



TABLE OF CONTENTS

I.	BACKGROUND.....	1
II.	JURISDICTION.....	3
III.	PARTIES BOUND.....	3
IV.	DEFINITIONS.....	3
V.	GENERAL PROVISIONS.....	6
VI.	PERFORMANCE OF THE WORK BY SETTLING DEFENDANTS.....	8
VII.	REMEDY REVIEW.....	12
VIII.	QUALITY ASSURANCE, SAMPLING, AND DATA ANALYSIS.....	12
IX.	ACCESS AND INSTITUTIONAL CONTROLS.....	14
X.	REPORTING REQUIREMENTS.....	17
XI.	EPA APPROVAL OF PLANS AND OTHER DELIVERABLES.....	18
XII.	PROJECT COORDINATORS.....	19
XIII.	PERFORMANCE GUARANTEE.....	20
XIV.	CERTIFICATION OF COMPLETION.....	24
XV.	EMERGENCY RESPONSE.....	26
XVI.	PAYMENTS FOR RESPONSE COSTS.....	26
XVII.	INDEMNIFICATION AND INSURANCE.....	29
XVIII.	FORCE MAJEURE.....	31
XIX.	DISPUTE RESOLUTION.....	32
XX.	STIPULATED PENALTIES.....	34
XXI.	COVENANTS BY PLAINTIFF.....	36
XXII.	COVENANTS BY SETTLING DEFENDANTS.....	39
XXIII.	EFFECT OF SETTLEMENT; CONTRIBUTION.....	40
XXIV.	ACCESS TO INFORMATION.....	41
XXV.	RETENTION OF RECORDS.....	42
XXVI.	NOTICES AND SUBMISSIONS.....	43
XXVII.	RETENTION OF JURISDICTION.....	44
XXVIII.	APPENDICES.....	44
XXIX.	COMMUNITY INVOLVEMENT.....	44
XXX.	MODIFICATION.....	45
XXXI.	LODGING AND OPPORTUNITY FOR PUBLIC COMMENT.....	45
XXXII.	SIGNATORIES/SERVICE.....	45
XXXIII.	FINAL JUDGMENT.....	46

## I. BACKGROUND

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

B. The United States in its complaint seeks, *inter alia*: (1) reimbursement of costs incurred by EPA and the Department of Justice (“DOJ”) for response actions at the Puchack Well Field Superfund Site in Pennsauken, Camden County, New Jersey (the “Site”) together with accrued interest; and (2) performance of response actions by the defendants at the Site consistent with the National Contingency Plan, 40 C.F.R. Part 300 (“NCP”).

The United States has reviewed the Financial Information submitted by Settling Defendants to determine whether Settling Defendants are financially able to pay response costs incurred and to be incurred at the Site and to perform the response actions at the Site. Based upon this Financial Information, the United States has determined that the Settling Defendants have limited financial ability to pay for the response costs incurred and to be incurred at the Site and to perform response actions at the Site.

C. In accordance with the NCP and Section 121(f)(1)(F) of CERCLA, 42 U.S.C. § 9621(f)(1)(F), EPA notified the State of New Jersey (the “State”) on June 6, 2012, that the United States was considering filing a complaint against responsible parties (“PRPs”) related to the release of hazardous substances at the Site, and that the United States may, simultaneously with the filing of a complaint, lodge a consent decree resolving the claims alleged in the complaint.

D. In accordance with Section 122(j)(1) of CERCLA, 42 U.S.C. § 9622(j)(1), EPA notified the United States Department of Interior and National Oceanic and Atmospheric Administration on March 15, 2011 of negotiations with PRPs regarding the release of hazardous substances at the Site that may have resulted in injury to the natural resources under federal trusteeship.

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

F. Pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, EPA placed the Site on the National Priorities List (“NPL”), set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register on March 6, 1998, 63 Fed. Reg. 11332-11337.

G. Due to the conditions at the Site, and in response to a release and/or a substantial threat of a release of a hazardous substance at or from the Site, EPA divided the remedial work into two separate segments of remedial action, or “Operable Units.” Operable Unit 1 (“OUI”) relates to areas where the groundwater contains concentrations of chromium greater than the New Jersey Department of Environmental Protection’s (NJDEP’s) Groundwater Quality Standard for total chromium of 70 parts per billion (“ppb”). Operable Unit 2 (“OU2”) relates to

the SGL Area and any other areas that have levels of hexavalent chromium in soils that are a continued threat to further groundwater contamination.

H. On September 30, 1998, EPA commenced a Remedial Investigation and Feasibility Study for OU1 ("OU1 RI/FS") pursuant to 40 C.F.R. § 300.430.

I. Pursuant to Section 117 of CERCLA, 42 U.S.C. § 9617, EPA published notice of the completion of the OU1 FS and of the proposed plan for OU1 remedial action on July 7 and 8, 2006, in a major local newspaper of general circulation. EPA provided an opportunity for written and oral comments from the public on the proposed plan for OU1 remedial action. A copy of the transcript of the public meeting is available to the public as part of the administrative record upon which the Director of Emergency Remedial Response Division, EPA Region 2, based the selection of the remedial action for OU1.

J. The decision by EPA on the remedial action to be implemented at the Site for OU1 is embodied in a Record of Decision ("OU1 ROD"), executed on September 28, 2006. The OU1 ROD includes a responsiveness summary to public comments. Notice of the final plan was published in accordance with Section 117(b) of CERCLA, 42 U.S.C. § 9617(b).

K. On September 25, 2002, EPA commenced the Remedial Investigation and Feasibility Study for OU2 ("OU2 RI/FS"), which was finalized on June 14, 2011.

L. On June 14, 2011, pursuant to Section 117 of CERCLA, 42 U.S.C. § 9617, EPA published notice of the completion of the OU2 FS and of the proposed plan for remedial action in a major local newspaper of general circulation. EPA provided an opportunity for written and oral comments from the public on the proposed plan for OU2 remedial action. A copy of the transcript of the public meeting is available to the public as part of the administrative record upon which the Director of Emergency Remedial Response Division, EPA Region 2, based the selection of the remedial action for OU2.

M. The decision by EPA on the remedial action selected for implementation at OU2 is embodied in a Record of Decision ("OU2 ROD"), executed on September 26, 2011. The OU2 ROD includes a responsiveness summary to the public comments. Notice of the final plan was published in accordance with Section 117(b) of CERCLA, 42 U.S.C. § 9617(b).

N. Based on the information available to EPA as of the date of lodging this Consent Decree EPA believes that the Work for OU2 will be properly and promptly conducted by Settling Defendants if conducted in accordance with the requirements of this Consent Decree and its appendices.

O. Solely for the purposes of Section 113(j) of CERCLA, 42 U.S.C. § 9613(j), the remedy set forth in the OU2 ROD and the Work to be performed by Settling Defendants shall constitute a response action taken or ordered by the President for which judicial review shall be limited to the administrative record.

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

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

## II. JURISDICTION

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

## III. PARTIES BOUND

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

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

## IV. DEFINITIONS

4. Unless otherwise expressly provided in this Consent Decree, terms used in this Consent Decree that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Consent Decree or its appendices, the following definitions shall apply solely for purposes of this Consent Decree:

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

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

"Day" or "day" shall mean a calendar day unless expressly stated to be a working day. The term "working day" shall mean a day other than a Saturday, Sunday, or federal or state holiday. In computing any period of time under this Consent Decree, where the last day would

fall on a Saturday, Sunday, or federal or state holiday, the period shall run until the close of business of the next working day.

“DOJ” shall mean the United States Department of Justice and its successor departments, agencies, or instrumentalities.

“Effective Date” shall mean the date upon which this Consent Decree is entered by the Court as recorded on the Court docket, or, if the Court instead issues an order approving the Consent Decree, the date such order is recorded on the Court docket.

“EPA” shall mean the United States Environmental Protection Agency and its successor departments, agencies, or instrumentalities.

“EPA Hazardous Substance Superfund” shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

“Financial Information” shall mean those documents identified in Appendix E.

“Future Response Costs” shall mean all costs, including, but not limited to, direct and indirect costs, that the United States incurs in reviewing or developing plans, reports and other deliverables submitted pursuant to this Consent Decree, in overseeing implementation of the Work, or otherwise implementing, overseeing, or enforcing this Consent Decree, including, but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, the costs incurred pursuant to Paragraph 9 (Notice to Successors-in-Title and Transfers of Real Property), Sections VII (Remedy Review), IX (Access and Institutional Controls) (including, but not limited to, the cost of attorney time and any monies paid to secure access and/or to secure, implement, monitor, maintain, or enforce Institutional Controls including, but not limited to, the amount of just compensation), XV (Emergency Response), Paragraph 48 (Funding for Work Takeover), and Section XXIX (Community Involvement). Future Response Costs shall also include all Interim Response Costs, and all interest on those Interim Response Costs.

“Institutional Controls” or “ICs” shall mean Proprietary Controls and state or local laws, regulations, ordinances, zoning restrictions, or other governmental controls or notices that: (a) limit land, water, and/or resource use to minimize the potential for human exposure to Waste Material at or in connection with the Site; (b) limit land, water, and/or resource use to implement, ensure non-interference with, or ensure the protectiveness of the Remedial Action; and/or (c) provide information intended to modify or guide human behavior at or in connection with the Site.

“Interim Response Costs” shall mean all costs, including, but not limited to, direct and indirect costs, (a) paid by the United States in connection with OU2 between January 31, 2012 and the Effective Date, or (b) incurred prior to the Effective Date but paid after that date.

“Interest” shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year. “National Contingency Plan” or “NCP” shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

“Operation and Maintenance” or “O&M” shall mean all activities required to maintain the effectiveness of the Remedial Action as required under the Operation and Maintenance Plan approved or developed by EPA pursuant to Section VI (Performance of the Work by Settling Defendants) and the SOW.

“OU 2 Record of Decision” or “OU2 ROD” shall mean the EPA Record of Decision relating to the Operable Unit 2 at the Puchack Well Field Site signed on September 26, 2011, by the Director of the Emergency and Remedial Response Division, EPA Region 2, or his delegate, and all attachments thereto. The OU2 ROD is attached as Appendix A.

“Owner Settling Defendant” shall mean SL Industries, Inc.

“Paragraph” shall mean a portion of this Consent Decree identified by an Arabic numeral or an upper or lower case letter.

“Parties” shall mean the United States and Settling Defendants.

“Past Response Costs” shall mean all costs, including, but not limited to, direct and indirect costs, that the United States paid at or in connection with the Site through January 31, 2012, plus Interest on all such costs that has accrued pursuant to 42 U.S.C. § 9607(a) through such date.

“Performance Standards” shall mean the cleanup standards and other measures of achievement of the goals of the Remedial Action, set forth in OU2 ROD and the SOW and any modified standards established pursuant to this Consent Decree.

“Plaintiff” shall mean the United States.

“Proprietary Controls” shall mean easements or covenants running with the land that (a) limit land, water, or resource use and/or provide access rights and (b) are created pursuant to common law or statutory law by an instrument that is recorded by the owner in the appropriate land records office.

“Puchack Well Field Special Account” shall mean the special account, within the EPA Hazardous Substance Superfund, established for the Site by EPA pursuant to Section 122(b)(3) of CERCLA, 42 U.S.C. § 9622(b)(3).

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

“Remedial Action” shall mean all activities Settling Defendants are required to perform under the Consent Decree to implement the OU2 ROD, in accordance with the SOW, the final approved remedial design submission, the approved Remedial Action Work Plan, and other plans approved by EPA, including implementation of Institutional Controls, until the Performance Standards are met, and excluding performance of the Remedial Design, O&M, and the activities required under Section XXV (Retention of Records).

“Remedial Action Work Plan” shall mean the document developed pursuant to Paragraph 12 (Remedial Action) and approved by EPA, and any modifications thereto.

“Remedial Design” shall mean those activities to be undertaken by Settling Defendants to develop the final plans and specifications for the Remedial Action pursuant to the Remedial Design Work Plan.

“Remedial Design Work Plan” shall mean the document developed pursuant to Paragraph 11 (Remedial Design) and approved by EPA, and any modifications thereto.

“Section” shall mean a portion of this Consent Decree identified by a Roman numeral.

“Settling Defendants” shall mean SL Industries, Inc. and SL Surface Technologies, Inc.

“Site” shall mean the Puchack Well Field Superfund Site, including the SGL Area, located in Pennsauken, Camden County, and further defined by the location of groundwater that contains concentrations of chromium greater than the New Jersey Department of Environmental Protection’s (NJDEP’s) Groundwater Quality Standard for total chromium of 70 parts per billion (“ppb”) and by areas that have levels of hexavalent chromium in soils greater than 20 milligrams per kilogram (mg/kg) or at levels that are a continued threat to further groundwater contamination. The Site is depicted generally on the map attached as Appendix C.”

“SGL Area” shall mean areas that contain soils that have levels of hexavalent chromium which require remediation pursuant to the OU2 ROD and that were potentially impacted by the chrome plating facility that operated on the SGL property including, but not limited to, the former SGL Modern Hard Chrome building and property, the former A Barry Steel property, and the National Paving Company property.

“State” shall mean the State New Jersey.

“Statement of Work” or “SOW” shall mean the statement of work for implementation of the OU2 Remedial Design and Remedial Action, as set forth in Appendix B to this Consent Decree and any modifications made in accordance with this Consent Decree.

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

“Transfer” shall mean to sell, assign, convey, lease, mortgage, or grant a security interest in, or where used as a noun, a sale, assignment, conveyance, or other disposition of any interest by operation of law or otherwise.

“United States” shall mean the United States of America and each department, agency, and instrumentality of the United States, including EPA.

