IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA Plaintiff, v. AMETEK, INC., and JOHN EVANS' SONS, INC. Defendants.	)	CIVIL ACTION NO. _____

CONSENT DECREE

TABLE OF CONTENTS

I. BACKGROUND 1

II. JURISDICTION 3

III. PARTIES BOUND 3

IV. DEFINITIONS 4

V. GENERAL PROVISIONS 8

VI. PERFORMANCE OF THE WORK BY SETTLING DEFENDANTS 10

VII. REMEDY REVIEW 19

VIII. QUALITY ASSURANCE, SAMPLING, AND DATA ANALYSIS 20

IX. ACCESS AND INSTITUTIONAL CONTROLS 21

X. REPORTING REQUIREMENTS 26

XI. EPA APPROVAL OF PLANS AND OTHER SUBMISSIONS 27

XII. PROJECT COORDINATORS 29

XIII. ASSURANCE OF ABILITY TO COMPLETE WORK 30

XIV. CERTIFICATION OF COMPLETION 31

XV. EMERGENCY RESPONSE 33

XVI. PAYMENTS FOR RESPONSE COSTS 34

XVII. INDEMNIFICATION AND INSURANCE 36

XVIII. FORCE MAJEURE 38

XIX. DISPUTE RESOLUTION 39

XX. STIPULATED PENALTIES 41

XXI. COVENANTS AND RESERVATIONS BY THE UNITED STATES 45

XXII. COVENANTS AND RESERVATIONS BY SETTLING DEFENDANTS 47

XXIII. EFFECT OF SETTLEMENT; CONTRIBUTION PROTECTION 49

XXIV. ACCESS TO INFORMATION 50

XXV. RETENTION OF RECORDS 51

XXVI. NOTICES AND SUBMISSIONS 52

XXVII. EFFECTIVE DATE 53

XXVIII. RETENTION OF JURISDICTION 53

XXIX. APPENDICES 53

XXX. COMMUNITY RELATIONS 54

XXXI. MODIFICATION 54

XXXII. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT 55

XXXIII. SIGNATORIES/SERVICE 55

XXXIV. FINAL JUDGMENT 55

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
	)	**CIVIL ACTION NO. _____**
v.	)	
AMETEK, INC., and JOHN EVANS' SONS, INC.	)	
Defendants.	)	

CONSENT DECREE

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 for response actions at the North Penn Area Six Superfund Site in Lansdale Borough, Montgomery County, Pennsylvania, ("Site") together with accrued interest; and (2) performance of studies and response work by the Defendants at the Site consistent with the National Contingency Plan, 40 C.F.R. Part 300 (as amended) ("NCP").

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 Commonwealth of Pennsylvania (the "State") on April 21, 2000, of negotiations with potentially responsible parties regarding the implementation of the remedial design and remedial action for the Site, and EPA has provided the State with an opportunity to participate in such negotiations and be a party to this Consent Decree.

D. In accordance with Section 122(j)(1) of CERCLA, 42 U.S.C. § 9622(j)(1), EPA notified the Department of the Interior, the National Oceanic and Atmospheric Administration, and the Pennsylvania Department of Environmental Protection on November 1, 2000, of negotiations with potentially responsible parties regarding the release of hazardous substances that may have resulted in injury to the natural resources under Federal trusteeship and encouraged the trustee(s) to participate in the negotiation of this Consent Decree.

E. The Defendants that have entered into this Consent Decree ("Settling Defendants") do not admit any liability to the Plaintiff 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 or 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, set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register on March 31, 1989, 54 *Fed. Reg.* 13296.

G. In response to a release or a substantial threat of a release of a hazardous substance(s) at or from the Site, EPA commenced on September 28, 1993, a Remedial Investigation and Feasibility Study ("RI/FS") for Operable Unit 3 for the Site pursuant to 40 C.F.R. § 300.430.

