the parties hereto on the day and year first above written.

_____, Special Master

_____, Fee Title Owner

_____, Fee Title Owner

DLB11/KAS/25

LETTER TRANSMITTING CONSENT FORM
FOR PRIVATE RESIDENTS

Date

Dear _____:

I am a Special Master appointed by the Honorable Nathan L. Hecht, Judge of the 95th Judicial District Court of Dallas County, Texas. As you may be aware, this Court recently entered an Order that provides for a soil cleanup program under my direction and control in the lawsuit brought by the City of Dallas and the State of Texas against RSR Corporation and Murph Metals, Inc. Acceptance of this cleanup program on your property does not affect any other claims you may have against RSR Corporation or their defenses to those claims.

You have been identified as a property owner in [Zone A] [Zone B]. [Language for Zone A residents - Generally, the soil cleanup program in Zone A provides that building roofs and gutters are to be rinsed with water (where feasible), six inches of top soil removed and replaced, and new grass planted. Utility accounts in Zone A will receive a credit of up to \$30.00 per month from the City of Dallas on their monthly water and sewage bill to help you establish your new lawn, if the cleanup is implemented on your property.]

[Language for Zone B residents - In Zone B, grass will be planted as necessary to establish an effective barrier. Utility accounts in Zone B will receive a credit on their water and sewage bill that will be determined according to how much new grass is planted on your property.]

Appendix A Attachment 5b

A-5b-1

Very truly yours,

A-5b-2

COUNTY OF DALLAS §

STATE OF TEXAS §

CONSENT FOR ZONE A REMEDIAL ACTION

I (We) the owner (owners) of the home located at _____, Dallas, Texas (as more specifically described in the attached document) agree to allow the Special Master and the contractors and subcontractors who are to wash down my(our) home and replace the soil and grass in my(our) yard, the right to come on my(our) property to do this work.

I(We) understand that the Special Master and the contractors and subcontractors will only do the work described in the Order of the Court.

I(We) understand that, to offset costs for the additional watering that will be required for the new grass or other vegetation, the utility account for the property will receive a maximum of \$30.00 monthly credit from the City of Dallas on the monthly water and sewage bill, such credit to begin the month the vegetation is planted and to end September 1, 1984.

I(We) understand that our acceptance of the clean-up of our property does not resolve any claim we may have for damages nor does it affect in any manner the defenses which may be available to any other person.

Appendix A Attachment 5c.

A-5c-1

I(We) understand that the Special Master will decide if the work is done satisfactorily.

I(We) swear that the land on which the soil clean up will take place and any buildings on the land are owned by me (us).

Owner

Owner

KAS/lw1/18

A-5c-2

COUNTY OF DALLAS §
STATE OF TEXAS §

CONSENT FOR ZONE B REMEDIAL ACTION

I (we) as owner (owners) of the home located at _____, Dallas, Texas (as more specifically described in the attached document) agree to allow the Special Master and the contractors and subcontractors who are to prepare the soil and plant additional grass in my (our yard), the right to come on my (our) property to do this work.

I (we) understand that the Special Master and the contractors and subcontractors will only do the work described in the Order entered by the Court.

I (we) understand that, to offset costs for the additional watering that will be required for the new grass and other vegetation, the utility account for the property will receive a maximum of \$30.00 monthly credit from the City of Dallas on the monthly water and sewage bill. The amount of water bill credit will be determined according to how much vegetation is planted and will begin the month the vegetation is planted and will end September 1, 1984.

I (we) understand that our acceptance of the cleanup of our property does not resolve any claim we may have for damages nor does it affect in any manner the defenses which may be available to any other person.

I (we) understand that the Special Master will decide if the work is done satisfactorily.

I (We) swear that the land on which the soil cleanup will take place and any buildings on the land are owned by me (us).