“Waste Material” shall mean (1) any “hazardous substance” under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (2) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); and (3) any “solid waste” under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27).

“Work” shall mean all activities and obligations including, but not limited to, the Remedial Design, Remedial Action, and Operation and Maintenance for OU2, that Settling Defendants are required to perform under this Consent Decree, except the activities required under Section XXV (Retention of Records).

## V. GENERAL PROVISIONS

5. Objectives of the Parties. The objectives of the Parties in entering into this Consent Decree are to protect public health or welfare or the environment by the design and implementation of response actions required by the OU2 ROD by Settling Defendants, to pay



response costs of the Plaintiff, and to resolve the claims of the Plaintiff against Settling Defendants as provided in this Consent Decree.

6. Commitments by Settling Defendants.

a. Settling Defendants shall finance and perform the Work in accordance with this Consent Decree, the OU2 ROD, the SOW, and all work plans and other plans, standards, specifications, and schedules set forth in this Consent Decree or developed by Settling Defendants and approved by EPA pursuant to this Consent Decree. Settling Defendants shall pay the United States for Past Response Costs and Future Response Costs to the United States as provided in this Consent Decree.

b. The obligations of Settling Defendants to finance and perform the Work, including obligations to pay amounts due under this Consent Decree, are joint and several. In the event of the insolvency of any Settling Defendant or the failure by any Settling Defendant to implement any requirement of this Consent Decree, the remaining Settling Defendant shall complete all such requirements.

7. Compliance With Applicable Law. All activities undertaken by Settling Defendants pursuant to this Consent Decree shall be performed in accordance with the requirements of all applicable federal and state laws and regulations. Settling Defendants must also comply with all applicable or relevant and appropriate requirements of all federal and state environmental laws as set forth in the OU2 ROD and the SOW. The activities conducted pursuant to this Consent Decree, if approved by EPA, shall be deemed to be consistent with the NCP.

8. Permits.

a. As provided in Section 121(e) of CERCLA, 42 U.S.C. § 9621(e), and Section 300.400(e) of the NCP, no permit shall be required for any portion of the Work conducted entirely on-site (i.e., within the areal extent of contamination or in very close proximity to the contamination and necessary for implementation of the Work). Where any portion of the Work that is not on-site requires a federal or state permit or approval, Settling Defendants shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals.

b. Settling Defendants may seek relief under the provisions of Section XVIII (Force Majeure) for any delay in the performance of the Work resulting from a failure to obtain, or a delay in obtaining, any permit or approval referenced in Paragraph 8.a and required for the Work, provided that they have submitted timely and complete applications and taken all other actions necessary to obtain all such permits or approvals.

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

9. Notice to Successors-in-Title and Transfers of Real Property.

a. Owner Settling Defendant shall, at least 60 days prior to any Transfer of any real property owned by it and located within the Site, give written notice: (1) to the transferee regarding the Consent Decree and any Institutional Controls regarding the real property; and (2) to EPA regarding the proposed Transfer, including the name and address of the

transferee and the date on which the transferee was notified of the Consent Decree and any Institutional Controls.

b. Owner Settling Defendant may Transfer any real property owned by it located within the Site only if: (1) Owner Settling Defendant provides EPA notice 60 days in advance of any transfer; (2) any Proprietary Controls required by Paragraph 27.c have been recorded with respect to the real property; and (3) Owner Settling Defendant has obtained an agreement from the transferee, enforceable by Owner Settling Defendant and the United States, to (i) allow access and restrict use, if applicable, pursuant to Paragraphs 28.a(1) and 28.a(2), (ii) record any Proprietary Controls as requested by EPA on the real property, pursuant to Paragraph 28.a(3), and (iii) subordinate its rights to any such Proprietary Controls, pursuant to Paragraph 28.a(3), and EPA has approved the agreement in writing. If, after a Transfer of the real property, the transferee fails to comply with the agreement provided for in this Paragraph 9.b, Owner Settling Defendant shall take all reasonable steps to obtain the transferee's compliance with such agreement. The United States may seek the transferee's compliance with the agreement and/or assist Owner Settling Defendant in obtaining compliance with the agreement. Settling Defendants shall reimburse the United States under Section XVI (Payments for Response Costs), for all costs incurred, direct or indirect, by the United States regarding obtaining compliance with such agreement, including, but not limited to, the cost of attorney time.

c. In the event of any Transfer of real property owned by Owner Settling Defendant and located within the Site, unless the United States otherwise consents in writing, Settling Defendants shall continue to comply with their obligations under the Consent Decree, including, but not limited to, their obligation to provide and/or secure access, to implement, maintain, monitor, and report on any applicable Institutional Controls, and to abide by such Institutional Controls.

## VI. PERFORMANCE OF THE WORK BY SETTLING DEFENDANTS

### 10. Selection of Supervising Contractor.

a. All aspects of the Work to be performed by Settling Defendants pursuant to Sections VI (Performance of the Work by Settling Defendants), VII (Remedy Review), VIII (Quality Assurance, Sampling and Data Analysis), and XV (Emergency Response) of this Consent Decree shall be under the direction and supervision of the Supervising Contractor, the selection of which shall be subject to disapproval by EPA. Within ten days after the Effective Date of this Consent Decree, Settling Defendants shall notify EPA in writing of the name, title, and qualifications of any contractor proposed to be the Supervising Contractor. With respect to any proposed contractor, Settling Defendants shall demonstrate that the proposed contractor has a Quality System that complies with the Uniform Federal Policy for Implementing Quality Systems (UFP-QS), (EPA/505/F-03/001, March 2005), by submitting a copy of the proposed contractor's Quality Management Plan ("QMP"). EPA will issue a notice of disapproval or an authorization to proceed regarding hiring of the proposed contractor. If at any time thereafter, Settling Defendants propose to change a Supervising Contractor, Settling Defendants shall give such notice to EPA and must obtain an authorization to proceed from EPA before the new Supervising Contractor performs, directs, or supervises any Work under this Consent Decree.

b. If EPA disapproves a proposed Supervising Contractor, EPA will notify Settling Defendants in writing. Settling Defendants shall submit to EPA a list of contractors, including the qualifications of each contractor that would be acceptable to them within 30 days after receipt of EPA's disapproval of the contractor previously proposed. EPA will provide written notice of the names of any contractor(s) that it disapproves and an authorization to proceed with respect to any of the other contractors. Settling Defendants may select any contractor from that list that is not disapproved and shall notify EPA of the name of the contractor selected within 21 days after EPA's authorization to proceed.

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

11. Remedial Design.

a. Within 55 days after Settling Defendants notify EPA of the name of the Supervising Contractor pursuant to Paragraph 10, Settling Defendants shall submit to EPA a work plan for the design of the Remedial Action ("Remedial Design Work Plan" or "RD Work Plan"). The Remedial Design Work Plan shall provide for design of the remedy set forth in the OU2 ROD, in accordance with the SOW and for achievement of the Performance Standards and other requirements set forth in the OU2 ROD, this Consent Decree and/or the SOW. Upon its approval by EPA, the Remedial Design Work Plan shall be incorporated into and become enforceable under this Consent Decree. Within 60 days after Settling Defendants notify EPA of the name of the Supervising Contractor pursuant to Paragraph 10, Settling Defendants shall submit to EPA a Health and Safety Plan for field design activities which conforms to the applicable Occupational Safety and Health Administration and EPA requirements including, but not limited to, 29 C.F.R. § 1910.120.

b. The Remedial Design Work Plan shall include plans and schedules for implementation of all remedial design and pre-design tasks identified in the SOW, section VI (Remedial Design Work Plan), including, but not limited to, plans and schedules for the completion of: (1) design sampling and analysis plan (including, but not limited to, a Remedial Design Quality Assurance Project Plan (RD QAPP) in accordance with Section VIII (Quality Assurance, Sampling and Data Analysis) of this Consent Decree); and (2) a Construction Quality Assurance Plan ("CQAP"); and may also include: (i) a treatability or pilot study; (ii) a Pre-design Work Plan; (iii) a preliminary design submittal; (iv) an intermediate design submittal; and (v) a pre-final/final design submittal. In addition, the Remedial Design Work Plan shall include a schedule for completion of the Remedial Action Work Plan.

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

d. The preliminary design submittal shall include, at a minimum, the following: (1) design criteria; (2) results of treatability or pilot studies; (3) results of additional field sampling and pre-design work; (4) project delivery strategy; (5) preliminary plans, drawings and sketches; (6) required specifications in outline form; and (7) preliminary construction schedule.

e. The intermediate design submittal, if required by EPA or if independently submitted by the Settling Defendants, shall be a continuation and expansion of the preliminary design.

f. The pre-final/final design submittal shall include, at a minimum, the following: (1) final plans and specifications; (2) Operation and Maintenance Plan; (3) CQAP; (4) Field Sampling Plan (directed at measuring progress towards meeting Performance Standards); and (5) Contingency Plan. The CQAP, which shall detail the approach to quality assurance during construction activities, shall specify a quality assurance official ("QA Official"), independent of the Supervising Contractor, to conduct a quality assurance program during the construction phase of the project.

## 12. Remedial Action.

a. Within 90 days after the approval of the final design submission, Settling Defendants shall submit to EPA a work plan for the performance of the Remedial Action ("Remedial Action Work Plan"). The Remedial Action Work Plan shall provide for construction and implementation of the remedy set forth in the OU2 ROD and achievement of the Performance Standards, in accordance with this Consent Decree, the OU2 ROD, the SOW, and the design plans and specifications developed in accordance with the Remedial Design Work Plan and approved by EPA. Upon its approval by EPA, the Remedial Action Work Plan shall be incorporated into and become enforceable under this Consent Decree. At the same time as it submits the Remedial Action Work Plan, Settling Defendants shall submit to EPA a Health and Safety Plan for field activities required by the Remedial Action Work Plan which conforms to the applicable Occupational Safety and Health Administration and EPA requirements including, but not limited to, 29 C.F.R. § 1910.120.

b. The Remedial Action Work Plan shall include those activities set forth in section X of the SOW, including, but not limited to, the following: (1) identification of the Remedial Action Project Team; (2) a final schedule for the completion of the Remedial Action and all major tasks therein; (3) methodology for implementation of the QAPP; (4) methodology for implementation of the Remedial Action; (5) procedures and plans for the decontamination of equipment and the disposal of contaminated materials; (6) discussion of the methods by which construction operations shall proceed; and (7) discussion of construction quality control.

c. Upon approval of the Remedial Action Work Plan by EPA Settling Defendants shall implement the activities required under the Remedial Action Work Plan. Settling Defendants shall submit to EPA all plans, submittals, or other deliverables required under the approved Remedial Action Work Plan in accordance with the approved schedule for review and approval pursuant to Section XI (EPA Approval of Plans and Other Deliverables). Unless otherwise directed by EPA, Settling Defendants shall not commence physical Remedial Action activities prior to approval of the Remedial Action Work Plan.

13. Settling Defendants shall continue to implement the Remedial Action until the Performance Standards are achieved and for so long thereafter as is otherwise required under this Consent Decree.

14. Modification of the SOW or Related Work Plans.

a. If EPA determines that it is necessary to modify the work specified in the SOW and/or in work plans developed pursuant to the SOW to achieve and maintain the Performance Standards or to carry out and maintain the effectiveness of the remedy set forth in the OU2 ROD, and such modification is consistent with the scope of the remedy set forth in the OU2 ROD, then EPA may issue such modification in writing and shall notify Settling Defendants of such modification. For the purposes of this Paragraph and Paragraphs 50 (Completion of the Remedial Action) and 51 (Completion of the Work) only, the "scope of the remedy selected in the OU2 ROD" is: (1) Geochemical fixation through either in-situ and/or ex-situ mixing of a reducing agent to treat soils containing concentrations of hexavalent chromium over 20 parts per million (ppm), and to treat additional soils containing concentrations of hexavalent chromium over 2 ppm if such soils are deemed unprotective of the groundwater standard; (2) post-remediation sampling and Site restoration; and (3) implementation of a groundwater sampling and analysis program to assess the effectiveness of the action. If Settling Defendants object to any modification determined by EPA to be necessary pursuant to this Paragraph, they may within 30 days after EPA's notification, seek dispute resolution under Paragraph 69 (Record Review).

b. The SOW and/or related work plans shall be modified: (1) in accordance with the modification issued by EPA; or (2) if Settling Defendants invoke dispute resolution, in accordance with the final resolution of the dispute. The modification shall be incorporated into and enforceable under this Consent Decree. Settling Defendants shall incorporate the modification into the Remedial Design or Remedial Action Work Plan under Paragraph 11 (Remedial Design) or Paragraph 12 (Remedial Action), as appropriate.

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

15. Nothing in this Consent Decree, the SOW, or the Remedial Design or Remedial Action Work Plans constitutes a warranty or representation of any kind by Plaintiff that compliance with the work requirements set forth in the SOW and the Work Plans will achieve the Performance Standards.

16. Off-Site Shipment of Waste Material

a. Settling Defendants may ship Waste Material from the Site to an off-Site facility only if they verify, prior to any shipment, that the off-Site facility is operating in compliance with the requirements of Section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440, by obtaining a determination from EPA that the proposed receiving facility is operating in compliance with 42 U.S.C. § 9621(d)(3) and 40 C.F.R. § 300.440.

b. Settling Defendants may ship Waste Material from the Site to an out-of-state waste management facility only if, prior to any shipment, they provide written notice to the appropriate state environmental official in the receiving facility's state and to the EPA Project Coordinator. This notice requirement shall not apply to any off-Site shipments when the total

quantity of all such shipments will not exceed ten cubic yards. The written notice shall include the following information, if available: (1) the name and location of the receiving facility; (2) the type and quantity of Waste Material to be shipped; (3) the schedule for the shipment; and (4) the method of transportation. Settling Defendants also shall notify the state environmental official referenced above and the EPA Project Coordinator of any major changes in the shipment plan, such as a decision to ship the Waste Material to a different out-of-state facility. Settling Defendants shall provide the written notice after the award of the contract for Remedial Action construction and before the Waste Material is shipped.

