

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

IN THE MATTER OF:

Precision National Site

Precision National Plating
Services, Inc.,

Docket No. III-98-069-DC

Respondent

Proceeding Under Section 106(a)
of the Comprehensive Environmental
Response, Compensation, and
Liability Act of 1980, as amended
by the Superfund Amendments and
Reauthorization Act of 1986,
42 U.S.C. § 9606(a)

I hereby certify that the
within is a true and correct copy
of the original Administrative
Order filed in this matter.

David Melvin
Representative for the U.S.
Environmental Protection Agency,
Region III

**ADMINISTRATIVE ORDER
FOR REMOVAL RESPONSE ACTION**

Having determined the necessity for implementation of response activities at or relating to the Precision National Site ("Site") in Clarks Summit, Lackawanna County, Pennsylvania, the United States Environmental Protection Agency ("EPA"), hereby Orders as follows:

I. JURISDICTION AND GENERAL PROVISIONS

1.1 This Order is issued pursuant to the authority vested in the President of the United States by Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986. ("CERCLA"), 42 U.S.C. § 9606, delegated to the EPA Administrator by Executive Order No. 12,580, 52 Fed. Reg. 2923 (January 29, 1987) and further delegated to the Regional Administrators of EPA. This Order pertains to the Precision National Plating Services, Inc. ("PNPS") Facility ("Facility") located at 198 Ackerly Road in Clarks Summit, Lackawanna County, Pennsylvania. The Site includes the Facility and any area surrounding the Facility at which contamination originating from the Facility is located. The Site is further described in Paragraphs 3.2 and 3.3 below.

1.2 The Respondent shall undertake all actions required by, and comply with all requirements of, this Order including any modifications hereto ("the Work").

1.3 The Work shall be consistent with the National Oil and Hazardous Substances Pollution Contingency Plan, as amended, ("NCP"), 40 C.F.R. Part 300, and CERCLA.

1.4 This Order is issued to the above captioned Respondent ("Respondent").

II. STATEMENT OF PURPOSE

In issuing this Order, the objective of EPA is to protect the public health and welfare and the environment by ensuring that a proper removal response action, as defined in Section 101(23) of CERCLA, 42 U.S.C. § 9601(23), is conducted to abate, mitigate and/or eliminate the release or threat of release of hazardous substances at the Site.

III. FINDINGS OF FACT

3.1 Precision National Plating Services, Inc., is a corporation existing and operating under the laws of the State of Delaware.

3.2 The Site consists of the Facility located at 198 Ackerly Road approximately 0.5 miles north of Clarks Summit, Lackawanna County, Pennsylvania, and also the surrounding areas at which contamination originating from the Facility is or may be located. These areas include Arch Avenue, portions of Ackerly Road, Ackerly Creek, Ackerly Fairgrounds, Glenburn Pond and surrounding areas of Glenburn and Abington Townships.

3.3 The surrounding area is primarily rural and residential. Approximately nine residences are located on Arch Avenue, directly downslope from the Site. Ackerly Creek is located approximately one-quarter mile downgradient on the north side of the facility. Ackerly Creek flows into Glenburn Pond. An unnamed tributary of Ackerly Creek flows in a northerly direction adjacent to the western boundary of the Facility. An abandoned trolley track bed is located along the west side of the Facility.

3.4 From 1958 until 1971, Ernest V. Berry, Inc., operated a plating facility at the Facility location. In February of 1971, Precision National Corporation obtained ownership of the Facility and Facility property from Nehall, Inc., the parent company of Ernest V. Berry, Inc. Precision National Corporation changed its name to Precision National Plating Services, Inc., in 1987. From 1958 to the present, the Facility has been used as a chrome-plating facility. From 1958-1971, locomotive crankshafts were chrome-plated at the Facility. Around 1971, a cylinder-lining plating division was added. Precision reconditions approximately fifty locomotive crankshafts per month.

3.5 From 1958 until approximately 1970, chromium wastes were disposed of in a lagoon at the northern end of the Facility. In May of 1970, chromium-contaminated liquids leaked from a

break in the lagoon's retaining wall and were absorbed into soils in a drainage pathway leading from the break in the lagoon wall along Ackerly Road. Additional wastewater containing hazardous substances flowed along the drainage pathway leading to Ackerly Creek.

3.6 From approximately 1970 until the present, Precision utilized a process by which wastewater was evaporated and distilled in an effort to minimize "off-Facility" contamination, however, visual observations of yellow-tainted surface runoff demonstrated the continued release of hazardous substances from the Facility. In 1990, the plant was expanded. At that time, a footer drain on the Facility was also disconnected.

3.7 In 1978, the Pennsylvania Department of Environmental Resources ("PADER"), now known as the Pennsylvania Department of Environmental Protection ("PADEP"), required Precision to develop a remediation plan to control the "off-Facility" migration of chromium contamination. In accordance with PADER's requirements and approval, Precision constructed an unlined encapsulation vault on the west side of the Facility. Wastes from five areas of the Facility, including the past lagoon area, a seepage drain, a footer drain extending from a tiled field area, an excavation area west of the Facility, and a blower building area at the rear of the plant were disposed of in this encapsulation vault. According to calculations performed by Geraghty & Miller, Inc., a consultant for Precision, between 3000-6000 cubic yards of contaminated soil, containing approximately 8365 pounds of chromium were buried in this encapsulation vault. The encapsulation vault is not lined, although drainage pipes were built in to detect for leakage. According to Precision, the encapsulation vault has a bentonite cap and blacktop cover.

3.8 On or about February 8, 1987, a representative from PADER conducted an investigation concerning a reported discharge from the Facility. This investigation indicated that a defective tank valve allowed water to flow into a degreasing tank, causing the tank to overflow and resulting in the discharge of approximately 200 gallons of chromium-contaminated cleaning solution beyond the Facility boundaries and into a drainage pathway along Ackerly Road. Precision was fined for violation of the Pennsylvania Clean Streams Act and the Pennsylvania Solid Waste Management Act. Precision paid the fine, while conceding no admission of liability for violations of these laws.