H. EPA completed a Remedial Investigation ("RI") Report and a Feasibility Study ("FS") Report in August 1999.

I. Pursuant to Section 117 of CERCLA, 42 U.S.C. § 9617, EPA published notice of the completion of the FS and of the proposed plan for remedial action on December 9, 1999, 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 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 Regional Administrator based the selection of the response action.

J. The decision by EPA on the remedial action to be implemented at the Site is embodied in a final Record of Decision ("ROD"), executed on August 10, 2000, on which the State has given its concurrence. The 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).

K. Based on the information presently available to EPA, EPA believes that the Work will be properly and promptly conducted by the Settling Defendants if conducted in accordance with the requirements of this Consent Decree and its appendices.

L. Solely for the purposes of Section 113(j) of CERCLA, 42 U.S.C. § 9613(j), the Remedial Action selected by the ROD and the Work to be performed by the Settling Defendants shall constitute a response action taken or ordered by the President.

M. 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 the 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 Settling Defendants including, but not limited to, any transfer of assets or real or personal property, shall in no way alter Settling Defendants' responsibilities under this Consent Decree.

3. Settling Defendants shall provide a copy of this Consent Decree to each contractor hired to perform the Work (as defined below) 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 contemplated herein in accordance with 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 the 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 herein, terms used in this Consent Decree which 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 in the appendices attached hereto and incorporated hereunder, the following definitions shall apply:

"CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601-9675.

"Companion Consent Decrees" shall mean all those Consent Decrees, other than this Consent Decree, entered into to perform the OU3 Remedial Design/Remedial Action at the North Penn Area Six Superfund Site.

"Consent Decree" shall mean this Decree and Appendices A, B, and C, which are attached hereto. Appendix D, "Cost Allocation Agreement," is an agreement between the two Settling Defendants and the United States is not a party to that agreement. The Cost Allocation Agreement is attached solely to facilitate its enforcement by the Settling Defendants, if necessary. In the event of conflict between this Decree and any appendix, this Decree shall control.

"Cost Allocation Agreement" shall mean the agreement by and between the two Settling Defendants concerning how the Settling Defendants will fulfill their joint and several obligations to the United States. A copy of the Cost Allocation Agreement is attached as Appendix D. The United States is not a Party to the Cost Allocation Agreement and has made no determination as to whether the Cost Allocation Agreement is fair, reasonable and in the public interest.

"Day" shall mean a calendar day unless expressly stated to be a working day. "Working day" shall mean a day other than a Saturday, Sunday, or Federal holiday. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the close of business of the next working day.

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

"Effective Date" shall mean the effective date of this Consent Decree as provided in Section XXVII.

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

"Future Oversight Costs" shall mean that portion of Future Response Costs that EPA incurs in monitoring and supervising Settling Defendants' performance of the Work to determine whether such performance is consistent with the requirements of this Consent Decree, including costs incurred in reviewing plans, reports, and other documents submitted pursuant to this Consent Decree, as well as costs incurred in overseeing implementation of the Work; however, Oversight Costs do not include, *inter alia*: the costs incurred by the United States pursuant to Sections VII (Remedy Review), IX (Access and Institutional Controls), XV (Emergency Response), and Paragraph 87 of Section XXI (Work Takeover), or the costs incurred by the United States in enforcing the terms of this Consent Decree, including all costs incurred in connection with Dispute Resolution pursuant to Section XIX (Dispute Resolution) and all litigation costs.

"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 items pursuant to this Consent Decree, verifying 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 Sections VII, IX (including, but not limited to, attorneys fees and any monies paid to secure access and/or to secure institutional controls, including the amount of just compensation), XV, and Paragraph 82 of Section XXI. Future Response Costs shall not include Future Oversight Costs.

"Interest" shall mean interest at the rate specified for interest on investments of the 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.

"Municipal Solid Waste" shall mean household waste and solid waste collected from non-residential sources that is essentially the same as household waste. While the composition of such wastes may vary considerably, municipal solid waste generally is composed of large volumes of non-hazardous substances (e.g., yard waste, food waste, glass, and aluminum) and can contain small amounts of other wastes as typically may be accepted in RCRA Subtitle D landfills.