#### VII. REMEDY REVIEW

17. Periodic Review. Settling Defendants shall conduct any studies and investigations as requested by EPA, in order to permit EPA to conduct reviews of whether the Remedial Action is protective of human health and the environment at least every five years as required by Section 121(c) of CERCLA and any applicable regulations.

18. EPA's Selection of Further Response Actions. If EPA determines, at any time, that the Remedial Action is not protective of human health and the environment, EPA may select further response actions in accordance with the requirements of CERCLA and the NCP.

19. Opportunity To Comment. Settling Defendants and, if required by Sections 113(k)(2) or 117 of CERCLA, the public, will be provided with an opportunity to comment on any further response actions proposed by EPA as a result of the review conducted pursuant to Section 121(c) of CERCLA and to submit written comments for the record during the comment period.

20. Settling Defendants' Obligation To Perform Further Response Actions. If EPA selects further response actions, EPA may require Settling Defendants to perform such further response actions, but only to the extent that the reopener conditions in Paragraph 85 or Paragraph 86 (United States' Pre- and Post-Certification Reservations) are satisfied. Settling Defendants may invoke the procedures set forth in Section XIX (Dispute Resolution) to dispute (a) EPA's determination that the reopener conditions of Paragraph 85 or Paragraph 86 of Section XXI (Covenants Not To Sue by Plaintiff) are satisfied, (b) EPA's determination that the Remedial Action is not protective of human health and the environment, or (c) EPA's selection of the further response actions. Disputes pertaining to whether the Remedial Action is protective or to EPA's selection of further response actions shall be resolved pursuant to Paragraph 69 (Record Review).

21. Submissions of Plans. If Settling Defendants are required to perform the further response actions pursuant to Paragraph 20, they shall submit a plan for such work to EPA for approval in accordance with the procedures set forth in Section VI (Performance of the Work by Settling Defendants) and shall implement the plan approved by EPA in accordance with the provisions of this Decree.

#### VIII. QUALITY ASSURANCE, SAMPLING, AND DATA ANALYSIS

22. In accordance with this Consent Decree and the SOW, Settling Defendants shall use quality assurance, quality control, and chain of custody procedures for all design, compliance and monitoring samples in accordance with the Uniform Federal Policy for Quality Assurance Project Plans (UFP-QAPP), Parts 1, 2 and 3, EPA-505-B-04-900A, B and C, March 2005 or

newer, and other guidance documents referenced in the aforementioned guidance documents. The UFP documents may be found at: [http://www.epa.gov/swerffrr/pdf/ufp\\_qapp\\_v1\\_0305.pdf](http://www.epa.gov/swerffrr/pdf/ufp_qapp_v1_0305.pdf). In addition, the guidance and procedures located in the EPA Region 2 DESA/HWSB web site: <http://www.epa.gov/region02/qa/documents.htm>, as well as other OSWER directives and EPA Region 2 policies should be followed, as appropriate. Amended guidelines shall apply only to procedures conducted after such notification.

23. Prior to the commencement of any monitoring project under this Consent Decree, Settling Defendants shall submit to EPA for approval, a Quality Assurance Project Plan (QAPP) that is consistent with the SOW, the NCP and applicable guidance documents. If relevant to the proceeding, the Parties agree that validated sampling data generated in accordance with the QAPP(s) and reviewed and approved by EPA shall be admissible as evidence, without objection, in any proceeding under this Consent Decree. Settling Defendants shall ensure that EPA personnel and its authorized representatives are allowed access at reasonable times to all laboratories utilized by Settling Defendants in implementing this Consent Decree. In addition, Settling Defendants shall ensure that such laboratories shall analyze all samples submitted by EPA pursuant to the QAPP for quality assurance monitoring. Settling Defendants shall ensure that the laboratories they utilize for the analysis of samples taken pursuant to this Decree perform all analyses according to accepted EPA methods. Accepted EPA methods consist of those methods which are documented in the "USEPA Contract Laboratory Program Statement of Work for Inorganic Analysis, ILM05.4," and the "USEPA Contract Laboratory Program Statement of Work for Organic Analysis, SOM01.2," and any amendments made thereto during the course of the implementation of this Decree; however, upon approval by EPA, the Settling Defendants may use other analytical methods which are as stringent as or more stringent than the CLP-approved methods. Settling Defendants shall ensure that all laboratories they use for analysis of samples taken pursuant to this Consent Decree participate in an EPA or EPA-equivalent quality assurance/quality control ("QA/QC") program. Settling Defendants shall only use laboratories that have a documented Quality System which complies with ANSI/ASQC E4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs" (American National Standard, January 5, 1995), and "EPA Requirements for Quality Management Plans (QA/R-2)," (EPA/240/B-01/002, March 2001, reissued May 2006) or equivalent documentation as determined by EPA. EPA may consider laboratories accredited under the National Environmental Laboratory Accreditation Program ("NELAP") as meeting the Quality System requirements. Settling Defendants shall ensure that all field methodologies utilized in collecting samples for subsequent analysis pursuant to this Consent Decree will be conducted in accordance with the procedures set forth in the QAPP approved by EPA.

24. Upon request, Settling Defendants shall allow split or duplicate samples to be taken by EPA or its authorized representatives. Settling Defendants shall notify EPA not less than 28 days in advance of any sample collection activity unless shorter notice is agreed to by EPA. In addition, EPA shall have the right to take any additional samples that EPA deems necessary. Upon request, EPA shall allow Settling Defendants to take split or duplicate samples of any samples it takes as part of the Plaintiff's oversight of the Settling Defendants' implementation of the Work.

25. Settling Defendants shall submit to EPA an electronic copy of the results of all sampling and/or tests or other data obtained or generated by or on behalf of Settling Defendants with respect to the Site and/or the implementation of this Consent Decree unless EPA agrees otherwise.

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

#### IX. ACCESS AND INSTITUTIONAL CONTROLS

27. If any property located within the Site, or any other property where access and/or land/water use restrictions are needed to implement this Consent Decree, is owned or controlled by any of the Settling Defendants:

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

- 1) Monitoring the Work;
- 2) Verifying any data or information submitted to the United States;
- 3) Conducting investigations relating to contamination at or near the Site;
- 4) Obtaining samples;
- 5) Assessing the need for, planning, or implementing additional response actions at or near the Site;
- 6) Assessing implementation of quality assurance and quality control practices as defined in the approved Quality Assurance Project Plans;
- 7) Implementing the Work pursuant to the conditions set forth in Paragraph 90 of this Consent Decree;
- 8) Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Settling Defendants or its agents, consistent with Section XXIV (Access to Information);
- 9) Assessing Settling Defendants' compliance with this Consent Decree;
- 10) Determining whether the Site or other property is being used in a manner that is prohibited or restricted, or that may need to be prohibited or restricted, by or pursuant to this Consent Decree; and



b. commencing on the date of lodging of this Consent Decree and continuing until EPA notifies the Settling Defendants pursuant to Paragraph 51.b of Section XIV (Certification of Completion), such Settling Defendant shall not use the SGL Area, or such other property, without first notifying EPA of an intended use of the SGL Area or property, and receiving in response a written determination by EPA that the proposed use will not pose an unacceptable risk to human health or the environment due to exposure to Waste Material or interfere with or adversely affect the implementation, integrity, or protectiveness of the remedial measures to be performed, being performed, or performed pursuant to this Consent Decree; and

c. such Settling Defendant shall:

1) execute and record in the Registry of Deeds or other appropriate land records office of Camden County, State of New Jersey, Proprietary Controls that (i) grant a right of access to conduct any activity regarding the Consent Decree including, but not limited to, those activities listed in Paragraph 27.a, (ii) restrict use of the applicable property consistent with any use restriction EPA determines is necessary to implement, ensure non-interference with, or ensure the protectiveness of the remedial measures to be performed pursuant to this Consent Decree, and (iii) grant the right to enforce such use restrictions. Owner Settling Defendant shall grant the access rights and the rights to enforce any such use restrictions to the United States, on behalf of EPA, and its representatives.

2) if applicable, within 45 days after EPA makes a determination that a use of the property shall be restricted and notifies such Settling Defendant thereof, submit to EPA for review and approval with respect to such property: (i) draft Proprietary Controls, in a form acceptable to EPA, that is enforceable under the laws of the State of New Jersey, and (ii) a current title insurance commitment or other evidence of title acceptable to EPA, that shows title to the land described in the Proprietary Controls to be free and clear of all prior liens and encumbrances (except when EPA waives the release or subordination of such prior liens or encumbrances or when, despite best efforts, the Settling Defendant is unable to obtain release or subordination of such prior liens or encumbrances).

3) Within 15 days of EPA's approval and acceptance of the Proprietary Controls and the title evidence, the Settling Defendant shall update the title search and, if it is determined that nothing has occurred since the effective date of the commitment to affect the title adversely, record the Proprietary Controls with the Registry of Deeds of Camden County. Within 30 days of recording the Proprietary Controls, such Settling Defendant shall provide EPA with a final title insurance policy, or other final evidence of title acceptable to EPA, and a certified copy of the original recorded Proprietary Controls showing the clerk's recording stamps. If the Proprietary Controls are to be conveyed to the United States, the Proprietary Controls and title evidence (including final title evidence) shall be prepared in accordance with the U.S. Department of Justice Title Standards 2001, and approval of the sufficiency of title must be obtained as required by 40 U.S.C. § 3111.

28. If the Site, or any other real property where access and/or land/water use restrictions are needed to implement this Consent Decree, is owned or controlled by persons other than any of the Settling Defendants,

a. Settling Defendants shall use best efforts to secure from such persons:

1) an agreement to provide access thereto for the United States and Settling Defendants, and their representatives, contractors, and subcontractors, to conduct any activity regarding the Consent Decree including, but not limited to, the activities listed in Paragraph 27.a;

2) an agreement, enforceable by Settling Defendants and the United States, to refrain from using the Site, or such other real property, in any manner that EPA determines will pose an unacceptable risk to human health or to the environment due to exposure to Waste Material or interfere with or adversely affect the implementation, integrity, or protectiveness of the Remedial Action. The agreement shall include, but not be limited to, any use restrictions specified pursuant to Paragraph 27.b; and

3) the execution and recordation in the Registry of Deeds of Camden County, State of New Jersey, of Proprietary Controls, that (i) grants a right of access for the purpose of conducting any activity related to this Consent Decree including, but not limited to, those activities referred in Paragraph 27.a, and (ii) grants the right to enforce any use restrictions identified or specified pursuant to Paragraph 27.b of this Consent Decree. The access rights and/or rights to enforce land/water use restrictions shall be granted to (i) the United States, on behalf of EPA, and its representatives, (ii) the State and its representatives, (iii) the Settling Defendants and its representatives, and/or (iv) other appropriate grantees. The Proprietary Controls, other than those granted to the United States, shall include a designation that EPA (and/or the State as appropriate) is a third party beneficiary, allowing EPA to maintain the right to enforce the Proprietary Controls without acquiring an interest in real property. If any Proprietary Controls are granted to any Settling Defendants pursuant to this Paragraph 28.a(3), then such Settling Defendants shall monitor, maintain, report on, and enforce such Proprietary Controls.

b. Within 45 days of entry of this Consent Decree, Settling Defendants shall submit to EPA for review and approval with respect to such property: (i) draft Proprietary Controls, in a form acceptable to EPA, that is enforceable under the laws of the State of New Jersey; and (ii) a current title insurance commitment, or some other evidence of title acceptable to EPA, which shows title to the land described in the Proprietary Controls to be free and clear of all prior liens and encumbrances (except when EPA waives the release of subordination of such prior liens or encumbrances or when, despite best efforts, Settling Defendants is unable to obtain release or subordination of such prior liens or encumbrances).

c. Within 15 days of EPA's approval and acceptance of the Proprietary Controls and the title evidence, Settling Defendants shall update the title search and, if it is determined that nothing has occurred since the effective date of the commitment to affect the title adversely, the Proprietary Controls shall be recorded with the Registry of Deeds of Camden

County. Within 30 days of the recording of the Proprietary Controls, Settling Defendants shall provide EPA with a final title insurance policy, or other final evidence of title acceptable to EPA, and a certified copy of the original recorded Proprietary Controls showing the clerk's recording stamps. If Proprietary Controls are to be conveyed to the United States, the Proprietary Controls and title evidence (including final title evidence) shall be prepared in accordance with the U.S. Department of Justice Title Standards 2001, and approval of the sufficiency of title must be obtained as required by 40 U.S.C. § 3111.

29. For purposes of Paragraphs 27.c(2) and 28 of this Consent Decree, "best efforts" includes the payment of reasonable sums of money to obtain access, any applicable agreement to restrict land/water use, Proprietary Controls, and/or an agreement to release or subordinate a prior lien or encumbrance. If, within 45 days after the Effective Date Settling Defendants have not: (a) obtained agreements to provide access, restrict land or water use as applicable, or record Proprietary Controls, as required by Paragraph 28.a(1), 28.a(2), or 28.a(3); or (b) obtained, pursuant to Paragraphs 27.c(2) or 28.b, agreements from the holders of prior liens or encumbrances to release or subordinate such liens or encumbrances to the Proprietary Controls, Settling Defendants shall promptly notify the United States in writing, and shall include in that notification a summary of the steps that Settling Defendants have taken to attempt to comply with Paragraph 27 or 28. The United States may, as it deems appropriate, assist Settling Defendants in obtaining access, agreements to restrict land/water use, Proprietary Controls, or the release or subordination of a prior lien or encumbrance. Settling Defendants shall reimburse the United States under Section XVI (Payments for Response Costs) for all costs incurred, direct or indirect, by the United States in obtaining such access, agreements to restrict land/water use, Proprietary Controls, and/or the release/subordination of prior liens or encumbrances including, but not limited to, the cost of attorney time and the amount of monetary consideration paid or just compensation.