Owner

Owner

Sample Bank #1

(10604.48, 7284.27) ² Dep sites

F12	_____	512
I05	_____	I05
I06	_____	I06
J11	_____	J11
K05	_____	K05
G06	_____	G06

split sites color

F03	_____	F03
E07	_____	F07
F09	_____	F09
F12	_____	F12
K09	_____	F09

500 371
500 371
500 371

3
(8836.48, -496.08)

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*** DALLAS FB

REF #111

-X-	-Y-	REF	VALUE
4558.544	1454.256	0010 S00252	59.000
1493.528	2228.560	0013 S00253	69.500
2272.808	2255.152	0014 S00254	84.600
3059.296	2284.120	0015 S00255	43.000
3745.576	2242.968	0016 S00256	42.000
5177.824	2326.904	0018 S00257	85.700
6085.496	2209.928	0020 S00258	58.200
6781.480	2203.152	0021 S00259	138.000
1473.464	4459.832	0050 S00260	61.200
2278.104	4403.144	0051 S00261	133.000
2975.096	4469.168	0052 S00262	40.800
3742.752	4346.984	0053 S00263	53.200
4173.832	5148.968	0065 S00264	25.400
5303.296	4536.952	0036 S00265	36.000
7382.392	3651.848	0048 S00266	90.800
6918.760	5190.768	0068 S00268	156.000
5248.472	5233.112	0067 S00269	83.000
4574.792	5205.424	0066 S00270	79.600
5958.136	4408.696	0057 S00271	83.600
3080.792	5065.664	0053 S00272	107.000
2287.752	5263.120	0062 S00273	143.000
1396.248	5157.648	0061 S00274	83.600
2897.344	6667.792	0083 S00275	176.000
3772.032	6769.312	0084 S00276	132.000
4432.520	6657.840	0085 S00277	66.100
4927.896	6720.432	0086 S00278	334.000
5978.296	6719.048	0087 S00280	51.000
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6675.256	5929.064	0081 S00282	68.000
4480.720	5882.496	0077 S00283	288.000
2270.360	5900.776	0073 S00285	94.000
2974.560	5969.176	0074 S00286	132.000
6020.576	759.707	0006 S00287	65.400
5250.120	741.094	0005 S00288	132.000
4474.744	680.096	0004 S00289	68.500
3830.408	844.320	0003 S00290	54.000
2970.296	805.168	0002 S00291	31.500
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8554.160	6049.528	0099 S00301	34.000
4584.904	3693.392	0044 S00304	71.800
3715.312	3697.464	0042 S00305	64.000
3884.056	4524.184	0054 S00306	180.000
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5256.208	3167.480	0031 S00309	324.000
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3101.888	3761.600	0041 S00315	451.000
686.595	2885.256	0023 S00316	110.000
1379.728	3003.288	0024 S00317	97.300
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7057.794	7020.876	0022 S00323	60.000

Sample Serial #.
↑
on photo.

REF

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2139.208 761.952 0082 00039
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1457.760 5973.480 0072 00042
5984.416 7464.632 0093 00043
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EUI ENCOUNTERED.

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2116.264 7416.416 0088 00028
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1457.760 5973.480 0072 00042
5984.416 7464.632 0093 00043
3693.784 5132.728 0064 00044
734.065 4670.728 0049 00045
5484.024 2820.432 0032 00046
4781.480 2202.152 0022 00047
4440.504 2985.952 0035 00048
7515.752 4481.872 0078 00049
1214.826 2091.098 0075 00050
7438.296 3077.412 0034 00051
3553.200 5048.528 0100 00052
3557.160 5047.528 0101 00053
1033.364 5019.336 0028 00054
7452.532 5281.236 0049 00055
4865.256 3814.120 0042 00056
1909.336 5260.920 0059 00057
810.136 5260.112 0060 00058
4747.696 6088.576 0075 00059
3747.696 6088.576 0075 00060
1497.788 5979.788 0078 00061
1411.800 5980.560 0079 00062
1455.032 5284.144 0070 00063
7452.632 5284.436 0071 00064
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745.121 3563.498 0077 00067
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4587.616 7467.000 0091 00071
2358.400 4329.592 0095 00072
2957.400 4328.592 0095 00073
2156.480 1680.800 0097 00074
2155.480 1679.800 0098 00075

EXHIBIT 2
ONSITE REMEDIAL PROGRAM

1. All traffic areas, open storage areas for lead bearing materials, and vehicle parking areas shall be paved.

2. From and after December 31, 1983, the area indicated as Site 1-A on Attachment 1 shall be paved or covered with three inches (3") of crushed aggregate.

3. By June 1, 1984, the areas designated as A through C on Attachment 2 shall be either paved, covered with three inches (3") of crushed aggregate, or vegetated.