"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.

"North Penn Area Six Special Account" shall mean the special account established for the Site by EPA pursuant to Section 122(b)(3) of CERCLA, 42 U.S.C. § 9622(b)(3).

"Operable Unit 3" or "OU3" shall mean the response actions relating to the groundwater contamination addressed by the Record of Decision for the Site signed on August 10, 2000, by the Regional Administrator, EPA Region III, or his/her delegate, and all attachments thereto. The ROD is attached as Appendix A.

"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 this Consent Decree.

"Owner, Operator, or Lessee of Residential Property" shall mean a person who owns, operates, manages, or leases Residential Property and who uses or allows the use of the Residential Property exclusively for residential purposes.

"Owner Settling Defendant" shall mean John Evans' Sons, Inc.

"PADEP" shall mean the Pennsylvania Department of Environmental Protection and any successor departments or agencies of the State.

"Paragraph" shall mean a portion of this Consent Decree identified by an arabic numeral or an upper case letter.

"Parties" shall mean the United States and the Settling Defendants.

"Past Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States has paid at or in connection with the Site through lodging of this Consent Decree, plus Interest on all such costs which has accrued pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), through such date.

"Performance Standards" shall mean the cleanup standards and other measures of achievement set forth in the ROD attached hereto as Appendix A and those that are developed by the Settling Defendants and approved by EPA during Remedial Design.

"Plaintiff" shall mean the United States.

"RCRA" shall mean the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901 et seq. (also known as the Resource Conservation and Recovery Act).

"Record of Decision" or "ROD" shall mean the EPA Record of Decision relating to the Operable Unit 3 at the Site signed on August 10, 2000, by the Regional Administrator, EPA Region III, or his/her delegate, and all attachments thereto. The ROD is attached as Appendix A.

"Remedial Action" shall mean those activities, except for Remedial Design and Operation and Maintenance, to be undertaken by the Settling Defendants to implement the ROD, in accordance with the final Remedial Design and Remedial Action Work Plans and other plans approved by EPA.

"Remedial Action Work Plan" shall mean the document developed pursuant to Paragraph 11 of this Consent Decree and approved by EPA, and any amendments thereto.

"Remedial Design" shall mean those activities to be undertaken by the 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 of this Consent Decree and approved by EPA, and any amendments thereto.

"Residential Property" shall mean single or multi-family residences, including accessory land, buildings, or improvements incidental to such dwellings, which are exclusively for residential use.

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

"Settling Defendants" shall mean John Evans' Sons, Inc. and AMETEK, Inc.

"Site" shall mean the North Penn Area Six Superfund Site, encompassing approximately 1000 acres, located in Lansdale Borough, Montgomery County, Commonwealth of Pennsylvania and depicted in the ROD.

"Source Location" shall mean the source location that is specified in Appendix C.

"State" shall mean the Commonwealth of Pennsylvania.

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

"United States" shall mean the United States of America.

"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), 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 Settling Defendants are required to perform under this Consent Decree, except those required by 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 at the Site by the design and implementation of response actions at the Site by the Settling Defendants, to reimburse Future Response Costs of the Plaintiff, and to resolve the claims of Plaintiff against Settling Defendants as provided in this Consent Decree.

6. Commitments by Settling Defendants

a. Settling Defendants shall finance and perform the Work as specified in Section VI of this Consent Decree. Settling Defendants shall also reimburse the United States for Future Response Costs as provided in this Consent Decree.

b. Settling Defendants' obligations to the United States to perform and finance the Work and to pay any amounts owed the United States under this Consent Decree are as follows:

i. with regard to connecting affected residences to public water supplies (where affected residences are those having wells that are used for drinking water and that are contaminated at a level above the maximum contamination level), the obligations to the United States of both the Settling Defendants and the signatories to the Companion Consent Decrees are joint and several;

ii. with regard to all other Work and payments provided for in this Consent Decree, the Settling Defendants' obligations to the United States are joint and several;

iii. except as set forth in subparagraph 6(b)(i) above, Settling Defendants shall not be liable for any activities required to be performed by any of the signatories to the Companion Consent Decrees.