30. If EPA determines that Institutional Controls in the form of state or local laws, regulations, ordinances, zoning restrictions, or other governmental controls are needed at or in connection with the Site, Settling Defendants shall cooperate with EPA's efforts to secure and ensure compliance with such governmental controls.

31. Notwithstanding any provision of this Consent Decree, the United States retains all of its access authorities and rights, as well as all of its rights to require Institutional Controls, including enforcement authorities related thereto, under CERCLA, RCRA and any other applicable statute or regulations.

#### X. REPORTING REQUIREMENTS

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

not limited to, critical path diagrams, Gantt charts and Pert charts; (e) include information regarding percentage of completion, unresolved delays encountered or anticipated that may affect the future schedule for implementation of the Work, and a description of efforts made to mitigate those delays or anticipated delays; (f) include any modifications to the work plans or other schedules that Settling Defendants have proposed to EPA or that have been approved by EPA; and (g) describe all activities undertaken in support of the Community Relations Plan during the previous month and those to be undertaken in the next six weeks. Settling Defendants shall submit these progress reports to EPA by the tenth day of every month following the lodging of this Consent Decree until EPA notifies the Settling Defendants pursuant to Paragraph 51.b of Section XIV (Certification of Completion). If requested by EPA, Settling Defendants shall also provide briefings for EPA to discuss the progress of the Work.

33. The Settling Defendants shall notify EPA of any change in the schedule described in the monthly progress report for the performance of any activity, including, but not limited to, data collection and implementation of work plans, no later than seven days prior to the performance of the activity.

34. Upon the occurrence of any event during performance of the Work that Settling Defendants are required to report pursuant to Section 103 of CERCLA or Section 304 of the Emergency Planning and Community Right-to-know Act (EPCRA), Settling Defendants shall within 24 hours of the onset of such event orally notify the EPA Project Coordinator or the Alternate EPA Project Coordinator (in the event of the unavailability of the EPA Project Coordinator), or, in the event that neither the EPA Project Coordinator or Alternate EPA Project Coordinator is available, the Emergency Response Section, Region 2, United States Environmental Protection Agency. These reporting requirements are in addition to the reporting required by CERCLA Section 103 or EPCRA Section 304.

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

36. Settling Defendants shall submit an electronic copy of all plans, reports, and data required by the SOW, the Remedial Design Work Plan, the Remedial Action Work Plan, or any other approved plans to EPA in accordance with the schedules set forth in such plans.

37. All deliverables submitted by Settling Defendants to EPA which purport to document Settling Defendants' compliance with the terms of this Consent Decree shall be signed by an authorized representative of the Settling Defendants.

#### XI. EPA APPROVAL OF PLANS AND OTHER DELIVERABLES

##### 38. Initial Submissions

a. After review of any plan, report or other item which is required to be submitted for approval pursuant to this Consent Decree, EPA, shall: (1) approve, in whole or in part, the submission; (2) approve the submission upon specified conditions; (3) disapprove, in whole or in part, the submission; or (4) any combination of the above.

b. EPA also may modify the initial submission to cure deficiencies in the submission if: (1) EPA determines that disapproving the submission and awaiting a resubmission would cause substantial disruption to the Work; or (2) previous submission(s) have been disapproved due to material defects and the deficiencies in the initial submission under consideration indicate a bad faith lack of effort to submit an acceptable plan, report, or deliverable.

39. Resubmissions. Upon receipt of a notice of disapproval under Paragraph 38.a(3) or (4), or if required by a notice of approval upon specified conditions under Paragraph 38.a(2), Settling Defendants shall, within 45 days or such longer time as specified by EPA in such notice, correct the deficiencies and resubmit the plan, report, or other deliverable for approval. After review of the resubmitted plan, report, or other deliverable, EPA may: (a) approve, in whole or in part, the resubmission; (b) approve the resubmission upon specified conditions; (c) modify the resubmission; (d) disapprove, in whole or in part, the resubmission, requiring Settling Defendants to correct the deficiencies; or (e) any combination of the foregoing.

40. Material Defects. If an initially submitted or resubmitted plan, report, or other deliverable contains a material defect, and the plan, report, or other deliverable is disapproved or modified by EPA under Paragraph 38.b(2) or 39 due to such material defect, then the material defect shall constitute a lack of compliance for purposes of Paragraph 72. The provisions of Section XIX (Dispute Resolution) and Section XX (Stipulated Penalties) shall govern the accrual and payment of any stipulated penalties regarding Settling Defendants' submissions under this Section.

41. Implementation. Upon approval, approval upon conditions, or modification by EPA under Paragraph 38 (Initial Submissions) or Paragraph 39 (Resubmissions), of any plan, report, or other deliverable, or any portion thereof: (a) such plan, report, or other deliverable, or portion thereof, shall be incorporated into and enforceable under this Consent Decree; and (b) Settling Defendants shall take any action required by such plan, report, or other deliverable, or portion thereof, subject only to their right to invoke the Dispute Resolution procedures set forth in Section XIX (Dispute Resolution) with respect to the modifications or conditions made by EPA. The implementation of any non deficient portion of a plan, report, or other deliverable submitted or resubmitted under Paragraphs 38 or 39 shall not relieve Settling Defendants of any liability for stipulated penalties under Section XX (Stipulated Penalties).

## XII. PROJECT COORDINATORS

42. Within 20 days of the effective date of this Consent Decree, Settling Defendants will notify EPA, in writing, of the name, address and telephone number of their designated Project Coordinator. If a Project Coordinator or Alternate Project Coordinator initially designated is changed, the identity of the successor will be given to the other Parties at least five working days before the change occurs, unless impracticable, but in no event later than the actual day the change is made. Settling Defendants' Project Coordinator shall be subject to disapproval by EPA and shall have the technical expertise sufficient to adequately oversee all aspects of the Work. Settling Defendants' Project Coordinator shall not be an attorney for the Settling Defendants in this matter. He or she may assign other representatives, including other contractors, to serve as a Site representative for oversight of performance of daily operations during remedial activities.

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

44. EPA's Project Coordinator and the Settling Defendants Project Coordinator will meet as set forth in the schedule to be incorporated in the Remedial Design Work Plan, as approved by EPA.

### XIII. PERFORMANCE GUARANTEE

45. In order to ensure the full and final completion of the Work, Settling Defendants shall establish and maintain performance guarantees in the collective amount of \$32,000,000 (or for such lesser amount as may be allowed by and/or approved in writing by EPA pursuant to Paragraph 49), for the benefit of EPA. All performance guarantees required pursuant to this Section must be satisfactory in form and substance to EPA. To guarantee complete payment of all Past Response Costs which Settling Defendants are required to make to EPA pursuant to this Consent Decree (the "Past Costs Guarantee"), Settling Defendants shall establish and shall maintain an irrevocable letter of credit in the amount of \$10,704,583.00 (or for such lesser amount as may be allowed by and/or approved in writing by EPA pursuant to Paragraph 49.g). To guarantee complete performance of all the Work which the Settling Defendants are required to complete under this Consent Decree (the "Work Guarantee"), Settling Defendants shall establish and maintain one or more additional performance guarantees in the collective amount of \$21,295,417.00 (or for such lesser amount as may be allowed by and approved in writing by EPA pursuant to Paragraph 49.a). Every performance guarantee required by this Consent Decree shall be in the form of one or more of the following mechanisms:

- a. A surety bond unconditionally guaranteeing payment and/or performance of the Work that is issued by a surety company among those listed as acceptable sureties on federal bonds as set forth in Circular 570 of the U.S. Department of the Treasury;
- b. One or more irrevocable letters of credit, payable to or at the direction of EPA, that is issued by one or more financial institution(s) (1) that has the authority to issue letters of credit and (2) whose letter-of-credit operations are regulated and examined by a federal or state agency;
- c. A trust fund established for the benefit of EPA that is administered by a trustee (1) that has the authority to act as a trustee and (2) whose trust operations are regulated and examined by a federal or state agency; and
- d. A policy of insurance that (1) provides EPA with acceptable rights as a beneficiary thereof; and (2) is issued by an insurance carrier (i) that has the authority to issue insurance policies in the applicable jurisdiction(s) and (ii) whose insurance operations are regulated and examined by a federal or state agency.

46. Settling Defendants have selected, and EPA has found satisfactory, as an initial performance guarantee each of the following: a) an irrevocable letter of credit in the form attached hereto as Appendix F to guarantee payment of Past Response Costs; and b) a surety performance bond in the form attached hereto as Appendix G to guarantee performance of the Work.

a. Past Costs Guarantee. Within 30 days after the Effective Date, Settling Defendants shall execute or otherwise finalize all instruments or other documents required in order to make a letter of credit to guarantee payment of Past Response Costs legally binding in a form substantially identical to the documents attached hereto as Appendices F, and such a letter of credit shall thereupon be fully effective. Within 30 days after the Effective Date, Settling Defendants shall submit copies of all executed and/or otherwise finalized instruments or other documents required in order to make this letter of credit legally binding to the EPA Regional Financial Management Officer in accordance with Section XXVI (Notices and Submissions), with a copy to the United States and EPA as specified in Section XXVII.

b. Work Guarantee. Notwithstanding any other provision of this Consent Decree, Settling Defendants shall, within one-hundred (100) days after the Effective Date: 1) establish and provide a Work Guarantee to EPA in the amount of \$21,295,417.00 (or for such lesser amount as may be approved in writing by EPA pursuant to Paragraph 49.a.); 2) execute or otherwise finalize all instruments or other documents required in order to make a surety performance bond to guarantee performance of the Work which is legally binding on the Settling Defendants and in a form substantially identical to the documents attached hereto as Appendix G which surety performance bond shall thereupon be fully effective; and 3) submit copies of all executed and/or otherwise finalized instruments or other documents required in order to make this surety performance legally binding to the EPA Regional Financial Management Officer in accordance with Section XXVI (Notices and Submissions), with a copy to the United States and EPA as specified in Section XXVII. If, prior to 100 days after the Effective Date, EPA provides Settling Defendants with a written decision made pursuant to Paragraph 49.a in response to a petition by Settling Defendants to reduce the amount of the Work Guarantee, Settling Defendants shall, within 10 days after receipt of EPA's written decision, execute or otherwise finalize all instruments or other documents required in order to make a surety performance bond to guarantee performance of the Work in the amount specified in the EPA written decision. That surety performance bond shall be in a form substantially identical to the documents attached hereto as Appendix G, and such performance guarantee shall thereupon be fully effective.

47. In the event that EPA determines at any time that a performance guarantee provided by any Settling Defendant pursuant to this Section is inadequate or otherwise no longer satisfies the requirements set forth in this Section, whether due to an increase in the estimated cost of completing the Work or for any other reason, or in the event that any Settling Defendant becomes aware of information indicating that a performance guarantee provided pursuant to this Section is inadequate or otherwise no longer satisfies the requirements set forth in this Section, whether due to an increase in the estimated cost of completing the Work or for any other reason, Settling Defendants, within 30 days after receipt of notice of EPA's determination or, as the case may be, within 30 days after any Settling Defendant becoming aware of such information, shall obtain and present to EPA for approval a proposal for a revised or alternative form of performance guarantee listed in Paragraph 45 that satisfies all requirements set forth in this

Section XIII; provided, however, that if Settling Defendants cannot obtain such revised or alternative form of performance guarantee within such 30-day period, and provided further that the Settling Defendants shall have commenced to obtain such revised or alternative form of performance guarantee within such 30-day period, and thereafter diligently proceeds to obtain the same, EPA shall extend such period for such time as is reasonably necessary for the Settling Defendants in the exercise of due diligence to obtain such revised or alternative form of performance guarantee, such additional period not to exceed 30 days. In seeking approval for a revised or alternative form of performance guarantee, Settling Defendants shall follow the procedures set forth in Paragraph 49.b(2). Settling Defendants' inability to post a performance guarantee for completion of the Work shall in no way excuse performance of any other requirements of this Consent Decree, including, without limitation, the obligation of Settling Defendants to complete the Work in strict accordance with the terms of this Consent Decree.

48. Funding for Work Takeover. The commencement of any Work Takeover pursuant to Paragraph 90 shall trigger EPA's right to receive the benefit of any performance guarantee(s) provided pursuant to Paragraph 46 and at such time EPA shall have immediate access to resources guaranteed under any such performance guarantee(s), whether in cash or in kind, as needed to continue and complete the Work assumed by EPA under the Work Takeover. Upon the commencement of any Work Takeover, if (a) for any reason EPA is unable to promptly secure the resources guaranteed under any such performance guarantee(s), whether in cash or in kind, necessary to continue and complete the Work assumed by EPA under the Work Takeover, Settling Defendants shall immediately upon written demand from EPA deposit into a special account within the EPA Hazardous Substance Superfund or such other account as EPA may specify, in immediately available funds and without setoff, counterclaim, or condition of any kind, a cash amount up to but not exceeding the estimated cost of completing the Work as of such date, as determined by EPA. In addition, if at any time EPA is notified by the issuer of a performance guarantee that such issuer intends to cancel the performance guarantee mechanism it has issued, then, unless Settling Defendants provide a substitute performance guarantee mechanism in accordance with this Section XIII no later than 30 days prior to the impending cancellation date, EPA shall be entitled (as of and after the date that is 30 days prior to the impending cancellation) to draw fully on the funds guaranteed under the then-existing performance guarantee. All EPA Work Takeover costs not reimbursed under this Paragraph shall be reimbursed under Section XVI (Payments for Response Costs).