4. A fence to prevent unauthorized access shall be maintained around the outer perimeter of defendants' property, both developed and undeveloped. Fencing shall be added by December 31, 1983, as indicated by J on Attachment 3. Defendants shall also isolate, fix in place, and either pave, cover with three inches (3") of crushed aggregate or vegetate all soil on property, both developed and undeveloped, that defendants own or control, with the exception of the areas designated B, D and F through I on Attachment 3. Where vegetation is planted, a vegetation cover sufficient to hold soil in place and to provide a barrier shall be established and maintained by not later than June 1, 1984.



Singleton Boulevard

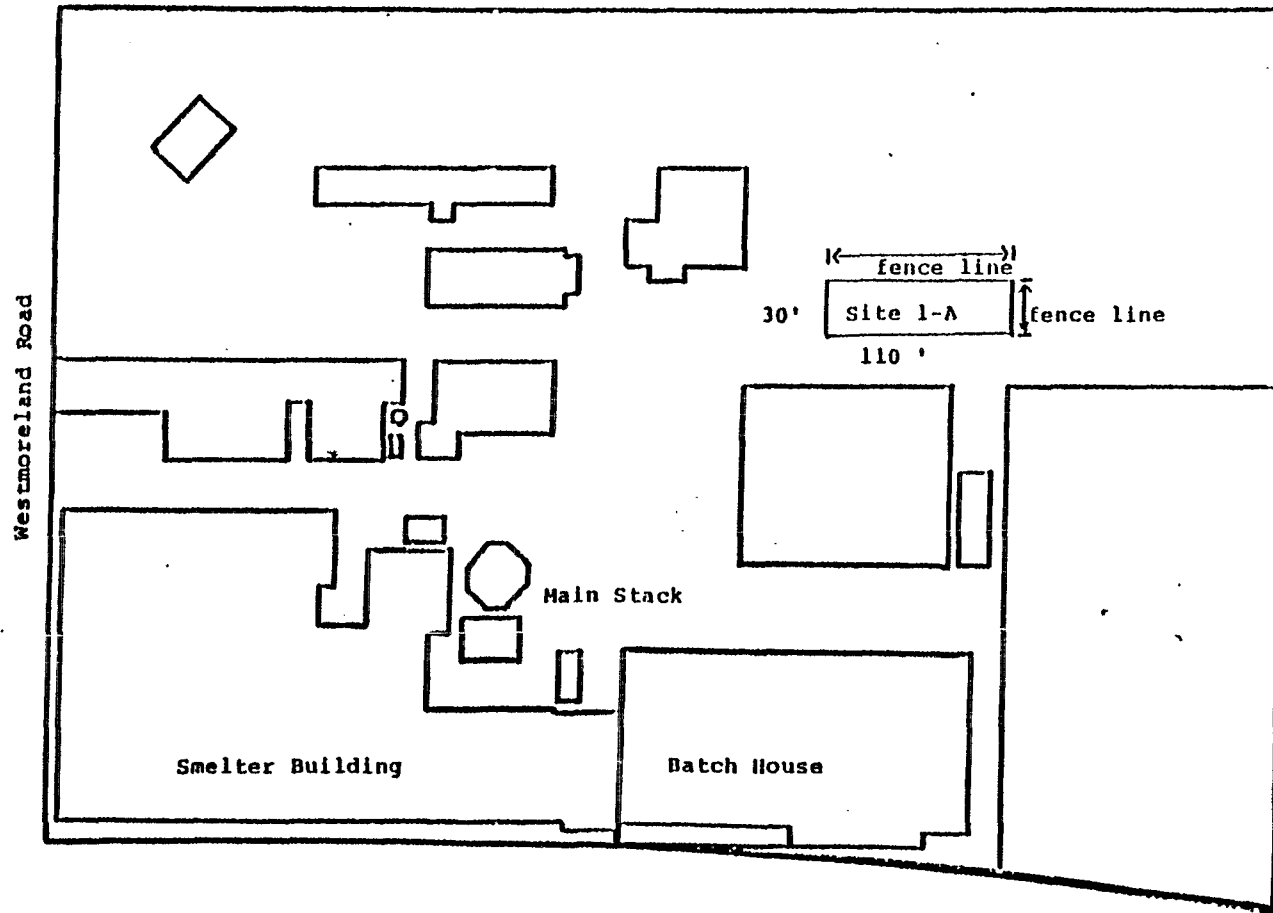


EXHIBIT 2
ATTACHMENT 1

Note: Cross-hatched areas are unpaved, unvegetated areas which need to be paved, covered with three inches of crushed aggregate, or vegetated.