c. In the event that any Settling Defendant files for bankruptcy or is placed involuntarily in bankruptcy proceedings, such Settling Defendant shall notify the United States within three (3) days of such filing.

d. Settling Defendants agree as between themselves to fulfill their joint and several obligations to the United States under this Consent Decree in accordance with the terms of the Cost Allocation Agreement, a copy of which is attached hereto as Appendix D. The Cost

Allocation Agreement shall be binding solely between the Settling Defendants and shall not be binding upon the United States. The Cost Allocation Agreement shall neither limit nor affect the joint and several nature of the Settling Defendants' obligations to the United States under this Consent Decree. The Cost Allocation Agreement is attached to this Consent Decree as Appendix D for the limited purpose of allowing either or both of the Settling Defendants to enforce compliance with the terms of the Cost Allocation Agreement. The United States and the Settling Defendants agree that the Court shall retain jurisdiction over the Cost Allocation Agreement for the purpose of enabling either Settling Defendant to apply to the Court at any time for such order, direction or relief as may be necessary or appropriate for the construction or modification of the Cost Allocation Agreement, or to effectuate or enforce compliance with its terms.

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 ROD. The activities conducted pursuant to this Consent Decree, if approved by EPA, shall be considered 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. The Settling Defendants may seek relief under the provisions of Section XVIII (Force Majeure) of this Consent Decree for any delay in the performance of the Work resulting from a failure to obtain, or a delay in obtaining, any permit required for the Work.

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

9. Notice of Obligations to Successors-in-Title

a. With respect to any property owned or controlled by the Owner Settling Defendant that is located within the Site, within 15 days after the entry of this Consent Decree, the Owner Settling Defendant shall record notice of the entry of this Consent Decree with the Recorder of Deed's Office, Montgomery County, Commonwealth of Pennsylvania. Such notice shall identify the United States District Court in which the Consent Decree was filed, the name

and civil action number of this case, and the date the Consent Decree was entered by the Court. The Owner Settling Defendant shall provide EPA with a certified copy of the recorded notice within ten (10) days of recording such notice.

b. At least thirty (30) days prior to the conveyance of any interest in property located within the Site including, but not limited to, fee interests, leasehold interests, and mortgage interests, the Owner Settling Defendant(s) conveying the interest shall give the grantee written notice of (I) this Consent Decree, (ii) any instrument by which an interest in real property has been conveyed that confers a right of access to the Site (hereinafter referred to as "access easements") pursuant to Section IX (Access and Institutional Controls), and (iii) any instrument by which an interest in real property has been conveyed that confers a right to enforce restrictions on the use of such property (hereinafter referred to as "restrictive easements") pursuant to Section IX (Access and Institutional Controls). At least thirty (30) days prior to such conveyance, the Owner Settling Defendant(s) conveying the interest shall also give written notice to EPA and the State of the proposed conveyance, which notice shall include the name and address of the grantee and the date on which notice of the Consent Decree, access easements, and/or restrictive easements was given to the grantee.

c. In the event of any such conveyance, the Owner Settling Defendant's obligations under this Consent Decree, including, but not limited to, its obligation to provide or secure access and institutional controls, as well as to abide by such institutional controls, pursuant to Section IX (Access and Institutional Controls) of this Consent Decree, shall continue to be met by the Owner Settling Defendant(s). In no event shall the conveyance release or otherwise affect the liability of the Owner Settling Defendant(s) to comply with all provisions of this Consent Decree, absent the prior written consent of EPA. If the United States approves, the grantee may perform some or all of the Work under this Consent Decree.