49. Modification of Amount of Guarantees.

a. Reduction of Amount of the Work Guarantee. Settling Defendants may, within sixty (60) days of the Effective Date, petition EPA in writing to request that the amount of the Work Guarantee be revised to an amount less than \$21,295,417.

(1) If EPA decides to allow a reduction in the amount of the Work Guarantee to an amount less than \$21,295,417, EPA will notify the Settling Defendants of such decision in writing and Settling Defendants shall establish and provide EPA with a Work Guarantee in the amount specified in the EPA written decision and comply with the requirements of Paragraph 49.d.

(2) If EPA decides not to allow a reduction in the amount of the Work Guarantee to an amount less than \$21,295,417, EPA will notify the Settling



Defendants of such decision in writing and Settling Defendants shall establish and provide EPA with a Work Guarantee in the amount of \$21,295,417 and shall comply with the requirements of Paragraph 49.d.

b. Change of Form of the Work Guarantee. If, after the Effective Date, Settling Defendants desire to change the form of any Work Guarantee(s) provided pursuant to this Section, Settling Defendants may, on any anniversary of the Effective Date, or at any other time after the first anniversary of the Effective Date agreed to by the Parties, petition EPA in writing to request a change in the form of the Work Guarantee.

c. Petition Process. Any petition submitted by Settling Defendants to change the amount or form of the Work Guarantee pursuant to Paragraph 49.a or 49.b shall include a written proposal to EPA that shall specify, at a minimum, the estimated cost of completing the Work, the basis upon which such cost was calculated, and the proposed revised Work Guarantee, including all proposed instruments or other documents required in order to make the proposed performance guarantee legally binding. The proposed reduced, revised, or alternative Work Guarantee must satisfy all requirements set forth or incorporated by reference in this Section.

d. Execution of the Work Guarantee. Within 10 days after receiving a written decision approving or denying the proposed reduced, revised, or alternative Work Guarantee, Settling Defendants shall execute and/or otherwise finalize all instruments or other documents required in order to make the selected original or revised Work Guarantee(s) legally binding, and such Work Guarantee(s) shall thereupon be fully effective. Settling Defendants shall submit copies of all executed and/or otherwise finalized instruments or other documents required in order to make the selected performance guarantee(s) legally binding to the EPA Regional Financial Management Officer within 20 days after receiving a written decision approving or denying the proposed revised or alternative performance guarantee in accordance with Section XXVI (Notices and Submissions) and to the United States and EPA as specified in Section XXVI.

e. EPA Discretion. Any decision made by EPA pursuant to this Paragraph 49, including any decision to reject, either in whole or in part, any request made by Settling Defendants to reduce the amount of the Work Guarantee to an amount less than \$21,295,417 or to change the form of the Work Guarantee shall be made in EPA's sole and unreviewable discretion, and such decision shall not be subject to challenge by Settling Defendants pursuant to the dispute resolution provisions of this Consent Decree or in any other forum.

f. Release of Work Guarantee. Settling Defendants shall not release, cancel, or discontinue any Work Guarantee provided pursuant to this Section except as provided in this Paragraph. If Settling Defendants receive written notice from EPA in accordance with Paragraph 51.b that the Work has been fully and finally completed in accordance with the terms of this Consent Decree, or if EPA otherwise so notifies Settling Defendants in writing, Settling Defendants may thereafter release, cancel, or discontinue the Work guarantee(s) provided pursuant to this Section.

g. Reduction in the Amount of the Past Costs Guarantee

(1) After the Settling Defendants pay and the United States receives any of the five (5) payments of Past Response Costs required pursuant to Section XVI (Payment for Response Costs), and provided that EPA determines that the payment has been received by the United States, EPA shall inform Settling Defendants in writing that they may lower the amount of their Past Costs Guarantee by the amount of the payment actually made, excluding interest, to and received by the United States. Upon receipt of that written notice from EPA, Settling Defendants may thereafter lower the amount of the Past Costs Guarantee to the amount specified by EPA in writing to the Settling Defendants.

(2) Notwithstanding subparagraph 49.g (1) above, if, within ten (10) days after the Effective Date, the Settling Defendants pay \$2,140,917 plus Interest to the United States as required pursuant to Section XVI (Payment for Response Costs), the amount of the Past Costs Guarantee which the Settling Defendants shall be required to provide to the United States within thirty (30) days after the Effective Date shall be \$8,563,666.

(3) Settling Defendants shall submit copies of all executed and/or otherwise finalized instruments or other documents required in order to make any revised letter of credit authorized by this subsection 49.g(1) legally binding to the EPA Regional Financial Management Officer in accordance with Section XXVI (Notices and Submissions), with a copy to the United States and EPA as specified in Section XXVII.

h. Other than as set forth in Paragraph 49.g(2) above, Settling Defendants shall not reduce the amount of the Work Guarantee or reduce the amount of the Past Costs Guarantee required by Paragraph 45 (or make any other change to any Work Guarantee or Past Costs Guarantee which has been approved by EPA) unless approved in writing by a Branch Chief or a higher level official in the Emergency & Remedial Response Division, EPA-Region II.

#### XIV. CERTIFICATION OF COMPLETION

50. Completion of the Remedial Action.

a. Within 90 days after Settling Defendants conclude that the Remedial Action has been fully performed and the Performance Standards have been achieved, Settling Defendants shall schedule and conduct a pre-certification inspection to be attended by Settling Defendants and EPA. If, after the pre-certification inspection, Settling Defendants still believe that the Remedial Action has been fully performed and the Performance Standards have been achieved, they shall submit a written report requesting certification to EPA for approval pursuant to Section XI (EPA Approval of Plans, Reports, and Other Deliverables) within 30 days after the inspection. In the report, a registered professional engineer and Settling Defendants' Project Coordinator shall state that the Remedial Action has been completed in full satisfaction of the requirements of this Consent Decree. The written report shall include as-built drawings signed and stamped by a professional engineer. The report shall contain the following statement, signed

by a responsible corporate official of a Settling Defendant or Settling Defendants' Project Coordinator:

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

If, after completion of the pre-certification inspection and receipt and review of the written report, EPA determines that the Remedial Action or any portion thereof has not been completed in accordance with this Consent Decree or that the Performance Standards have not been achieved, EPA will notify Settling Defendants in writing of the activities that must be undertaken by Settling Defendants pursuant to this Consent Decree to complete the Remedial Action and achieve the Performance Standards, provided, however, that EPA may only require Settling Defendants to perform such activities pursuant to this Paragraph to the extent that such activities are consistent with the "scope of the remedy set forth in the OU2 ROD," as that term is defined in Paragraph 14.a. EPA will set forth in the notice a schedule for performance of such activities consistent with the Consent Decree and the SOW or require Settling Defendants to submit a schedule to EPA for approval pursuant to Section XI (EPA Approval of Plans, Reports, and Other Deliverables). Settling Defendants shall perform all activities described in the notice in accordance with the specifications and schedules established pursuant to this Paragraph, subject to their right to invoke the dispute resolution procedures set forth in Section XIX (Dispute Resolution).

b. If EPA concludes, based on the initial or any subsequent report requesting Certification of Completion of the Remedial Action and after a reasonable opportunity for review and comment by the State, that the Remedial Action has been performed in accordance with this Consent Decree and that the Performance Standards have been achieved, EPA will so certify in writing to Settling Defendants. This certification shall constitute the Certification of Completion of the Remedial Action for purposes of this Consent Decree, including, but not limited to, Section XXI (Covenants by Plaintiff). Certification of Completion of the Remedial Action shall not affect Settling Defendants' remaining obligations under this Consent Decree.

51. Completion of the Work.

a. Within 90 days after Settling Defendants conclude that all phases of the Work, other than any remaining activities required under Section VII (Remedy Review), have been fully performed, Settling Defendants shall schedule and conduct a pre-certification inspection to be attended by Settling Defendants and EPA. If, after the pre-certification inspection, Settling Defendants still believe that the Work has been fully performed, Settling Defendants shall submit a written report by a registered professional engineer stating that the Work has been completed in full satisfaction of the requirements of this Consent Decree. The report shall contain the statement set forth in Paragraph 50.a, signed by a responsible corporate official of a Settling Defendant or Settling Defendants' Project Coordinator. If, after review of

the written report, EPA, after reasonable opportunity for review and comment by the State, determines that any portion of the Work has not been completed in accordance with this Consent Decree, EPA will notify Settling Defendants in writing of the activities that must be undertaken by Settling Defendants pursuant to this Consent Decree to complete the Work, provided, however, that EPA may only require Settling Defendants to perform such activities pursuant to this Paragraph to the extent that such activities are consistent with the "scope of the remedy set forth in the OU2 ROD," as that term is defined in Paragraph 14.a. EPA will set forth in the notice a schedule for performance of such activities consistent with the Consent Decree and the SOW or require Settling Defendants to submit a schedule to EPA for approval pursuant to Section XI (EPA Approval of Plans, Reports, and Other Deliverables). Settling Defendants shall perform all activities described in the notice in accordance with the specifications and schedules established therein, subject to their right to invoke the dispute resolution procedures set forth in Section XIX (Dispute Resolution).

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

#### XV. EMERGENCY RESPONSE

52. If any action or occurrence during the performance of the Work that causes or threatens a release of Waste Material from the Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Settling Defendants shall, subject to Paragraph 53, immediately take all appropriate action to prevent, abate, or minimize such release or threat of release, and shall immediately notify the EPA's Project Coordinator, or, if the Project Coordinator is unavailable, EPA's Alternate Project Coordinator. If neither of these persons is available, Settling Defendants shall notify the EPA Emergency Response Unit, Region 2. Settling Defendants shall take such actions in consultation with EPA's Project Coordinator or other available authorized EPA officer and in accordance with all applicable provisions of the Health and Safety Plans, the Contingency Plans, and any other applicable plans or documents developed pursuant to the SOW. In the event that Settling Defendants fail to take appropriate response action as required by this Section, and EPA takes such action instead, Settling Defendants shall reimburse EPA all costs of the response action under Section XVI (Payments for Response Costs).

53. Subject to Section XXI (Covenants by Plaintiffs), nothing in the preceding Paragraph or in this Consent Decree shall be deemed to limit any authority of the United States (a) to take all appropriate action to protect human health and the environment or to prevent, abate, respond to, or minimize an actual or threatened release of Waste Material on, at, or from the Site, or (b) to direct or order such action, or seek an order from the Court, to protect human health and the environment or to prevent, abate, respond to, or minimize an actual or threatened release of Waste Material on, at, or from the Site.

#### XVI. PAYMENTS FOR RESPONSE COSTS

54. Payment by Settling Defendants for Past Response Costs. Settling Defendants shall pay to EPA \$10,704,583 plus Interest on all unpaid balance(s) of that amount as reimbursement for Past Response Costs. Interest on the \$10,704,583 amount shall begin to

accrue starting on November 1, 2012 and shall continue to accrue on all unpaid balances of the \$10,704,583 amount until such unpaid balance and all accrued Interest has been paid in full to EPA. Settling Defendants shall make the following five (5) payments to EPA on or before the dates noted:

Payment No.1: \$2,140,917 plus Interest shall be paid within 10 days of the Effective Date;

Payment No.2: \$2,140,917 plus Interest shall be paid to EPA within three hundred and seventy (370) days after the Effective Date;

Payment No.3: \$2,140,917 plus Interest shall be paid to EPA within seven hundred and forty (740) days after the Effective Date;

Payment No.4: \$2,140,917 plus Interest shall be paid to EPA within eleven hundred and ten (1110) days after the Effective Date; and

Payment No.5: \$2,140,915 plus Interest shall be paid to EPA within fourteen hundred and eighty (1480) days after the Effective Date.

55. Payment shall be made by FedWire Electronic Funds Transfer ("EFT") to the U.S. Department of Justice account in accordance with current EFT procedures, referencing the EPA Site/Spill Id Number 02JL and DOJ Case Number 90-11-3-09813. Payment may be made in accordance with instructions provided to the Settling Defendants by the Financial Litigation Unit of the United States Attorney's Office for the District of New Jersey following lodging of the Consent Decree. Any payment received by the Department of Justice after 4:00pm (Eastern Time) will be credited on the next business day.

56. The Past Costs Guarantee created by the Settling Defendants pursuant to Section XII of this Consent shall provide that, in the event Settling Defendants fail to pay the full amount of any of the five payments for Past Response Costs noted in Paragraph 54, above, within 10 working days after the relevant date such payment was due, EPA may immediately thereafter recover the full amount of any such overdue payment and related Interest directly from the person who issued the Past Costs Guarantee. The Past Costs Guarantee shall provide that EPA may recover payment of any payment noted in Paragraph 54, above, if EPA presents to the person who issued the Past Costs Guarantee (i.e., the surety, the insurance company, etc.) a writing signed by the Director of ERRD, EPA-Region II stating that the payment is overdue, stating the dollar amount that is due and payable to EPA, and making a demand for payment of that dollar amount. Settling Defendants shall take all measures requested by EPA to assist EPA in recovering all such funds.