3.9 Surface runoff from the west side of the Facility has been engineered to flow through drainage culverts into a dissipator for erosion control and away from the encapsulation vault. Surface water from the northern end of the Site flows downslope toward the trolley track bed and Ackerly Creek.

3.10 Wastewater from the Facility discharges to a sewer system which is managed by the Abington Township Sewer Authority ("ATSA"). ATSA monitors the discharge from the Facility on an as-needed basis. ATSA has expressed concern to EPA that cumulative discharges of

chromium may stress their treatment system. As recently as March of 1995, Abington Township has detected elevated levels of chromium in the wastewater coming from the facility.

2 May 1996: slug = 9.42 ppm

3.11 Precision has supplied bottled drinking water to several residents over the past sixteen years. As of September of 1992, Precision was supplying bottled water to eleven residences.

3.12 In September of 1991, EPA and Precision signed an Administrative Order by consent pursuant to Sections 106 and 122 of CERCLA, 42 U.S.C. §§ 9606 and 9622, and Section 1431(a) of the Safe Drinking Water Act ("SDWA"), 42 U.S.C. § 300 i (a). This Order required Precision to provide an alternate water supply to one resident located on Arch Avenue. Precision complied with the terms of this Order and replaced this well late in 1991. Precision tested the water in the replacement well for chromium quarterly in the following year and once annually thereafter. Since the replacement well has been installed, all but one sample has showed levels of chromium below the maximum contaminant level ("MCL") established for chromium.

3.13 In the fall of 1993, Precision also installed another well for a residence on Arch Avenue to be used as an alternate source of drinking water. This well currently serves three residents.

3.14 In July of 1993, EPA performed an assessment of the Facility and collected surface water and soil samples offsite, as well as four residential well samples. One residential well exhibited chromium levels of 190 parts per billion ("ppb"). This residence is currently being supplied bottled water by Precision. During this assessment, EPA was alerted by one of the local residents to a seep on the north side of the Site which discharged green-tinted water during heavy rains. A soil sample in this area indicated 5,990 parts per million ("ppm") of chromium. In March of 1994, one of the local residents alerted EPA that greenish-tinted water had been noticed again in the area of this seep. Two samples of this seep water taken by EPA in March of 1994 revealed 300 ppb of hexavalent chromium and 500 ppb of total chromium, respectively.

3.15 In May of 1995, EPA and Precision's contractor, Geraghty & Miller, Inc., jointly performed sampling at the Site. EPA results revealed that chromium was still being released from the Site at several locations.

3.16 The sampling discussed in paragraph 3.14, above demonstrated that chromium is leaching from the drainage pipes of the encapsulation vault which contains the wastes described in 3.7 above. Soil collected from these pipes contained chromium in concentrations of 200-300 ppm. During this sampling event, samples were also collected from the areas which extend away from the banks of the encapsulation vault. The soil sampled at the intersection of the north and west banks contained a concentration of 115 ppm chromium. The soil leading away from the north bank of the encapsulation vault contained a concentration of 590 ppm chromium. Based on these findings it appears that the encapsulation vault, installed in the 1970's, had not been effective in preventing chromium wastes from migrating into the surrounding residential community.

3.17 During the sampling event in May of 1995, EPA again sampled the soil in the seep described in 3.14 above. The soil contained a concentration in excess of 2,000 ppm chromium. These findings show that chromium contamination continued to migrate off-Facility from this source area.

3.18 Because the runoff from the Site flows to Ackerly Creek, EPA's contractor also obtained grass samples from this creek during the May, 1995 sampling event. Chromium contamination as high as 131 ppm was found in grass samples in Ackerly Creek, demonstrating that runoff from the Facility may also pose a threat to terrestrial organisms that may feed in the Creek area. In addition, Ackerly Creek runs to Glenburn Pond, which serves as the headwaters to a public drinking water supply. Therefore, the runoff poses a threat to both public health and the environment.

3.19 An EPA Health Advisory on chromium (Office of Drinking Water, March 31, 1987) addresses the toxicity of chromium. Generally, hexavalent chromium compounds are more toxic than trivalent chromium compounds. Hexavalent chromium has been shown to produce liver and kidney damage, internal hemorrhage, dermatitis, and respiratory problems. Immediate symptoms include general nausea, vomiting, and diarrhea. Hexavalent chromium can also have mutagenic effects by intracellular reduction to trivalent chromium inside of cells, affecting DNA chains. The EPA health advisory on chromium is determined on the basis of hexavalent chromium measured as total chromium. Separate health advisories are not established for trivalent chromium. An estimated safe intake for total chromium has been established as 50-200 ppb per day, as chromium is an essential nutrient required in trace quantities for normal glucose metabolism.

Cadmium, copper, lead zinc and chromium can have various adverse effects on aquatic life and health.

Cadmium, chromium, copper, lead and zinc were identified in aqueous samples collected for EPA on January 13, 1988 from the drainage gully northeast of the Site, which drains into Ackerly Creek, at concentrations that exceed the Ambient Water Quality Criteria ("WQC"). Cadmium, chromium, copper, lead and zinc are listed hazardous substances as found in 40 C.F.R. § 302.4, which have adverse impact on aquatic life.

3.20 The EPA MCL for chromium established pursuant to the SDWA is 100 ppb (May 1993). The MCL is the maximum permissible level of a contaminant in water which is delivered to any user of a public water system. Samples of groundwater in the area of the Site have exceeded this level. The chromium plume migration may pose a threat to residents, not currently on bottled water, who utilize this aquifer for drinking water purposes.

3.21 EPA has published a Superfund Removal Action level in water for chromium of 200 ppb (November 1992), which is the level used by EPA to initiate removal actions in order to protect public health, welfare, and the environment.