VI. PERFORMANCE OF THE WORK BY SETTLING DEFENDANTS

10. Selection of Contractors.

a. Supervising Contractor.

I. 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 acceptance or disapproval by EPA after a reasonable opportunity for review and comment by the State. Within twenty-one (21) days after the lodging of this Consent Decree, Settling Defendants shall notify EPA and the State in writing of the name, title, and qualifications of any contractor proposed to be the Supervising Contractor.

With respect to any contractor proposed to be Supervising Contractor, Settling Defendants shall demonstrate that the proposed contractor has a quality system that 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), by submitting a copy of the proposed contractor's Quality Management Plan (QMP). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B-01/002, March 2001) or equivalent documentation as determined by EPA. EPA will issue a notice of disapproval or acceptance of the selection of such Supervising Contractor. If at any time thereafter, Settling Defendants propose to change a Supervising Contractor, Settling Defendants shall give such notice to EPA and the State and must obtain a notice of acceptance of such change from EPA, after a reasonable opportunity for review and comment by the State, before the new Supervising Contractor performs, directs, or supervises any Work under this Consent Decree.

ii. If EPA disapproves the selection of a proposed Supervising Contractor, EPA will notify Settling Defendants in writing. Settling Defendants shall submit to EPA and the State a list of at least two contractors, including the qualifications of each contractor, that would be acceptable to them within thirty (30) days of receipt of EPA's notice. EPA will provide written notice of the names of any contractor(s) whose selection it would accept. Settling Defendants may select any contractor from that list and shall notify EPA and the State of the name of the contractor selected within twenty-one (21) days of EPA's written notice.

iii. If EPA fails to provide written notice of its acceptance 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 the provisions of Section XVIII (Force Majeure) of this Consent Decree.

b. Other Contractors and Subcontractors. The Settling Defendants shall submit to EPA and the State for acceptance by EPA the names and qualifications of any additional contractors and subcontractors they propose to use to satisfy any requirement of this Consent Decree before such contractor or subcontractor performs any Work. If EPA does not respond with a notice accepting or disapproving the proposal for additional contractors and subcontractors within fourteen (14) days of receipt by EPA of Settling Defendants' selections, the proposal for additional contractors and subcontractors shall be deemed accepted. In the event EPA disapproves any proposed contractor or subcontractor, Settling Defendants shall submit to EPA and the State a list of at least two contractors or subcontractors, including the qualifications of each, that would be acceptable to them within twenty (21) days of receipt of EPA's notice. EPA will provide written notice of the names of any contractor(s) or subcontractor(s) whose selection it would accept. Settling Defendants may select any contractor or subcontractor from that list and shall notify EPA and the State of the name of the contractor or subcontractor selected

within ten (10) days of EPA's written notice.

11. Remedial Design/Remedial Action.

a. Within 30 days after EPA's acceptance of the selection of the Supervising Contractor pursuant to Paragraph 10, Settling Defendants shall submit to EPA and the State a work plan for the design of the Remedial Action at the Site ("Remedial Design Work Plan" or "RD Work Plan"). The RD Work Plan shall be prepared by the individual(s) and/or entities responsible for completion of the Remedial Design, except to the extent such persons have been disapproved by EPA. The Remedial Design Work Plan shall provide for design of the remedy set forth in the ROD, except that the Remedial design Work Plan shall be strictly limited to response actions that are necessary within the boundaries of the Source Location as defined in Appendix C and not elsewhere within the Site. The Remedial Design Work Plan shall also provide for achievement of the Performance Standards within the area of the Source Location that is specified in Appendix C and not elsewhere within the Site. The Remedial Design Work Plan shall further provide for other requirements set forth in the ROD and this Consent Decree that pertain to (1) the connection of residences to public water as required by the ROD, or (2) other requirements that directly relate to or can be satisfied or given effect through response actions in or on the Source Location. Except for the connection of residences to public water as required by the ROD, no activities outside the boundary of the Source Location shall be required of Settling Defendants. Upon its approval by EPA, the Remedial Design Work Plan shall be incorporated into and become enforceable under this Consent Decree. The Settling Defendants shall also submit to EPA and the State, at the time the Remedial Design Work plan is submitted, 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, schedules, and methodologies for implementation of all remedial design and pre-design tasks and shall include, at a minimum:

i. A Site Management Plan;

ii. A Sampling and Analysis Plan, containing:

(1) A Field Sampling Plan; and

(2) A Quality Assurance Project Plan (QAPP);

iii. A Pump Test Plan, if necessary, for collection of aquifer Source Location information for use in pumping well design;

iv. A Remedial Design Contingency Plan;

v. A Treatability Study Work Plan which includes, at a minimum, plans and schedules for the preparation and submission of a Treatability Study Evaluation Report;

vi. Plans and schedules for the preparation and submission of a Preliminary Design Submittal (the preliminary design begins with the initial design and ends with the completion of approximately 30% of the design effort) containing, at a minimum:

(1) A Design Criteria Report, including:

(a) Project description;

(b) Design requirements and provisions;

(c) Preliminary process flow diagrams;

(d) Operation & maintenance requirements;

(2) A Basis of Design Report, including:

(a) Justification of design assumptions;

(b) A project delivery strategy;

(c) Remedial action permits plan for off-site permits;

(d) Preliminary easement/access requirements;

(3) Preliminary Drawings and Specifications, including:

(a) Outline of general specifications;

(b) Preliminary schematics and drawings;

(c) Chemical and geotechnical data (including data from pre-design activities);

(d) A value engineering screen; and

(4) Preliminary Remedial Action schedule.

vii. Plans and schedules for the preparation and submission of a pre-final design submittal which shall be submitted at approximately 90% of the design effort and shall address all of EPA's comments to the intermediate design, and, at a minimum, additionally include:

(1) If determined by EPA to be necessary, a preliminary Operation & Maintenance Plan;

(2) A preliminary Construction Quality Assurance Plan ("CQAP") (the CQAP, which shall detail the approach to quality assurance during construction activities at the Site, 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);

(3) A preliminary Remedial Action decontamination plan;

(4) A draft final Remedial Action schedule;

(5) A draft final Remedial Action contingency plan; and

(6) A draft final Remedial Action HASP for EPA acceptance.

viii. Plans and schedules for the preparation and submission of a final design submittal which shall be submitted at 100% of the design effort and shall address all of EPA's comments to the pre-final design, and, at a minimum, additionally include:

(1) A final Remedial Action schedule;

(2) A final Remedial Action contingency plan;

(3) A final Remedial Action HASP for EPA acceptance;

(4) A final Remedial Action waste management plan;

(5) A preliminary Remedial Action decontamination plan and a schedule for the submission of the final Remedial Action decontamination plan;

(6) A final Design Criteria Report;

(7) A final Remedial Action Sampling and Analysis Plan (directed at measuring progress towards meeting the Performance Standards);

(8) A final Basis of Design Report;

(9) Final Drawings and Specifications;

(10) A revised Operation & Maintenance Plan and a schedule for submission of the final Operation & Maintenance Plan, if deemed necessary by EPA;

(11) A final Construction Quality Assurance Plan;

(12) A final Remedial Action decontamination plan; and

(13) A final project delivery strategy.

ix. a Remedial Design schedule.

c. Upon approval of the Remedial Design Work Plan by EPA, after a reasonable opportunity for review and comment by the State, and submittal of the Health and Safety Plan for all field activities to EPA and the State, Settling Defendants shall implement the Remedial Design Work Plan in accordance with the schedules and methodologies contained therein. The Settling Defendants shall submit to EPA and the State all plans, submittals, and other deliverables required under the approved Remedial Design Work Plan in accordance with the approved schedule therein 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 field activities at the Site prior to approval of the Remedial Design Work Plan.

d. Upon approval, approval with conditions, or modification by EPA, as provided in Section XI (EPA Approval of Plans and Other Submissions), of all components of the final design submittal, the final design submittal shall serve as the Remedial Action Work Plan and shall be enforceable under this Consent Decree. The Settling Defendants shall implement the

activities required under the Remedial Action Work Plan in accordance with the schedules and methodologies contained therein.

e. The Settling Defendants shall submit all plans, submittals, or other deliverables required under the Remedial Action 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 or required under the Remedial Design Work Plan, the Settling Defendants shall not commence physical activities at the Site prior to the date for commencement set forth in the approved schedule in the Remedial Action Work Plan.