57. Payment of Future Response Costs. Settling Defendants shall pay to EPA all Future Response Costs not inconsistent with the National Contingency Plan, plus Interest.

a. On a periodic basis, EPA will send Settling Defendants a bill requiring payment that includes a Superfund Cost Recovery Package Imaging and On-line System (SCORPIOS) Report which identifies in a cost summary both direct and indirect costs incurred by EPA and its contractors, and a DOJ cost summary, if any. Settling Defendants shall make all payments for Future Response Costs within 30 days of Settling Defendants' receipt of each bill requiring payment.

b. Settling Defendants may contest payment of any Future Response Costs billed under Paragraph 57.a if it determines that the United States has made a mathematical error or included a cost item that is not within the definition of Future Response Costs, or if they believe EPA incurred excess costs as a direct result of an EPA action that was inconsistent with a specific provision or provisions of the NCP. Such objection shall be made in writing within 30 days after receipt of the bill and must be sent to the United States pursuant to Section XXVI (Notices and Submissions). Any such objection shall specifically identify the contested Future Response Costs and the basis for objection. In the event of an objection, Settling Defendants shall pay all uncontested Future Response Costs to the United States within 30 days after Settling Defendants' receipt of the bill requiring payment. Simultaneously, Settling Defendants shall establish, in a duly chartered bank or trust company, an interest-bearing escrow account that is insured by the Federal Deposit Insurance Corporation ("FDIC"), and remit to that escrow account funds equivalent to the amount of the contested Future Response Costs. Settling Defendant shall send to the United States, as provided in Section XXVI (Notices and Submissions), a copy of the transmittal letter and check paying the uncontested Future Response Costs, and a copy of the correspondence that establishes and funds the escrow account, including, but not limited to, information containing the identity of the bank and bank account under which the escrow account is established as well as a bank statement showing the initial balance of the escrow account. Simultaneously with establishment of the escrow account, Settling Defendants shall initiate the Dispute Resolution procedures in Section XIX (Dispute Resolution). If the United States prevails in the dispute, Settling Defendants shall pay the sums due (with accrued interest) to the United States within five days after resolution of the dispute. If Settling Defendants prevail concerning any aspect of the contested costs, Settling Defendants shall pay that portion of the costs (plus associated accrued interest) for which they did not prevail within five days after resolution of the dispute. Settling Defendants shall be disbursed any remaining balance of the escrow account. The dispute resolution procedures set forth in this Paragraph in conjunction with the procedures set forth in Section XIX (Dispute Resolution) shall be the exclusive mechanisms for resolving disputes regarding the Settling Defendants' obligation to reimburse the United States for its Future Response Costs.

c. Interest on Future Response Costs shall begin to accrue on the date future costs are billed by EPA, and shall accrue through the date of Settling Defendants' payment. Payment of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to Plaintiff by virtue of Settling Defendants' failure to make timely payments under this Section including, but not limited to, payment of stipulated penalties pursuant to Paragraph 72.

58. Payment Instructions for Settling Defendants.

a. Instructions for Past Response Costs Payments. All payments required, elsewhere in this Consent Decree, to be made in accordance with this Paragraph 58.a shall be made at <https://www.pay.gov> to the U.S. Department of Justice account, in accordance with instructions provided to Settling Defendants by the Financial Litigation Unit ("FLU") of the United States Attorney's Office for the District of New Jersey after the Effective Date. The payment instructions provided by the Financial Litigation Unit shall include a Consolidated Debt Collection System ("CDCS") number, which shall be used to identify all payments required to be

made in accordance with this Consent Decree. The FLU shall provide the payment instructions to:

Louis J Belardi  
Chief Financial Officer  
Secretary and Treasurer  
SL Industries, Inc.  
520 Fellowship Road Suite A-114  
Mt. Laurel NJ 08054

on behalf of Settling Defendants. Settling Defendants may change the individual to receive payment instructions on their behalf by providing written notice of such change in accordance with Section XXVI (Notices and Submissions). When making payments under this Paragraph 58.a, Settling Defendants shall also comply with Paragraph 58.c.

b. Instructions for Future Response Costs Payments and Stipulated Penalties.

All payments required, elsewhere in this Consent Decree, to be made in accordance with this Paragraph 58.b shall be made by Fedwire EFT to:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York NY 10045  
Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

c. Instructions for All Payments. All payments made under Paragraphs 58.a (Instructions for Past Response Costs Payments) or 58.b (Instructions for Future Response Costs Payments) shall reference the CDCS Number EPA Site/Spill Id Number 02JL and DOJ Case Number 90-11-3-09813. At the time of any payment required to be made in accordance with Paragraphs 58.a or 58.b, Settling Defendants shall send notice that payment has been made to the United States, and to EPA, in accordance with Section XXVI (Notices and Submissions), and to the EPA Cincinnati Finance Office by email at [acctsreceivable.cinwd@epa.gov](mailto:acctsreceivable.cinwd@epa.gov), or by mail at 26 Martin Luther King Drive, Cincinnati, Ohio 45268. Such notice shall also reference the CDCS Number, Site/Spill ID Number, and DOJ Case Number.

d. All payments made to EPA by Settling Defendants under Paragraphs 54 and 57, shall be deposited by EPA in the Puchack Well Field Special Account to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

## XVII. INDEMNIFICATION AND INSURANCE

### 59. Settling Defendants' Indemnification of the United States.

a. The United States does not assume any liability by entering into this Consent Decree or by virtue of any designation of Settling Defendants as EPA's authorized representatives under Section 104(e) of CERCLA, 42 U.S.C. § 9604(e). Settling Defendants

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

b. The United States shall give Settling Defendants notice of any claim for which the United States plans to seek indemnification pursuant to this Paragraph 59, and shall consult with Settling Defendants prior to settling such claim.

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

61. No later than 15 days before commencing any on-site Work, Settling Defendants shall secure, and shall maintain until the first anniversary after issuance of EPA's Certification of Completion of the Remedial Action pursuant to Paragraph 50 of Section XIV (Certification of Completion), commercial general liability insurance with limits of \$10 million dollars, for any one occurrence, and automobile liability insurance with limits of \$5 million dollars, combined single limit, naming the United States as an additional insured with respect to all liability arising out of the activities performed by or on behalf of Settling Defendants pursuant to this Consent Decree. In addition, for the duration of this Consent Decree, Settling Defendants shall satisfy, or shall ensure that their contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of Settling Defendants in furtherance of this Consent Decree. Prior to commencement of the Work under this Consent Decree, Settling Defendants shall provide to EPA certificates of such insurance and a copy of each insurance policy. Settling Defendants shall resubmit such certificates and copies of policies each year on the anniversary of the Effective Date. If Settling Defendants demonstrate by evidence satisfactory to EPA that any contractor or subcontractor



maintains insurance equivalent to that described above, or insurance covering the same risks but in a lesser amount, then, with respect to that contractor or subcontractor, Settling Defendants need provide only that portion of the insurance described above that is not maintained by the contractor or subcontractor.

#### XVIII. FORCE MAJEURE

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

63. If any event occurs or has occurred that may delay the performance of any obligation under this Consent Decree for which Settling Defendants intend or may intend to assert a claim of force majeure, Settling Defendants shall notify EPA's Project Coordinator orally or in his or her absence, the Chief of the New Jersey Remediation Branch or, in the event both of EPA's designated representatives are unavailable, the Director of the Emergency and Remedial Response Division, EPA Region 2, within forty eight (48) hours of when Settling Defendants first knew that the event might cause a delay. Within seven (7) days thereafter, Settling Defendants shall provide in writing to EPA an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Settling Defendants' rationale for attributing such delay to a force majeure; and a statement as to whether, in the opinion of Settling Defendants, such event may cause or contribute to an endangerment to public health or welfare, or the environment. Settling Defendants shall include with any notice all available documentation supporting their claim that the delay was attributable to a force majeure. Settling Defendants shall be deemed to know of any circumstance of which Settling Defendants, any entity controlled by Settling Defendants, or Settling Defendants' contractors knew or should have known. Failure to comply with the above requirements regarding an event shall preclude Settling Defendants from asserting any claim of force majeure regarding that event, provided, however, that if EPA, despite the late notice, is able to assess to its satisfaction whether the event is a force majeure under Paragraph 62 and whether Settling Defendants have exercised their best efforts under Paragraph 62, EPA may, in its unreviewable discretion, excuse in writing Settling Defendants' failure to submit timely notices under this Paragraph.

64. If EPA agrees that the delay or anticipated delay is attributable to a force majeure, the time for performance of the obligations under this Consent Decree that are affected by the force majeure will be extended for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the force majeure shall not, of itself, extend the time for performance of any other obligation. If EPA does not agree that the delay or anticipated delay has been or will be caused by a force majeure, EPA will notify Settling

Defendants in writing of its decision. If EPA agrees that the delay is attributable to a force majeure, EPA will notify Settling Defendants in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure.

65. If Settling Defendants elect to invoke the dispute resolution procedures set forth in Section XIX (Dispute Resolution), they shall do so no later than 15 days after receipt of EPA's notice. In any such proceeding, Settling Defendants shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that Settling Defendants complied with the requirements of Paragraphs 62 and 63. If Settling Defendants carry this burden, the delay at issue shall be deemed not to be a violation by Settling Defendants of the affected obligation of this Consent Decree identified to EPA and the Court.

#### XIX. DISPUTE RESOLUTION

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

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

68. Statements of Position.

a. In the event that the parties cannot resolve a dispute by informal negotiations under the preceding Paragraph, then the position advanced by EPA shall be considered binding unless, within 20 days after the conclusion of the informal negotiation period, Settling Defendants invoke the formal dispute resolution procedures of this Section by serving on the United States a written Statement of Position on the matter in dispute, including, but not limited to, any factual data, analysis, or opinion supporting that position and any supporting documentation relied upon by Settling Defendants. The Statement of Position shall specify Settling Defendants' position as to whether formal dispute resolution should proceed under Paragraphs 69 (Record Review) or 70.

b. Within 20 days after receipt of Settling Defendants' Statement of Position, EPA will serve on Settling Defendants its Statement of Position, including, but not limited to, any factual data, analysis, or opinion supporting that position and all supporting documentation relied upon by EPA. EPA's Statement of Position shall include a statement as to whether formal dispute resolution should proceed under Paragraph 69 (Record Review) or Paragraph 70. Within 10 days after receipt of EPA's Statement of Position, Settling Defendants may submit a Reply.

c. If there is disagreement between EPA and Settling Defendants as to whether dispute resolution should proceed under Paragraphs 69 (Record Review) or 70, the

parties to the dispute shall follow the procedures set forth in the paragraph determined by EPA to be applicable. However, if Settling Defendants ultimately appeal to the Court to resolve the dispute, the Court shall determine which paragraph is applicable in accordance with the standards of applicability set forth in Paragraphs 69 and 70.

69. Record Review. Formal dispute resolution for disputes pertaining to the selection or adequacy of any response action and all other disputes that are accorded review on the administrative record under applicable principles of administrative law shall be conducted pursuant to the procedures set forth in this Paragraph. For purposes of this Paragraph, the adequacy of any response action includes, without limitation, the adequacy or appropriateness of plans, procedures to implement plans, or any other items requiring approval by EPA under this Consent Decree, and the adequacy of the performance of response actions taken pursuant to this Consent Decree. Nothing in this Consent Decree shall be construed to allow any dispute by Settling Defendants regarding the validity of the OU2 ROD's provisions.

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

b. The Director of the Emergency and Remedial Response Division (ERRD), EPA Region 2, will issue a final administrative decision resolving the dispute based on the administrative record described in Paragraph 69.a. This decision shall be binding upon Settling Defendants, subject only to the right to seek judicial review pursuant to Paragraphs 69.c and 69.d.

c. Any administrative decision made by EPA pursuant to Paragraph 69.b shall be reviewable by this Court, provided that a motion for judicial review of the decision is filed by Settling Defendants with the Court and served on all Parties within ten days after receipt of EPA's decision. The motion shall include a description of the matter in dispute, the efforts made by the parties to resolve it, the relief requested, and the schedule, if any, within which the dispute must be resolved to ensure orderly implementation of this Consent Decree. The United States may file a response to Settling Defendants' motion.

d. In proceedings on any dispute governed by this Paragraph, Settling Defendants shall have the burden of demonstrating that the decision of the Director of ERRD is arbitrary and capricious or otherwise not in accordance with law. Judicial review of EPA's decision shall be on the administrative record compiled pursuant to Paragraph 69.a.

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

a. Following receipt of Settling Defendants' Statement of Position submitted pursuant to Paragraph 68, the Director of ERRD, EPA Region 2, will issue a final decision resolving the dispute. The Waste Management Division Director's decision shall be binding on Settling Defendants unless, within ten days after receipt of the decision, Settling Defendants file with the Court and serve on the parties a motion for judicial review of the decision setting forth the matter in dispute, the efforts made by the parties to resolve it, the relief requested, and the

schedule, if any, within which the dispute must be resolved to ensure orderly implementation of the Consent Decree. The United States may file a response to Settling Defendants' motion.

b. Notwithstanding Paragraph P (CERCLA Section 113(j) Record Review of OU2 ROD and Work) of Section I (Background), judicial review of any dispute governed by this Paragraph shall be governed by applicable principles of law.

71. The invocation of formal dispute resolution procedures under this Section shall not extend, postpone, or affect in any way any obligation of Settling Defendants under this Consent Decree, not directly in dispute, unless EPA or the Court agrees otherwise. Stipulated penalties with respect to the disputed matter shall continue to accrue but payment shall be stayed pending resolution of the dispute as provided in Paragraph 79. Notwithstanding the stay of payment, stipulated penalties shall accrue from the first day of noncompliance with any applicable provision of this Consent Decree. In the event that Settling Defendants do not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section XX (Stipulated Penalties).