3.22 On August 22, 1995, EPA and PNPS entered into an Administrative Order by Consent for Removal Response Action ("Consent Order") that required PNPS to perform an Engineering Evaluation/Cost Analysis ("EE/CA") to characterize the nature and extent of contamination at the Site in order to provide sufficient information to identify and evaluate removal alternatives that could possibly be implemented to protect public health, welfare and the environment.

3.23 EPA approved, with reservations, the EE/CA submitted by PNPS pursuant to the Consent Order on October 28, 1997.

3.24 On December 6, 1997, EPA commenced a public comment period by publishing a notice of EPA's Proposed Response Action for the Site, that identified alternatives it believed necessary to protect public health, welfare and the environment based on information developed by EPA and PADEP, contained in EPA's Administrative Record in support of its proposed response action, and to a lesser extent, based on information provided in the EE/CA.

3.25 On February 19, 1998, EPA held a public meeting in Clarks Summit, Pennsylvania and presented its proposed plan to residents and township officials. ATSDR representatives were also available to respond to any health-related concerns and EPA representatives answered questions related to the proposed work and site-related contamination.

3.26 Based on the information described above, on April 22, 1998, the Director of the Hazardous Sites Cleanup Division determined that a threat to public health, welfare and/or the environment exists due to the actual or threatened release of hazardous substances from the Site, and authorized funds for a removal action.

IV. CONCLUSIONS OF LAW

4.1 The Precision National Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

4.2 The Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

4.3 Chromium is a "hazardous substance" within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), because it is listed at 40 C.F.R. § 302.4.

4.4 "Hazardous substances," as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), have been disposed of at the Precision National Site and are currently present there.

4.5 The presence of hazardous substances at the Site and the past, present, and/or potential migration of hazardous substances from the Site constitutes an actual and/or threatened "release" as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

4.6 Precision is the current "owner and operator of a vessel or a facility" (the Site) within the meaning of Section 107 (a) (1) and (2) of CERCLA, 42 U.S.C. § 9607 (a)(1) and (2).

4.7 EPA has determined that the Respondent is liable under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

V. DETERMINATIONS

Based on the Findings of Fact and Conclusions of Law set forth above, and the Administrative Record supporting this Order, EPA has determined that:

5.1 The actual and/or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the public health or welfare or the environment.

5.2 The Work is necessary to protect the public health and welfare and the environment.

5.3 Because there is a threat to public health or welfare or the environment, a removal action is appropriate to abate, minimize, stabilize, mitigate or eliminate the release or threat of release of hazardous substances at or from the Site.

VI. PARTIES BOUND

6.1 This Order shall apply to and be binding upon Respondent and its agents, successors, and assigns. Neither a change in ownership or corporate or partnership status of the Respondent, nor a change in ownership or control of the Site, shall in any way alter Respondent's responsibilities under this Order.

6.2 No change in ownership of any property covered by this Order shall in any way alter, diminish, or otherwise affect Respondent's obligations and responsibilities under this Order.

6.3 In the event of any change in ownership or control of the Site or of PNPS, Respondent shall notify EPA in writing at least thirty (30) calendar days in advance of such change and shall provide a copy of this Order to the transferee in interest of the Site prior to any agreement for transfer.

6.4 In the event that Respondent files for or is placed into bankruptcy, Respondent shall notify EPA within three (3) days of such event.

6.5 The Respondent shall provide a copy of this Order to all contractors, subcontractors, supervisory personnel, laboratories and consultants retained by Respondent to conduct any portion of the Work to be performed by Respondent pursuant to this Order. Respondent shall require in any and all contracts related to this Site that the Work that is the subject of such contract be performed within the time and in the manner set forth in this Order.

VII. NOTICE TO THE STATE

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

VIII. RESPONSE ACTION PLAN DEVELOPMENT AND IMPLEMENTATION

8.1 Respondent shall commence and complete performance of the following response action within the time periods specified herein.

8.2 Within five (5) business days of the effective date of this Order, Respondent shall notify EPA in writing of the identity and qualifications of the contractor, subcontractor, supervisory personnel, and other persons who will be primarily responsible for developing the Response Action Plan ("RAP") required by this Section. Respondent shall further notify EPA in writing of the identity and qualifications of all contractors, subcontractors, supervisory personnel and other persons selected by Respondent who will conduct all or any portion of the response action no less than five (5) days prior to commencement of the response action to be performed by such persons. Respondent shall ensure that all contractors, subcontractors, supervisory personnel and/or other persons retained to perform response actions shall meet the applicable Occupational Safety and Health Administration ("OSHA") requirements as defined in 29 C.F.R. § 1910.120. The Respondent's selection of all contractors, subcontractors, supervisory personnel and other persons who will perform response action; the Respondent's Project Coordinator designated pursuant to Section IX; and any replacements to any such persons are subject to disapproval by EPA at any time. In the event of any such disapproval by EPA, Respondent shall notify EPA within five (5) calendar days of receipt of such EPA disapproval of the person(s) who will replace the one(s) whose selection was disapproved by EPA. If a person's selection is disapproved by EPA, they shall not perform such specified response action.