Westmoreland

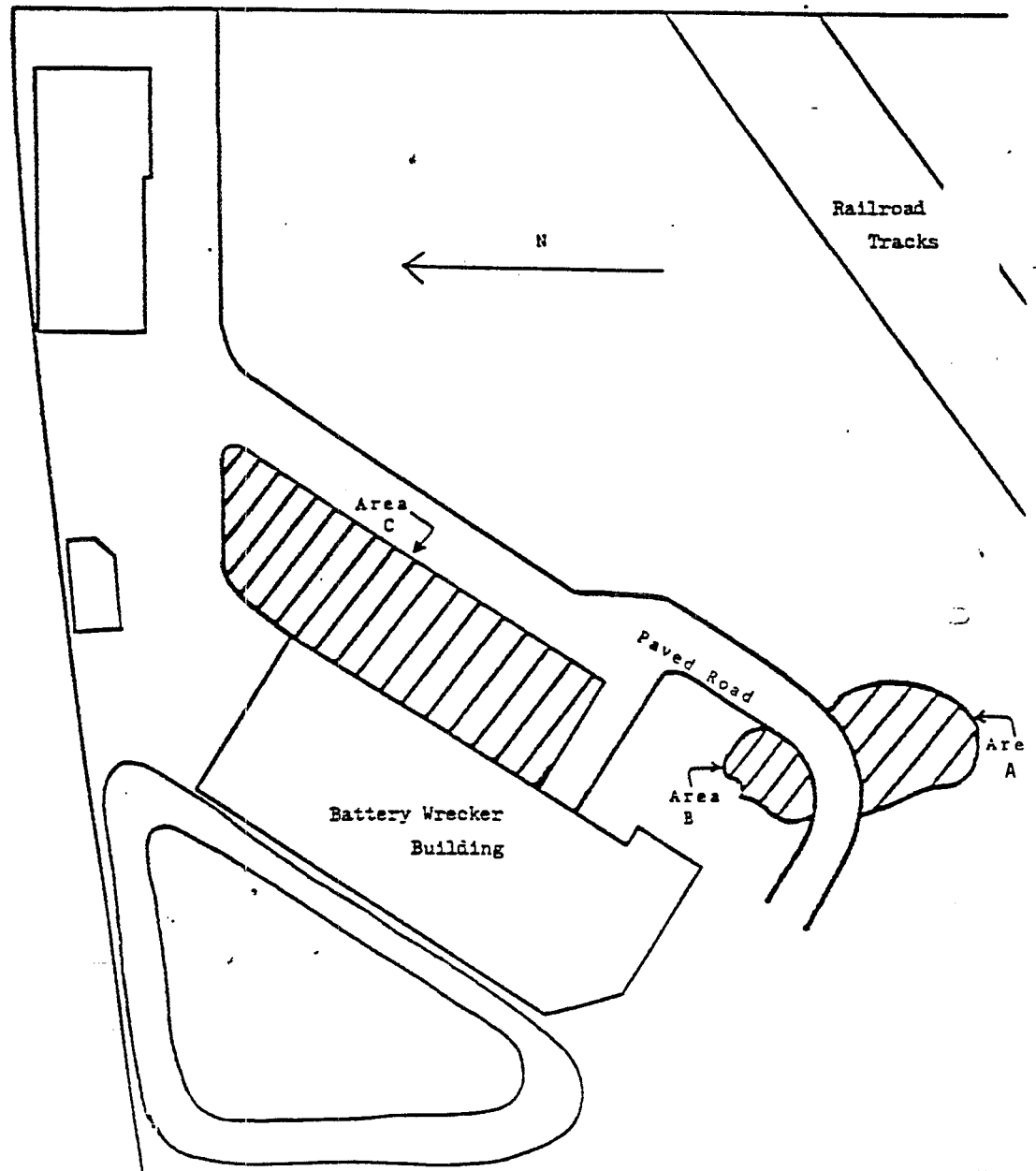
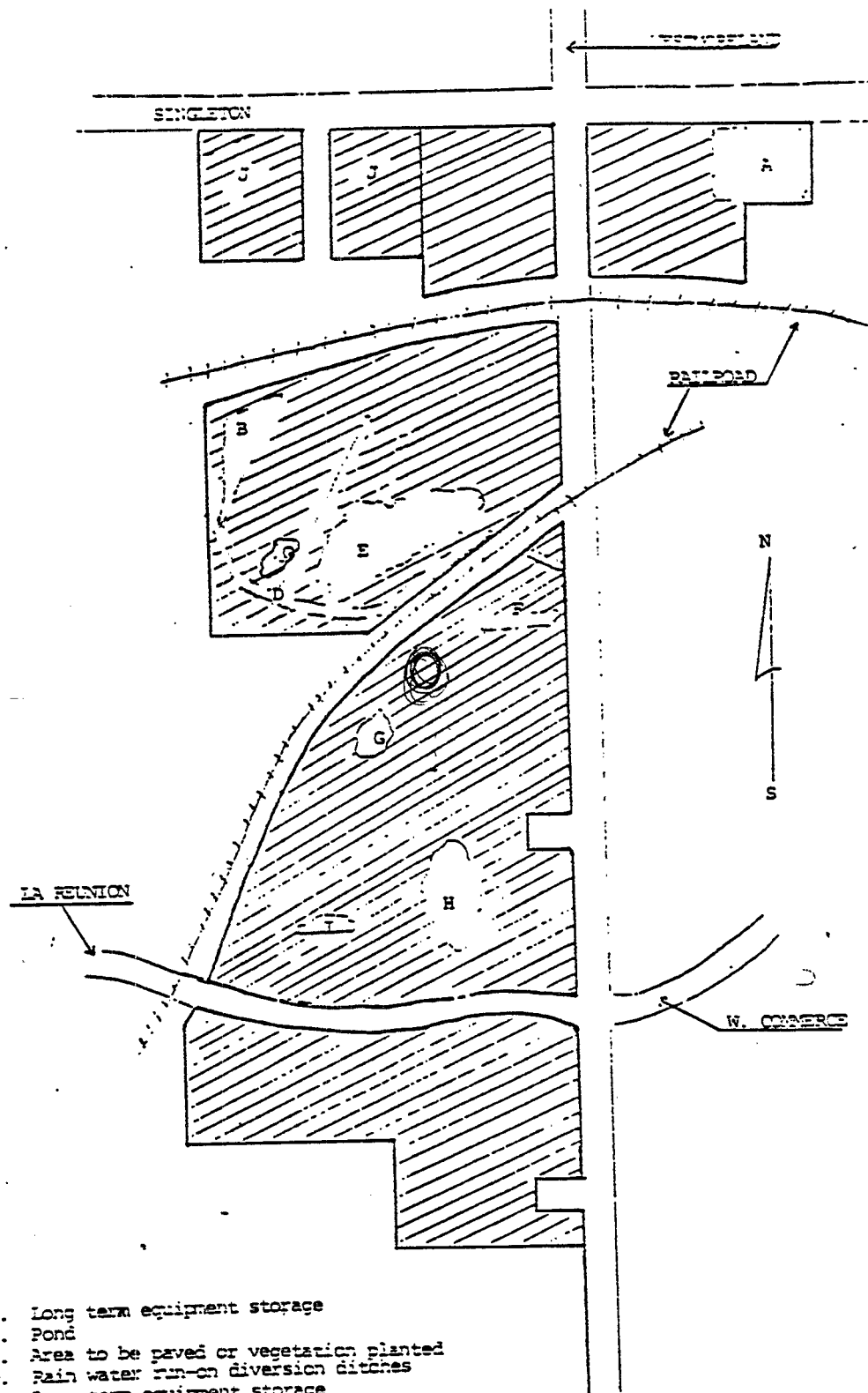


EXHIBIT 2
ATTACHMENT 2



- A. Long term equipment storage
- B. Pond
- C. Area to be paved or vegetation planted
- D. Rain water run-on diversion ditches
- E. Long term equipment storage
- F. Driveway
- G. Rocky area
- H. Steep hillside
- I. Water drainage area
- J. Area to be fenced

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EXHIBIT 2
ATTACHMENT 3