XX. STIPULATED PENALTIES

72. Settling Defendants shall be liable for stipulated penalties in the amounts set forth in Paragraphs 73 and 74 to the United States for failure to comply with the requirements of this Consent Decree specified below, unless excused under Section XVIII (Force Majeure). "Compliance" by Settling Defendants shall include completion of all payments and activities required under this Consent Decree, or any plan, report, or other deliverable approved under this Consent Decree, in accordance with all applicable requirements of law, this Consent Decree, the SOW, and any plans, reports, or other deliverables approved under this Consent Decree and within the specified time schedules established by and approved under this Consent Decree.

73. Stipulated Penalty Amounts - Work (Including Payments and Excluding Plans, Reports, and Other Deliverables).

a. The following stipulated penalties shall accrue per violation per day for any noncompliance regarding performance of the Work by Settling Defendants or for Settling Defendants' failure to make payments by the required date pursuant to the Consent Decree:

Penalty Per Violation Per Day	Period of Noncompliance
\$1,000	1st through 14th day
\$2,000	15th through 30th day
\$2,500	31st day and beyond

74. Stipulated Penalty Amounts - Plans, Reports, and other Deliverables. The following stipulated penalties shall accrue per violation per day for failure to submit timely or adequate reports or other plans or deliverables pursuant to the Consent Decree:

Penalty Per Violation Per Day	Period of Noncompliance
\$1,000	1st through 14th day
\$2,000	15th through 30th day
\$2,500	31st day and beyond

75. In the event that EPA assumes performance of a portion or all of the Work pursuant to Paragraph 90 (Work Takeover), Settling Defendants shall be liable for a stipulated

penalty in the amount of \$2 million. Stipulated penalties under this Paragraph are in addition to the remedies available under Paragraphs 48 (Funding for Work Takeover) and 90 (Work Takeover).

76. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. However, stipulated penalties shall not accrue: (a) with respect to a deficient submission under Section XI (EPA Approval of Plans, Reports, and Other Deliverables), during the period, if any, beginning on the 31st day after EPA's receipt of such submission until the date that EPA notifies Settling Defendants of any deficiency; (b) with respect to a decision by the Director of the Emergency and Remedial Response Division, EPA Region 2, under Paragraph 69.b or 70.a of Section XIX (Dispute Resolution), during the period, if any, beginning on the 21st day after the date that Settling Defendants' reply to EPA's Statement of Position is received until the date that the Director issues a final decision regarding such dispute; or (c) with respect to judicial review by this Court of any dispute under Section XIX (Dispute Resolution), during the period, if any, beginning on the 31st day after the Court's receipt of the final submission regarding the dispute until the date that the Court issues a final decision regarding such dispute. Nothing in this Consent Decree shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Decree.

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

78. All penalties accruing under this Section shall be due and payable to the United States within 30 days after Settling Defendants' receipt from EPA of a demand for payment of the penalties, unless Settling Defendants invoke the Dispute Resolution procedures under Section XIX (Dispute Resolution) within the 30-day period. All payments to the United States under this Section shall indicate that the payment is for stipulated penalties and shall be made in accordance with Paragraph 58.b (Instructions for Future Response Costs Payments and Stipulated Penalties).

79. Penalties shall continue to accrue as provided in Paragraph 76 during any dispute resolution period, but need not be paid until the following:

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

b. If the dispute is appealed to this Court and the United States prevails in whole or in part, Settling Defendants shall pay all accrued penalties determined by the Court to be owed to EPA within 60 days after receipt of the Court's decision or order, except as provided in Paragraph 79.c;

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

United States into an interest-bearing escrow account, established at a duly chartered bank or trust company that is insured by the FDIC, within 60 days after receipt of the Court's decision or order. Penalties shall be paid into this account as they continue to accrue, at least every 60 days. Within 15 days after receipt of the final appellate court decision, the escrow agent shall pay the balance of the account to EPA or to Settling Defendants to the extent that they prevail.

80. If Settling Defendants fail to pay stipulated penalties when due, Settling Defendants shall pay Interest on the unpaid stipulated penalties as follows: (a) if Settling Defendants have timely invoked dispute resolution such that the obligation to pay stipulated penalties has been stayed pending the outcome of dispute resolution, Interest shall accrue from the date stipulated penalties are due pursuant to Paragraph 79 until the date of payment; and (b) if Settling Defendants fail to timely invoke dispute resolution, Interest shall accrue from the date of demand under Paragraph 78 until the date of payment. If Settling Defendants fail to pay stipulated penalties and Interest when due, the United States may institute proceedings to collect the penalties and Interest.

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

82. Nothing in this Consent Decree shall be construed as prohibiting, altering, or in any way limiting the ability of the United States to seek any other remedies or sanctions available by virtue of Settling Defendants' violation of this Consent Decree or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to Section 122(l) of CERCLA, 42 U.S.C. § 9622(l), provided, however, that the United States shall not seek civil penalties pursuant to Section 122(l) of CERCLA for any violation for which a stipulated penalty is provided in this Consent Decree, except in the case of a willful violation of this Consent Decree.

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

#### XXI. COVENANTS BY PLAINTIFF

84. Covenants for Settling Defendants by United States. In consideration of the actions that will be performed and the payments that will be made by Settling Defendants under this Consent Decree, and except as specifically provided in Paragraphs 85 and 86 (United States' Pre- and Post-Certification Reservations), 88 (General Reservations of Rights) and 89 (Veracity of Financial Information), the United States covenants not to sue or to take administrative action against Settling Defendants pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607, or Section 7003 of RCRA, 42 U.S.C. § 6973, relating to the Site. Except with respect to future liability, these covenants shall take effect upon the receipt by EPA of all of the payments required by Paragraph 54 (Payments for Past Response Costs) and Paragraph 57 (Payment of Future Response Costs) and any Interest or stipulated penalties due thereon under Paragraphs 54 and 57.c or Section XX (Stipulated Penalties). With respect to future liability, these covenants shall take effect upon Certification of Completion of Remedial Action by EPA pursuant to Paragraph 51 of Section XIV (Certification of Completion). These covenants are conditioned upon the satisfactory performance by Settling Defendants of their obligations under

this Consent Decree. These covenants extend only to Settling Defendants and do not extend to any other person.

85. United States' Pre-Certification Reservations. Notwithstanding any other provision of this Consent Decree, the United States reserves, and this Consent Decree is without prejudice to, the right to institute proceedings in this action or in a new action, and/or to issue an administrative order, seeking to compel Settling Defendants to perform further response actions relating to the Site and/or to pay the United States for additional costs of response if, (a) prior to Certification of Completion of the Remedial Action, (1) conditions at the Site, previously unknown to EPA, are discovered, or (2) information, previously unknown to EPA, is received, in whole or in part, and (b) EPA determines that these previously unknown conditions or information together with any other relevant information indicates that the Remedial Action is not protective of human health or the environment.

86. United States' Post-Certification Reservations. Notwithstanding any other provision of this Consent Decree, the United States reserves, and this Consent Decree is without prejudice to, the right to institute proceedings in this action or in a new action, and/or to issue an administrative order, seeking to compel Settling Defendants to perform further response actions relating to the Site and/or to pay the United States for additional costs of response if, (a) subsequent to Certification of Completion of the Remedial Action, (1) conditions at the Site, previously unknown to EPA, are discovered, or (2) information, previously unknown to EPA, is received, in whole or in part, and (b) EPA determines that these previously unknown conditions or this information together with other relevant information indicate that the Remedial Action is not protective of human health or the environment.

87. For purposes of Paragraph 85 (United States' Pre-Certification Reservations), the information and the conditions known to EPA will include only that information and those conditions known to EPA as of the dates the OU1 ROD and OU2 ROD were signed and set forth in the OU1 ROD and OU2 ROD and the administrative records supporting the RODs. For purposes of Paragraph 86 (United States' Post-Certification Reservations), the information and the conditions known to EPA shall include only that information and those conditions known to EPA as of the date of Certification of Completion of the Remedial Action and set forth in the OU1 ROD and OU2 , the administrative records supporting the RODs, the post-ROD administrative records, or in any information received by EPA pursuant to the requirements of this Consent Decree prior to Certification of Completion of the Remedial Actions.

88. General Reservations of Rights. The United States reserves, and this Consent Decree is without prejudice to, all rights against Settling Defendants with respect to all matters not expressly included within Plaintiff's covenant. Notwithstanding any other provision of this Consent Decree, the United States reserves all rights against Settling Defendants with respect to:

- a. liability for failure of Settling Defendants to meet a requirement of this Consent Decree;
- b. liability arising from the past, present, or future disposal, release, or threat of release of Waste Material outside of the Site;

c. liability based upon the ownership of the Site by Settling Defendants or any portion thereof by any of the Settling Defendants when such ownership occurs after signature of this Consent Decree by Settling Defendants;

d. liability based upon the operation of the Site by Settling Defendants when such operation commences after signature of this Consent Decree by Settling Defendants and does not arise solely from Settling Defendants' performance of the Work;

e. liability based on Settling Defendants' transportation, treatment, storage, or disposal, or arrangement for transportation, treatment, storage, or disposal of Waste Material at or in connection with the Site, other than as provided in the ROD, the Work, or otherwise ordered by EPA, after signature of this Consent Decree by Settling Defendants;

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

g. criminal liability;

h. liability for violations of federal or state law that occur during or after implementation of the Work; and

i. liability, prior to Certification of Completion of the Remedial Action, for additional response actions that EPA determines are necessary to achieve and maintain Performance Standards or to carry out and maintain the effectiveness of the remedy set forth in the ROD, but that cannot be required pursuant to Paragraph 14 (Modification of SOW or Related Work Plans).

89. Veracity of Financial Information. These covenants not to sue are conditioned upon the veracity and completeness of the Financial Information provided to the United States by Defendants. If the Financial Information is subsequently determined by the United States to be intentionally misleading, false, or materially inaccurate. Defendants shall forfeit all payments made pursuant to this Consent Decree and the covenants not to sue shall be null and void.

90. Work Takeover.

a. In the event EPA determines that Settling Defendants have (1) ceased implementation of any portion of the Work, or (2) are seriously or repeatedly deficient or late in their performance of the Work, or (3) are implementing the Work in a manner that may cause an endangerment to human health or the environment, EPA may issue a written notice ("Work Takeover Notice") to Settling Defendants. Any Work Takeover Notice issued by EPA will specify the grounds upon which such notice was issued and will provide Settling Defendants a period of thirty days within which to remedy the circumstances giving rise to EPA's issuance of such notice.

b. If, after expiration of the thirty-day notice period specified in Paragraph 90.a, Settling Defendants have not remedied to EPA's satisfaction the circumstances giving rise to EPA's issuance of the relevant Work Takeover Notice, EPA may at any time thereafter assume the performance of all or any portion(s) of the Work as EPA deems necessary ("Work Takeover"). EPA will notify Settling Defendants in writing (which writing may be electronic) if EPA determines that implementation of a Work Takeover is warranted under this Paragraph 90.b. Funding of Work Takeover costs is addressed under Paragraph 48.



c. Settling Defendants may invoke the procedures set forth in Paragraph 69 (Record Review), to dispute EPA's implementation of a Work Takeover under Paragraph 90.b. However, notwithstanding Settling Defendants' invocation of such dispute resolution procedures, and during the pendency of any such dispute, EPA may in its sole discretion commence and continue a Work Takeover under Paragraph 90.b until the earlier of (1) the date that Settling Defendants remedy, to EPA's satisfaction, the circumstances giving rise to EPA's issuance of the relevant Work Takeover Notice, or (2) the date that a final decision is rendered in accordance with Paragraph 69 (Record Review) requiring EPA to terminate such Work Takeover.

91. Notwithstanding any other provision of this Consent Decree, the United States retains all authority and reserves all rights to take any and all response actions authorized by law.

## XXII. COVENANTS BY SETTLING DEFENDANTS

92. Covenants by Settling Defendants. Subject to the reservations in Paragraph 94, Settling Defendants covenant not to sue and agree not to assert any claims or causes of action against the United States with respect to the Site, and this Consent Decree, including, but not limited to:

a. any direct or indirect claim for reimbursement from the EPA Hazardous Substance Superfund through CERCLA Sections 106(b)(2), 107, 111, 112 or 113, or any other provision of law;

b. any claims under CERCLA Sections 107 or 113, RCRA Section 7002(a), 42 U.S.C. § 6972(a), or state law regarding the Site, Past Response Costs, Future Response Costs; or

c. any claims arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, the Tucker Act, 28 U.S.C. §1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, or at common law.

93. Except as provided in Paragraph 101 (Res Judicata and Other Defenses), the covenants in this Section shall not apply if the United States brings a cause of action or issues an order pursuant to any of the reservations in Section XXII (Covenants by Plaintiff), other than in Paragraphs 88.a (claims for failure to meet a requirement of the Consent Decree), 88.g (criminal liability), and 88.h (violations of federal/state law during or after implementation of the Work), but only to the extent that Settling Defendants' claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

94. Settling Defendants reserve, and this Consent Decree is without prejudice to, claims against the United States, subject to the provisions of Chapter 171 of Title 28 of the United States Code, and brought pursuant to any statute other than CERCLA or RCRA and for which the waiver of sovereign immunity is found in a statute other than CERCLA or RCRA, for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the United States, as that term is defined in 28 U.S.C. § 2671, while acting within the scope of his or her office or employment under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. However, the

foregoing shall not include any claim based on EPA's selection of response actions, or the oversight or approval of Settling Defendants' plans, reports, other deliverables or activities.

95. Settling Defendants agree not to assert any CERCLA claims or causes of action that they may have for all matters relating to the Site, including for contribution, against any other person. This waiver shall not apply with respect to any defense, claim, or cause of action that Defendants may have against any person if such person asserts a claim or cause of action relating to the Site against Defendants.