8.3 Respondent shall accomplish the following items:

- a. Immediately provide potable water to all residences, not currently serviced by a public water system and whose drinking water contains concentrations of chromium which exceed the MCL for chromium, within a one (1) mile radius of the Facility unless EPA provides PNPS with a written confirmation that it is not required at that time for a residence based on data acceptable to EPA or conduct monthly monitoring of all private drinking water supplies at all residences within a one (1) mile radius of the facility unless they are being provided potable water;
- b. Conduct quarterly monitoring of all private drinking water supplies at residences within the two-mile radius of the Site to detect the presence and level of any chromium, unless EPA provides PNPS with a written confirmation that it is not required at that time for a residence based on data acceptable to EPA, except for those residences receiving potable water under paragraph 8.3. a.;
- c. In lieu of the monitoring requirements described above in paragraph 8.3.b., perform a competent groundwater investigation, approved by EPA, to fully characterize the extent and nature of contamination attributable to the Site, and that ensures that drinking water wells are not exposed to Site contamination at levels above 100 ppb, the MCL established by EPA for chromium, and will not become so exposed in the future;
- d. Install seep collection and treatment systems at all seeps identified to date and as depicted in the Site Sketch attached hereto, as well as those identified pursuant to subparagraph (e), below, to remove the threat of direct contact with chromium contamination and to minimize the contamination of soils surrounding the seeps or surface water that may be impacted by the seeps;
- e. Propose contingency plans ("Seep Contingency Plans") for EPA approval for the identification and investigation of any seeps in the vicinity of the Site, and for capturing and treating any fluids from all seeps attributable to the Site;
- f. Implement the EPA-approved Seep Contingency Plans;
- g. Complete removal of the encapsulation vault and all surrounding contaminated soil to background levels for chromium. The disposal of all hazardous substances from the Site must be consistent with the requirements specified in paragraph 8.12 below. Respondent may provide acceptable post-removal analytical data that demonstrates either that all surrounding contaminated soil has been removed to background levels, or evidence that all soil has been removed to bedrock, and that all soils have been disposed of in accordance with requirements specified in paragraph 8.12, for EPA's consideration;

- h. Propose a plan for the performance of an Ecological Risk Assessment ("ERA"), in accordance with EPA Guidance, for EPA approval to determine the effects of Site contamination on ecological receptors at the Site, with particular regard to Ackerly Creek and Glenburn Pond and its associated wetlands;
- i. Perform the EPA-approved ERA;
- j. Propose measures to mitigate impacts to ecological receptors, if any, identified in the ERA, for EPA approval;
- k. Implement the EPA-approved measures to mitigate impacts to ecological receptors;
- l. Provide site specific health and safety measures, including preparation and implementation of a Health and Safety Plan ("HASP") for actions to be performed at the Site, to protect the health and safety of workers, other personnel and the public from the hazardous substances and work-related health and safety hazards during performance of the response action specified herein. The HASP shall, as appropriate, provide for proper decontamination of personnel and equipment, monitoring and control of offsite migration of hazardous substances from the Site and protection of public health from exposure to hazardous substances during the performance of activities at the Site pursuant to this Order. Health and Safety requirements in the HASP shall be at least as stringent as those set forth in Occupational Safety and Health Administration and EPA requirements including but not limited to requirements contained in 29 C.F.R. §1910.120 and/or EPA Safety Operating Guides (July 5, 1988);
- m. Provide for post-removal Site control activities consistent with the NCP, 40 C.F.R. 300.415 (k) of the NCP, 40 C.F.R. § 300.415(k), and EPA's "Policy on Management of Post-Removal Site Control" (OSWER Directive 9360.2-02 (December 3, 1989)). Such activities shall include, but not be limited to, arrangements with the State or local government for the performance of actions that will ensure the integrity of the work performed at the Site pursuant to this Order through actions that will continuously ensure the implementation of contingency plans for seeps identified in the future and measures that will ensure continuous review of monitoring data. For purposes of this paragraph, "arrangements with State or local government for the performance of actions" shall mean submitting, by agreement or otherwise, to enforceable requirements determined by the State or local government to meet the criteria set forth in this paragraph, and shall include public participation and comment as required by the State or local government and the NCP;
- n. Develop and follow an expeditious schedule for implementation of the RAP.

8.4 Within ten (10) business days of the effective date of this Order, Respondent shall submit to EPA for approval a RAP detailing the response action to be implemented for the items specified in paragraph 8.3 above. The RAP shall include, among other things, a schedule for expeditious performance of such response actions. To the extent that information concerning the details of a particular item does not yet exist so that it can be described in the RAP, the RAP shall set forth an expeditious schedule and plan for submittal of RAP supplement(s) to EPA for approval, which supplement(s) shall fully detail such items. All references to the review, approval and enforcement of the RAP shall also be applicable to any RAP supplement(s). The RAP shall include, among other things, a schedule for the expeditious performance of response actions required by this Order. The RAP shall be consistent with the NCP and shall be subject to approval by EPA according to the provisions of paragraphs 8.5 and 8.9 below.

8.5 EPA will review the RAP and notify the Respondent of EPA's approval or disapproval of the RAP. In the event of disapproval, EPA will specify the deficiencies in writing. The Respondent shall respond to and correct the deficiencies identified by EPA and resubmit the RAP to EPA within five (5) business days of receipt of EPA disapproval or such longer time as may be specified in writing by EPA in its sole, unreviewable discretion. Approval, disapproval and/or modification by EPA of the subsequent RAP submission shall be according to the provisions of Paragraph 8.9 below. Approval of the RAP shall not limit EPA's authority under the terms of this Order to require Respondent to conduct activities under this Order to accomplish the work outlined in paragraph 8.3 of this Order.

8.6 Within five (5) business days of receipt from EPA of written approval to proceed with implementation of the EPA-approved RAP ("written approval to proceed"), the Respondent shall commence implementation of such RAP and complete implementation in accordance with the RAP and the schedule therein. In the event EPA determines that any portion of the response action performed is deficient, and EPA requires Respondent to correct or re-perform such response action pursuant to this Order, Respondent shall correct or re-perform the response action or portion of the response action in accordance with a schedule provided by EPA.