12. Resident Engineer. Following EPA approval, approval with conditions, or modification by EPA, as provided in Section XI (EPA Approval of Plans and Other Submissions), of all components of the final design submittal, and prior to commencement of any on-Site Work under the Remedial Action Work Plan, the Settling Defendants shall submit to EPA the name and qualifications of a Resident Engineer to be present at the Site during construction to ensure that the Work is performed in accordance with the approved Remedial Action Work Plan. The Resident Engineer may be the same person as the Supervising Contractor. The Resident Engineer shall be familiar with all aspects of the Remedial Design approved by EPA. EPA retains the right to disapprove the use of any Resident Engineer proposed by Settling Defendants. In the event EPA disapproves the use of any proposed Resident Engineer, Settling Defendants shall submit to EPA and the State a list of at least two replacements, including the qualifications of each, who would be acceptable to them within twenty-one (21) days of receipt of EPA's notice. EPA will provide written notice of the names of any replacements whose use it would accept. Settling Defendants may select any replacement from the EPA notice and shall notify EPA and the State of the name of the replacement selected within ten (10) days of EPA's written notice. Settling Defendants shall ensure that the Resident Engineer performs on-Site inspections as necessary to ensure compliance with the approved Remedial Action Work Plan and that the results of such inspections are promptly provided to Settling Defendants, EPA, and the State. The Resident Engineer may act as the QA Official.

13. The Settling Defendants shall continue to implement the Remedial Action and, if determined by EPA to be necessary, O & M until the Performance Standards for the Source Location are achieved and for so long thereafter as is otherwise required under this Consent Decree.

14. Modification of the Work.

a. If EPA determines that modification of the Work is necessary to achieve and maintain the Performance Standards with respect to the Source Location or to carry out and maintain the effectiveness of the remedy set forth in the ROD, EPA may (1) require that such modification be incorporated into the Remedial Design Work Plan, Remedial Action Work Plan,

Operation and Maintenance Plan, and/or any other plan relating to such Work, and/or (2) require that Settling Defendants submit a plan for EPA approval which incorporates such modification to the Work at the Source Location and implement such approved plan. EPA may require a modification pursuant to this Paragraph only to the extent that the modification is directed to Work that is conducted on or at the Source Location, and only to the extent that it is consistent with the scope of the remedy selected in the ROD. No modification shall make Settling Defendants jointly liable, or jointly obligated for the completion of the ROD as it pertains to the signatories to the Companion Consent Decrees or as it pertains to activities at the Site other than Work at or on the Source Location.

b. For the purposes of this Paragraph 14 and Paragraphs 50 and 51 only, and subject to the limitations in Paragraph 6, the "scope of the remedy selected in the ROD" means:

i. tasks employing a technology or combination of technologies discussed in Section X [Selected Remedy and Performance Standards] of the ROD to achieve and maintain the objectives described in the ROD. The technologies discussed in Section X of the ROD include:

(1) extraction of contaminated ground water;

(2) treatment of the contaminated ground water via air-stripping;

(3) additional treatment of the liquid phase as necessary to meet discharge limits;

(4) discharge to surface water;

(5) treatment of the gas stream from the air stripper using granular activated carbon or ultraviolet oxidation; and

(6) hook-up of residences to public water as required by the ROD.

ii. tasks associated with monitoring of Operable Unit 3 conditions and the effectiveness of the Remedial Action.