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

#### XXIII.EF EFFECT OF SETTLEMENT; CONTRIBUTION

97. Nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Decree. Except as provided in Paragraph 95, each of the Parties expressly reserves any and all rights (including, but not limited to, pursuant to Section 113 of CERCLA, 42 U.S.C. § 9613), defenses, claims, demands, and causes of action that each Party may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto. Nothing in this Consent Decree diminishes the right of the United States, pursuant to Section 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613(f)(2)-(3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2).

98. The Parties agree, and by entering this Consent Decree this Court finds, that this Consent Decree constitutes a judicially approved settlement for purposes of Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), and that each Settling Defendant is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, or as may be otherwise provided by law, for "matters addressed" in this Consent Decree. The "matters addressed" in this Consent Decree are all response actions taken or to be taken and all response costs incurred or to be incurred, at or in connection with the Site, by the United States or any other person, except for the State; provided, however, that if the United States exercises rights other than in Paragraphs 88.a (claims for failure to meet a requirement of the Consent Decree), 88.g (criminal liability), or 88.h (violations of federal/state law during or after implementation of the Work), the "matters addressed" in this Consent Decree will no longer include those response costs or response actions that are within the scope of the exercised reservation.

99. Each Settling Defendant shall, with respect to any suit or claim brought by it for matters related to this Consent Decree, notify the United States in writing no later than 60 days prior to the initiation of such suit or claim.

100. Each Settling Defendant shall, with respect to any suit or claim brought against it for matters related to this Consent Decree, notify in writing the United States within ten days after service of the complaint on such Settling Defendant. In addition, each Settling Defendant shall notify the United States within ten days after service or receipt of any Motion for Summary Judgment and within ten days after receipt of any order from a court setting a case for trial.

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

#### XXIV. ACCESS TO INFORMATION

102. Settling Defendants shall provide to EPA, upon request, copies of all records, reports, documents, and other information (including records, reports, documents, and other information in electronic form) (hereinafter referred to as "Records") within their possession or control or that of their contractors or agents relating to activities at the Site or to the implementation of this Consent Decree, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information regarding the Work. Settling Defendants shall also make available to EPA, for purposes of investigation, information gathering, or testimony, their employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

103. Business Confidential and Privileged Documents.

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

b. Settling Defendants may assert that certain Records are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Settling Defendants assert such a privilege in lieu of providing Records, they shall provide Plaintiff with the following: (1) the title of the Record; (2) the date of the Record; (3) the name, title, affiliation (e.g., company or firm), and address of the author of the Record; (4) the name and title of each addressee and recipient; (5) a description of the contents of the Record; and (6) the privilege asserted by Settling Defendants. If a claim of privilege applies only to a portion of a Record, the Record shall be provided to the United States in redacted form to mask the privileged portion only. Settling Defendants shall retain all Records that they claim to be privileged until the United States has had a reasonable opportunity to dispute the privilege claim and any such dispute has been resolved in the Settling Defendants' favor.

c. No Records created or generated pursuant to the requirements of this Consent Decree shall be withheld from the United States on the grounds that they are privileged or confidential.

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

#### XXV. RETENTION OF RECORDS

105. Until ten years after Settling Defendants' receipt of EPA's notification pursuant to Paragraph 51.b (Completion of the Work), each Settling Defendant shall preserve and retain all non-identical copies of Records (including Records in electronic form) now in its possession or control or that come into its possession or control that relate in any manner to its liability under CERCLA with respect to the Site, and all Records that relate to the liability of any other person under CERCLA with respect to the Site. Each Settling Defendant must also retain, and instruct its contractors and agents to preserve, for the same period of time specified above all non-identical copies of the last draft or final version of any Records (including Records in electronic form) now in its possession or control or that come into its possession or control that relate in any manner to the performance of the Work, provided, however, that each Settling Defendant (and its contractors and agents) must retain, in addition, copies of all data generated during the performance of the Work and not contained in the aforementioned Records required to be retained. Each of the above record retention requirements shall apply regardless of any corporate retention policy to the contrary.

106. At the conclusion of this record retention period, Settling Defendants shall notify the United States at least 90 days prior to the destruction of any such Records, and, upon request by the United States, Settling Defendants shall deliver any such Records to EPA. Settling Defendants may assert that certain Records are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Settling Defendants assert such a privilege, they shall provide Plaintiffs with the following: (a) the title of the Record; (b) the date of the Record; (c) the name, title, affiliation (e.g., company or firm), and address of the author of the Record; (d) the name and title of each addressee and recipient; (e) a description of the subject of the Record; and (f) the privilege asserted by Settling Defendants. If a claim of privilege applies only to a portion of a Record, the Record shall be provided to the United States in redacted form to mask the privileged portion only. Settling Defendants shall retain all Records that they claim to be privileged until the United States has had a reasonable opportunity to dispute the privilege claim and any such dispute has been resolved in the Settling Defendants' favor. However, no Records created or generated pursuant to the requirements of this Consent Decree shall be withheld on the grounds that they are privileged or confidential.

107. Each Settling Defendant certifies individually that, to the best of its knowledge and belief, after thorough inquiry, it has:

a. not altered, mutilated, discarded, destroyed, or otherwise disposed of any Records (other than identical copies) relating to its potential liability regarding the Site since the earlier of notification of potential liability by the United States or the State or the filing of suit against it regarding the Site and that it has fully complied with any and all EPA and State requests for information regarding the Site pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927, and state law;

b. submitted to EPA Financial Information that fairly, accurately, and materially sets forth its financial circumstances, and that those circumstances have not materially changed between the time the financial information was submitted to EPA and the time the Settling Defendants execute this Consent Decree.

XXVI. NOTICES AND SUBMISSIONS

108. Whenever, under the terms of this Consent Decree, written notice is required to be given or a report or other document is required to be sent by one Party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing. All notices and submissions shall be considered effective upon receipt, unless otherwise provided. Written notice as specified in this Section shall constitute complete satisfaction of any written notice requirement of the Consent Decree with respect to the United States, EPA and Settling Defendants, respectively. Notices required to be sent to EPA, and not to the United States, under the terms of this Consent Decree should not be sent to the U.S. Department of Justice.

As to the United States:

Chief, Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611  
Washington, D.C. 20044-7611  
Re: DJ # 90-11-3-09813

As to EPA:

EPA Remedial Project Manager for the Puchack  
Well Field Superfund Site  
United States Environmental Protection Agency  
Region 2  
290 Broadway – 19<sup>th</sup> Floor  
New York, NY 10007-1866

As to the Regional Financial  
Management Officer:

EPA Cincinnati Finance Office  
26 Martin Luther King Drive  
Cincinnati, Ohio 45268

As to Settling Defendants:

Louis J Belardi  
Chief Financial Officer  
Secretary and Treasurer  
SL Industries, Inc.  
520 Fellowship Road Suite A-114  
Mt. Laurel NJ 08054

Joseph D. Lonardo  
Vorys, Sater, Seymour and Pease LLP  
1909 K Street NW, 9TH Floor  
Washington, DC 20006-1152

XXVII. RETENTION OF JURISDICTION

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

XXVIII. APPENDICES

110. This Consent Decree and its appendices constitute the final, complete, and exclusive agreement and understanding among the Settling Defendants with respect to the settlement embodied in this Consent Decree. The Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Consent Decree. The following appendices are attached to and incorporated into this Consent Decree:

“Appendix A” is the OU2 ROD.

“Appendix B” is the SOW.

“Appendix C” is the description and/or map of the Site.

“Appendix D” is the description and/or map of the SGL Area.

“Appendix E” is a list of documents reviewed by EPA in evaluating the Settling Defendants’ ability to pay.

“Appendix F” is an irrevocable letter of credit to guarantee payment of Past Response Costs.

“Appendix G” is a surety bond to guarantee performance of the Work.

XXIX. COMMUNITY INVOLVEMENT

111. If requested by EPA, Settling Defendants shall participate in community involvement activities pursuant to the community involvement plan to be developed by EPA.

EPA will determine the appropriate role for Settling Defendants under the Plan. Settling Defendants shall also cooperate with EPA in providing information regarding the Work to the public. As requested by EPA, Settling Defendants shall participate in the preparation of such information for dissemination to the public and in public meetings that may be held or sponsored by EPA to explain activities at or relating to the Site. Costs incurred by the United States under this Section, including the costs of any technical assistance grant under Section 117(e) of CERCLA, 42 U.S.C. § 9617(e), shall be considered Future Response Costs that Settling Defendants shall pay pursuant to Section XVI (Payments for Response Costs).

#### XXX. MODIFICATION

112. Except as provided in Paragraph 14 (Modification of SOW or Related Work Plans), material modifications to this Consent Decree, including the SOW, shall be in writing, signed by the United States and Settling Defendants, and shall be effective upon approval by the Court. Except as provided in Paragraph 14, non-material modifications to this Consent Decree, including the SOW, shall be in writing and shall be effective when signed by duly authorized representatives of the United States and Settling Defendants. A modification to the SOW shall be considered material if it fundamentally alters the basic features of the selected remedy within the meaning of 40 C.F.R. § 300.435(c)(2)(ii). Before providing its approval to any modification to the SOW, the United States will provide the State with a reasonable opportunity to review and comment on the proposed modification.

113. Nothing in this Consent Decree shall be deemed to alter the Court's power to enforce, supervise, or approve modifications to this Consent Decree.

#### XXXI. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

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

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

#### XXXII. SIGNATORIES/SERVICE

116. Each undersigned representative of a Settling Defendant to this Consent Decree and the Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind such Party to this document.

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

118. Each Settling Defendant shall identify, on the attached signature page, the name, address, and telephone number of an agent who is authorized to accept service of process by mail

on behalf of that Party with respect to all matters arising under or relating to this Consent Decree. Settling Defendants agree to accept service in that manner and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court, including, but not limited to, service of a summons. Settling Defendants need not file an answer to the complaint in this action unless or until the Court expressly declines to enter this Consent Decree.

XXXIII. FINAL JUDGMENT

119. This Consent Decree and its appendices constitute the final, complete, and exclusive agreement and understanding among the Parties regarding the settlement embodied in the Consent Decree. The Parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Consent Decree.

120. Upon entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment between and among the United States and Settling Defendants. The Court enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

SO ORDERED THIS \_\_ DAY OF \_\_\_\_\_, 20\_\_.

---

United States District Judge

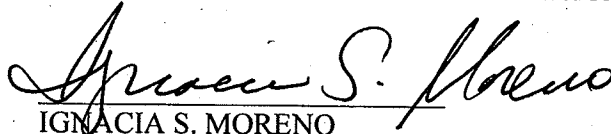


Signature Page for Consent Decree regarding the Puchack Well Field Superfund Site

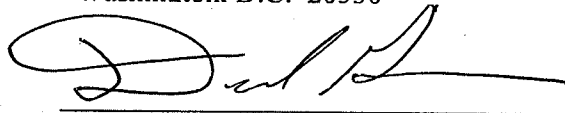
3/15/13  
Date

3/19/13  
Date

FOR THE UNITED STATES OF AMERICA:



IGNACIA S. MORENO  
Assistant Attorney General  
Environment and Natural Resources Division  
U.S. Department of Justice  
Washington, D.C. 20530



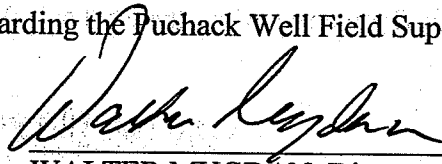
DAVID L. GORDON  
Environmental Defense Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 23986  
Washington, D.C. 20026-3986

PAUL J. FISHMAN  
United States Attorney  
ALLAN URGENT  
Assistant United States Attorney  
District of New Jersey

Signature Page for Consent Decree regarding the Puchack Well Field Superfund Site

2/11/2013

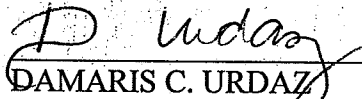
Date



WALTER MUGDAN, Director  
Emergency and Remedial Response Division  
U.S. Environmental Protection Agency  
290 Broadway  
New York, New York 10007

2/11/12

Date



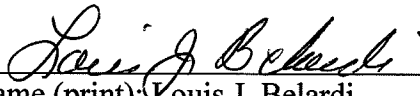
DAMARIS C. URDAY  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region 2  
290 Broadway  
New York, New York 10007

Signature Page for Consent Decree regarding the Puchack Well Field Superfund Site

**FOR SL INDUSTRIES INC.**

February 11, 2013

Date

  
Name (print): Louis J. Belardi  
Title: Chief Financial Officer  
Address: 520 Fellowship Rd., Ste. A-114, Mount Laurel, New Jersey 08054

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

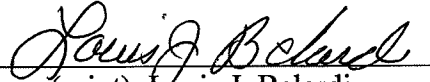
Name (print): Louis J. Belardi  
Title: Chief Financial Officer  
Address: 520 Fellowship Rd., Ste. A-114, Mount Laurel, New Jersey 08054  
Phone: (856) 222-5525  
email: Louis.belardi@slindustries.com

Signature Page for Consent Decree regarding the Puchack Well Field Superfund Site

**FOR SL SURFACE TECHNOLOGIES, INC.**

February 11, 2013

Date



Name (print): Louis J. Belardi

Title: Secretary & Treasurer

Address: 520 Fellowship Rd., Ste. A-114, Mount  
Laurel, New Jersey 08054

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

Name (print): Louis J. Belardi

Title: Secretary & Treasurer

Address: 520 Fellowship Rd., Ste. A-114, Mount  
Laurel, New Jersey 08054

Phone: (856) 222-5525

email: [Louis.belardi@slindustries.com](mailto:Louis.belardi@slindustries.com)