8.7 Beginning seven (7) calendar days subsequent to the date of receipt of EPA approval of the RAP and every thirty (30) calendar days thereafter or longer as may be determined by the EPA Project Coordinator designated pursuant to Section IX, and until EPA advises Respondent that the Work is complete, the Respondent shall provide EPA with a progress report for each preceding 30-day period or if applicable, the period specified in writing by the EPA Project Coordinator. The progress reports shall include, at a minimum: 1) a description of the response action completed and the actions that have been taken toward achieving compliance with this Order; 2) a description of all data anticipated and activities scheduled for the next seven (7) calendar days or, if applicable, the period specified in writing by the EPA Project Coordinator; 3) a description of any problems encountered or anticipated; 4) any actions taken to prevent or mitigate such problems; 5) a schedule for completion of such actions; 6) copies of all analytical

data received during the reporting period; and 7) all modifications to the response action, RAP and schedule made in accordance with Section XV of this Order during the reporting period.

8.8 Documents, including plans, reports, sampling results and other correspondence to be submitted pursuant to this Order, shall be sent by certified or overnight mail to the EPA Project Coordinator designated pursuant to Section IX.

8.9 All reports, plans, approval letters, specifications, schedules and attachments required by this Order are subject to EPA approval and shall be incorporated into this Order upon approval by EPA. In the event that EPA approves a portion of the RAP, report or other item required to be submitted to EPA under this Order, the approved portion shall be enforceable under this Order. In the event of conflict between this Order and any document attached hereto, incorporated in or enforceable hereunder, the provisions of this Order shall control. In the event that EPA disapproves any required submission, in whole or in part, EPA will (1) specify the deficiencies in writing and/or (2) may submit its own modifications to the Respondent to accomplish the Work outlined in paragraph 8.3 above. Respondent shall amend and submit to EPA a revised submission that responds to and corrects the specified deficiencies within five (5) business days of receipt of EPA disapproval or such longer time as may be specified by EPA in its sole, unreviewable discretion. In the event that EPA submits its own modifications to the Respondent, the Respondent is hereby required to incorporate such modifications. Any non-compliance with EPA-approved reports, plans, specifications, schedules or attachments, submission of deficient revisions following EPA disapproval, or non-compliance with an EPA required modification, shall be considered a failure to comply with a requirement of this Order. Determination(s) of non-compliance will be made by EPA.

8.10 In addition to the information and documents otherwise required by this Order, Respondent shall provide to EPA, upon written request, any and all information and documents in its possession, custody or control related to the Site including, but not limited to: Site analytical data (including raw data); Site safety data; Site monitoring data; operational logs; copies of all hazardous waste manifests (including copies of all hazardous waste manifests signed upon receipt of the hazardous wastes by a licensed treatment, storage or disposal facility); the identity of treatment, storage and/or disposal facilities used; the identity of transporters used; the identity of any contractors, subcontractors and supervisory personnel used; information and documents concerning Respondent's compliance with Quality Assurance and Quality Control requirements of this Order; information and documents relating to Respondent's efforts to secure access; and information and documents relating to any project delays. Nothing herein shall be interpreted as limiting the inspection and information-gathering authority of EPA under Federal law.

8.11 Within twenty (20) calendar days of the date Respondent concludes it has completed implementation of the RAP and the items identified in paragraph 8.3, Respondent shall submit a written Final Report to EPA subject to EPA approval described in paragraph 8.9 above. The

Final Report shall detail the work undertaken to implement the RAP and the items identified in paragraph 8.3, and shall be certified by Respondent in accordance with the terms of Section XVII of this Order. EPA will review the adequacy of Respondent's implementation of the RAP and accomplishment of the items specified in paragraph 8.3 above. EPA will notify Respondent, in writing, of any discrepancies in the Final Report or deficiencies in the execution of the RAP and the items identified in paragraph 8.3 and the actions required to correct such discrepancies or deficiencies. Within five (5) business days of receipt of notification by EPA, or as otherwise specified by EPA, Respondent shall, as directed by EPA, amend the Final Report, develop an additional plan or amend the existing RAP to address such deficiencies. Any additional plan or amendment will be subject to the approval procedures outlined in paragraphs 8.5 and 8.9 above. Respondent shall perform all actions approved by EPA in a manner consistent with the NCP and all applicable Federal laws and regulations as required by the NCP.

8.12 Respondent shall not handle or remove any hazardous substances from the Site except in conformance with the terms of this Order and all applicable Federal, State and local laws, ordinances and regulations, as required by the NCP. Any hazardous substance, pollutant or contaminant transferred for disposal off-site as a result of this Order must be taken to a facility acceptable under EPA's Off-Site regulations set forth at 40 C.F.R. § 300.440 pursuant to Section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3).

8.13 Respondent shall not commence any Work except in conformance with the terms of this Order. Respondent shall not commence implementation of the RAP developed hereunder until receiving written EPA approval to proceed pursuant to paragraph 8.6.

8.14 Respondent shall immediately notify EPA's Project Coordinator and the National Response Center [(800) 424-8802] and any other party required by law in the event of any action or occurrence during the pendency of this Order which causes or threatens to cause an additional release of hazardous substances, pollutants or contaminants on, at, or from the Site or which may create a danger to public health, welfare or the environment.

8.15 In the event that EPA believes that response actions or other activities at the Site by the Respondent are causing or may cause a release of hazardous substances, or a threat to public health or welfare or the environment, EPA may, in its discretion, immediately halt or modify such response actions or other activities to eliminate or mitigate such releases or threats of release.

IX. DESIGNATED PROJECT COORDINATORS

9.1 Respondent shall designate a Project Coordinator and shall notify EPA of such designation no later than four (4) business days after the effective date of this Order. Designation of a Project Coordinator shall not relieve Respondent of its obligation to comply with all requirements of this

Order. The Respondent's Project Coordinator shall be a technical and/or managerial representative of the Respondent and may be a contractor and/or consultant; provided, however, the Respondent's Project Coordinator shall not be its legal representative in this matter. The Project Coordinator for EPA designated pursuant to this Section and the Project Coordinator for the Respondent shall be responsible for overseeing the Work. To the maximum extent possible, communications between the Respondent and EPA and all documents concerning the activities performed pursuant to the terms and conditions of this Order, including plans, reports, approvals and other correspondence, shall be directed to the Project Coordinators.

9.2 The Project Coordinator for EPA is:

Sarah L. Caspar
On-Scene Coordinator
U.S. Environmental Protection Agency
Removal Enforcement and Oil Section (3HS32)
841 Chestnut Building
Philadelphia, PA 19107

9.3 Respondent shall have the right to change its Project Coordinator. Such a change shall be accomplished by notifying the EPA Project Coordinator in writing at least five (5) calendar days prior to the change.

9.4 EPA shall have the right to change its Project Coordinator at any time without prior notice to Respondent. EPA's intent is to notify the Respondent as soon as practicable following any such change of its Project Coordinator.

9.5 The absence of the EPA Project Coordinator from the Site shall not be cause for the stoppage or delay of Work except when such stoppage or delay is specifically required by EPA.

9.6 The EPA Project Coordinator shall have the authority to halt or modify Work or other activities performed by Respondent at the Site in order to eliminate a release or threat of release of hazardous substances. Such direction by the EPA Project Coordinator may be given verbally or in writing. If such direction is given verbally, the EPA Project Coordinator will later memorialize such direction in writing.

X. QUALITY ASSURANCE

The Respondents shall use quality assurance, quality control, and chain of custody procedures in accordance with the following documents while conducting all sample collection and analysis activities required by this Order:

(a) "EPA NEIC Policies and Procedures Manual" (EPA Document 330/9-78-001-R (revised August 1991));

(b) "Interim Guidelines and Specifications for Preparing Quality Assurance Project Plans," (QAMS-005/80 (December 1980)); and

(c) "QA/QC Guidance for Removal Activities," (EPA/540/G-90/004 (April 1990)).

(d) "Ecological Risk Assessment Guidance for Superfund: Process for Designing and Conducting Ecological Risk Assessments"; EPA, June 5, 1997.

The Respondents shall consult with EPA in planning for, and prior to, all sampling and analysis required by the approved RAP. The Respondents shall use a laboratory(s) which has a documented Quality Assurance Program that complies with EPA guidance document QAMS-005/80.

XI. SITE ACCESS

11.1 As of the effective date of this Order, Respondent shall provide to EPA and its employees, agents, consultants, contractors and other authorized and/or designated representatives, for the purposes of conducting and/or overseeing the Work, access to all property owned or controlled by Respondent wherein Work must be undertaken. Such access shall permit EPA and its employees, agents, consultants, contractors and other authorized and designated representatives to conduct all activities described in paragraph 11.3 of this Order.

11.2 To the extent that property wherein Work must be undertaken is presently owned or controlled by parties other than the Respondent, the Respondent shall use best efforts to obtain Site access agreements from the present owners. Such access agreements shall be finalized as soon as practicable but no later than thirty (30) calendar days after receiving EPA's written approval to proceed. Such agreements shall provide reasonable access for Respondent and its employees, agents, consultants, contractors and other authorized and designated representatives to conduct the Work, and for EPA and its designated representatives to conduct the activities outlined in paragraph 11.3 below. In the event that any property owner refuses to provide such access or access agreements are not obtained within the time designated above, whichever occurs sooner, the Respondent shall notify EPA at that time, in writing, of all efforts to obtain access and the circumstances of the failure to obtain such access. EPA may then take steps to provide such access. Respondent shall reimburse the United States for all costs incurred in obtaining access which are not inconsistent with the NCP.

11.3 In accordance with law and applicable regulation, as appropriate, EPA and its employees, agents, contractors, consultants and other authorized and designated representatives shall have the authority to enter and freely move about the location where the response actions and/or Work is being performed at all reasonable times for the purposes of, inter alia: inspecting Work, records, operating logs and contracts related to the Site; reviewing the progress of the Respondent in carrying out the terms of this Order; conducting such tests as EPA deems necessary; using a camera, sound recording or other documentary type equipment; and verifying the data submitted to EPA by the Respondent. The Respondent shall permit such persons to inspect and copy all records, files, photographs, documents and other writings, including all sampling and monitoring data, in any way pertaining to the Work.

11.4 Respondent may make a claim of business confidentiality for information submitted pursuant to this Order in the manner described in 40 C.F.R. § 2.203(b). Such an assertion shall be adequately substantiated in accordance with 40 C.F.R. § 2.204(e)(4) at the time the assertion is made. Information subject to a confidentiality claim shall be made available to the public by EPA only in accordance with the procedures set forth in 40 C.F.R. Part 2, Subpart B. If no such claim of business confidentiality accompanies the information when it is submitted or made available to EPA, the submitted information may be made available to the public by EPA without further notice to Respondent. All submitted information, including information claimed as confidential may be disclosed by EPA to its authorized or designated representatives, pursuant to applicable law and regulation.

11.5 The Respondent may withhold those records and documents covered by any privilege or protection recognized under federal law and applied by federal courts in actions commenced by the United States. In the event that the Respondent withholds a document as privileged, the Respondent shall provide EPA with the title of the document, the date of the document, the name(s) of the author(s), and addressee(s)/recipient(s), a description of the nature of the document and identification of the privilege asserted at the time the document is required to be provided to EPA.

11.6 No claim of confidentiality or privilege shall be made regarding any data required to be submitted pursuant to this Order including, but not limited to, sampling, analytical, monitoring, hydrogeologic, scientific, chemical or engineering data, or documents or information evidencing conditions at or around the Site. Nor shall such claims be made for analytical data; Site safety data; Site monitoring data; operational logs; hazardous waste manifests; identities of treatment, storage and/or disposal facilities used; identities of transporters used, identities of any contractors or subcontractors used in performing work required by this Order.

11.7 Notwithstanding any provision of this Order, EPA retains all of its access and information-gathering authorities and rights under CERCLA and any other applicable statute and regulation.

XII. RESERVATION OF RIGHTS

12.1 Except as expressly provided in this Order, EPA reserves all rights, claims, interests and defenses it may otherwise have, and nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order, including the right to seek injunctive relief and/or the imposition of statutory penalties.

12.2 As provided by this Order, EPA expressly reserves its right to disapprove of Work performed by Respondent; to halt Work being performed by Respondent if Respondent has not complied with an approved RAP or this Order, or at any time EPA deems necessary to protect public health, welfare or the environment and to perform such Work; to request or require that Respondent perform response actions in addition to those required by this Order. Further, EPA reserves the right to undertake response action at any time EPA deems appropriate. In the event that EPA requires Respondent, and Respondent declines, to correct and/or re-perform work that has been disapproved by EPA and/or to perform response actions in addition to those required by this Order, EPA reserves the right to undertake such actions and seek reimbursement of the costs incurred and/or to seek any other appropriate relief. In addition, EPA reserves the right to undertake removal and/or remedial actions at any time that such actions are appropriate under the NCP and to seek reimbursement for any costs incurred, and/or take any other action authorized by law.

12.3 EPA reserves the right to bring an action against the Respondent for recovery of all recoverable costs incurred by the United States related to this Order which are not reimbursed by the Respondent, as well as any other costs incurred by the United States in connection with response actions conducted at the Site.

12.4 This Order concerns certain response actions (Work described in Section VIII, above) concerning the Site. Such response actions might not fully address all contamination at the Site. Subsequent response actions which may be deemed necessary by EPA are not addressed by this Order. EPA reserves all rights including, without limitation, the right to institute legal action against Respondent and/or any other parties, in connection with the performance of any response actions not addressed by this Order.

12.5 EPA reserves the right to take enforcement actions, including actions for monetary penalties, for any violation of law, regulation, or of this Order. Failure to comply with this Order subjects Respondent to the assessment of civil penalties of up to \$27,500 per day and/or punitive damages in an amount up to three times the amount of any costs incurred by the United States as a result of such failure pursuant to Sections 106(b) and 107(c) of CERCLA, 42 U.S.C. §§ 9606(b) and 9607(c). EPA may also undertake such other actions as it may deem necessary or appropriate for any purpose including, but not limited to, actions pursuant to Sections 104 and/or 106 of CERCLA, 42 U.S.C. §§ 9604 and 9606.

12.6 Nothing in this Order shall limit the authority of the EPA On-Scene Coordinator as outlined in the NCP and CERCLA.

XIII. OTHER CLAIMS

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

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

13.3 Neither EPA nor the United States, by issuance of this Order, assumes any liability for any acts or omissions by Respondent, or Respondent's employees, agents, contractors, or consultants engaged to carry out any action or activity pursuant to this Order, nor shall EPA or the United States be held out as a party to any contract entered into by Respondent or by Respondent's employees, agents, contractors, or consultants engaged to carry out the requirements of this Order.

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

13.5 EPA and the United States reserve, and this Order is without prejudice to, all rights against the Respondent with respect to liability for damages for injury to destruction or loss of natural resources and for costs of any natural resource damage assessments.

XIV. OTHER LAWS

14.1 All Work shall be undertaken in accordance with the requirements of all applicable and/or relevant and appropriate local, State and Federal laws and regulations, as required by the NCP.

14.2 Nothing herein shall relieve Respondent from any obligations it has under any applicable local, State, or Federal law or regulation.

XV. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

15.1 The effective date of this Order shall be three (3) business days after it is signed by EPA.

15.2 This Order may be modified or amended by EPA. Such amendments shall be in writing and shall have as their effective date the date on which such amendments are signed by EPA. Modifications to the EPA-approved RAP and its implementation may be made by EPA including by the Project Coordinator. Such modifications shall be memorialized in writing by the Project Coordinator.

15.3 Any reports, plans, specifications, schedules, or other submissions required by this Order are, upon approval by EPA, incorporated into this Order. Any non-compliance with such EPA-approved reports, plans, specifications, schedules, or other submissions shall be considered non-compliance with the requirements of this Order. Determinations of non-compliance will be made by EPA.

15.4 No informal advice, guidance, suggestions or comments by EPA regarding reports, plans, specifications, schedules or other submissions by the Respondent or the requirements of this Order will be construed as relieving the Respondent of its obligation to obtain formal approval when required by this Order, and to comply with the requirements of this Order unless formally modified.

XVI. LIABILITY OF THE UNITED STATES GOVERNMENT

Neither the United States Government nor any agency thereof shall be liable for any injuries or damages to persons or property resulting from acts or omissions of Respondent, or of its employees, agents, servants, receivers, successors or assigns, or of any persons including, but not limited to, firms, corporations, subsidiaries, contractors or consultants in carrying out the Work, nor shall the United States Government or any agency thereof be held out as a party to any contract entered into by Respondent in carrying out the Work.

XVII. FAILURE TO PERFORM/PERFORMANCE EVENTS

17.1 In the event of an inability or anticipated inability on the part of Respondent to perform any of the actions or Work required by this Order in the time and manner required herein, the Respondent's Project Coordinator shall notify EPA orally as soon as possible but no later than within twenty-four (24) hours of the time Respondent becomes aware or should have become aware of such event (or, if the event occurs on a Friday or Saturday, no later than the following Monday) and in writing no later than seven (7) calendar days after Respondent becomes aware or should have become aware of such delay or anticipated delay. Such written notification shall be certified by a responsible official of Respondent in accordance with Section XVIII of this Order

and shall describe fully the nature of the delay, including how it may affect the Work, RAP and schedule; the actions that will be or have been taken to mitigate, prevent, and/or minimize further delay; and the timetable according to which future actions to mitigate, prevent and/or minimize the delay will be taken. Such notification shall not relieve Respondent of any obligation of this Order. The Respondent shall adopt all reasonable measures to avoid and minimize such delay.

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

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

XVIII. CERTIFICATION OF COMPLIANCE

18.1 (a) Unless otherwise required by the terms of this Order, any notice, report, certification, data presentation or other document submitted by Respondent under or pursuant to this Order which discusses, describes, demonstrates, or supports any finding or makes any representation concerning Respondent's compliance or non-compliance with any requirement(s) of this Order shall be certified by the Respondent or a responsible official of the Respondent or by the Project Coordinator for the Respondent. The term "responsible official" means: (i) a president, secretary, treasurer or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$35 million (in 1987 dollars when the consumer price index was 345.3), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. The responsible official of a partnership or sole proprietorship means the general partner or the proprietor, respectively.

(b) The written Final Report required by paragraph 8.11 of this Order, and any written notification described in paragraph 17.1 of this Order shall be certified by Respondent or a responsible official of Respondent.

18.2 The certification required by paragraph 18.1 of this Order shall be in the following form:

Except as provided below, I certify that the information contained in or accompanying this (type of submission) is true, accurate, and complete.

As to (the/those) portion(s) of this (type of submission), for which I cannot personally verify (its/their) accuracy, I certify under the penalty of law that this (type of submission) and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signature: _____

Name: _____

Title: _____

18.3 Submission of documents pursuant to this Order which are found by EPA to contain false information shall constitute a failure to comply with this Order and shall subject Respondent to, among other things, penalties whether or not a responsible official of Respondent has certified the document.

XIX. SHIPMENT OF HAZARDOUS SUBSTANCES

19.1 Respondent shall, prior to any off-site shipment of hazardous substances from the Site to an out-of-state waste management facility, provide written notification to the appropriate state environmental official in the receiving state and to EPA's Project Coordinator of such shipment of hazardous substances. However, the requirement to notify EPA of shipments shall not apply to any such off-site shipments when the total volume of all such shipments will not exceed ten (10) cubic yards. Notifications to states in those circumstances shall be governed by applicable state law.

19.2 The notification required by paragraph 19.1 shall be in writing and shall include the following information, where available: (1) the name and location of the facility to which the hazardous substances are to be shipped; (2) the type and quantity of the hazardous substances to be shipped; (3) the expected schedule for the shipment of the hazardous substances; and (4) the method of transportation of the hazardous substances. Respondent shall notify the receiving state of major changes in the shipment plan, such as a decision to ship the hazardous substances to another facility within the same state or to a facility in another state.

19.3 The identity of the receiving facility and state will be determined by Respondent unless disapproved by EPA. Respondent shall provide all relevant information, including information required by paragraph 19.1, above, relating to the off-site shipments as soon as practicable but no later than one (1) business day before the hazardous substances are actually shipped.

19.4 The provisions of paragraph 8.12 of this Order shall apply to all off-Site shipments of hazardous substances pursuant to Section XIX.

XX. NOTICE OF INTENT TO COMPLY

Respondent shall notify EPA's Project Coordinator within three (3) business days after the effective date of this Order of Respondent's intention to comply with the terms of this Order. Failure of Respondent to provide notification to EPA's Project Coordinator of intent to comply within this time period shall be deemed a violation of this Order by Respondent.

XXI. OPPORTUNITY TO CONFER WITH EPA

Not later than two (2) business days from the effective date of this Order, Respondent may confer with EPA to discuss this Order. Such conference is not an adversarial hearing or part of a proceeding to challenge this Order, and no official stenographic record of such conference shall be kept.

XXII. ADMINISTRATIVE RECORD

The Administrative Record upon which this Order is issued is available for review by Respondent's representatives at its request. Requests to review the Administrative Record shall be submitted to the EPA Project Coordinator designated pursuant to Section IX of this Order.

XXIII. RECORD RETENTION

Respondent shall preserve all documents and information relating to the Work performed under this Order, or relating to the hazardous substances found at or released from the Site, for ten (10) years following completion of the response action required by this Order. In addition, Respondent shall also retain, as appropriate, monthly reports on analytical services pursuant to OSWER Directive No. 9240.0-2B, "Extending the Tracking of Analytical Services to Potentially Responsible Party-Lead Superfund Sites," (July 6, 1992). At the end of this six year period and thirty (30) days before any document or information is destroyed, Respondent shall notify EPA that such documents and information are available to EPA for inspection, and upon request, shall provide the originals or copies of such documents and information to EPA.

XXIV. POST REMOVAL SITE CONTROL

Respondent shall maintain the integrity of the response action pursuant to the arrangement proposed in paragraph 8.3 (l), and approved by EPA pursuant to paragraph 8.9, above.

XXV. DEFINITIONS

25.1 "Business days" as used in this Order shall mean every day of the week except Saturdays, Sundays and federal holidays.

25.2 "Calendar days" as used in this Order shall mean every day of the week, including Saturdays, Sundays and federal holidays.

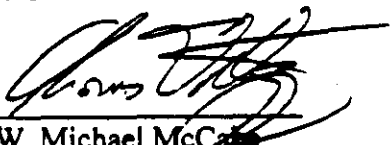
25.3 "Days" as used herein shall mean "calendar days" unless specified otherwise.

25.4 All terms not defined herein shall have the meanings set forth in CERCLA and the NCP.

XXVI. NOTICE OF COMPLETION

When EPA determines, after EPA's review and approval of the Final Report required pursuant to paragraph 8.11 of this Order, that the response action specified in Section VIII of this Order has been fully performed, and upon receipt of penalties hereunder, with the exception of any continuing obligations required by this Order, including those requirements specified in Sections XII ("Reservation of Rights"), XIII ("Other Claims"), XVI ("Liability of the United States"), XXIII ("Record Retention") and XXIV ("Post Removal Site Control"), EPA will provide a notice of completion to the Respondent.

IT IS SO ORDERED.

BY: 
W. Michael McCabe
Regional Administrator
Region III
U.S. Environmental Protection
Agency

DATE: 4/24/98