c. If Settling Defendants object to any modification determined by EPA to be necessary pursuant to this Paragraph, they may seek dispute resolution pursuant to Section XIX (Dispute Resolution), Paragraph 68 (record review). The Remedial Design Work Plan, Remedial

Action Work Plan, Operation and Maintenance Plan, and/or related work plans shall be modified in accordance with final resolution of the dispute.

d. Settling Defendants shall implement any work required by any modifications incorporated in the Remedial Design Work Plan, Remedial Action Work Plan, Operation and Maintenance Plan, and/or in work plans developed in accordance with this Paragraph.

e. 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. Settling Defendants acknowledge and agree that nothing in this Consent Decree 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 Work Plans will achieve the Performance Standards.

16. Settling Defendants shall, prior to any off-Site shipment of Waste Material from the Site to an out-of-state waste management facility, provide written notification to the appropriate state environmental official in the receiving facility's state and to the EPA Project Coordinator of such shipment of Waste Material. However, this notification requirement shall not apply to any off-Site shipments when the total volume of all such shipments will not exceed ten (10) cubic yards.

a. The Settling Defendants shall include in the written notification the following information, where available:

i. the name and location of the facility to which the Waste Material is to be shipped;

ii. the type and quantity of the Waste Material to be shipped;

iii. the expected schedule for the shipment of the Waste Material; and

iv. the method of transportation.

The Settling Defendants shall notify the state in which the planned receiving facility is located of major changes in the shipment plan, such as a decision to ship the Waste Material to another facility within the same state, or to a facility in another state.

b. The identity of the receiving facility and state will be determined by the Settling Defendants following the award of the contract for Remedial Action construction. The Settling Defendants shall provide the information required by Paragraph 16(a)as soon as

practicable after the award of the contract but in no case less than seven (7) days before the Waste Material is actually shipped.

VII. REMEDY REVIEW

17. Periodic Review. Settling Defendants shall conduct any studies and investigations of the Source Location as requested by EPA, but only to the extent that such studies and investigations are conducted and completed within the property boundaries of the Source Location, in order to permit EPA to conduct reviews of whether: (1) the Remedial Action is protective of human health and the environment; and (2) the Remedial Action meets or provides a basis for waiving ARARs identified for the Remedial Action in the ROD (including technical impracticability from an engineering perspective pursuant to Section 121(d)(4) of CERCLA, 42 U.S.C. § 9621(d)(4)). EPA shall conduct such reviews at least every five (5) years as required by Section 121(c) of CERCLA, 42 U.S.C. § 9621(c), and any applicable regulations. EPA shall conduct studies and investigations, if required by Section 121(c), at the following locations: the Keystone Hydraulics Facility located at 834 West Third Street, Lansdale Pennsylvania; the Royal Cleaners Facility located at 1315 North Broad Street, Hatfield, Pennsylvania; the Tate Andale Facility located at 135 East Hancock Street, Lansdale, Pennsylvania; the Westside Industries Facility located at 5th and Mitchell Streets, Lansdale, Pennsylvania; the Electra Products Facility located at 200 West 5th Street, Lansdale, Pennsylvania; and the Facility located at 9th and Moyers, Lansdale, Pennsylvania. EPA shall cause studies and investigations to be conducted, if required by Section 121(c), at the following locations: the John Evans and Sons Facility located at Maple and Spring Avenues, Lansdale, Pennsylvania; the J.W. Rex Facility, located at 8th Street and Valley Forge Road, Lansdale, Pennsylvania; the Parker Hannifan Facility located at 422 West Sixth Street, Lansdale, Pennsylvania; and the Central Sprinkler Facility located at 451 North Cannon Avenue, Lansdale, Pennsylvania. EPA shall conduct any sampling necessary to determine whether: (1) the Remedial Action is protective of human health and the environment; and (2) whether a waiver of ARARs should be granted on the basis of technical impracticability.

18. EPA 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 for the Site 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, 42 U.S.C. §§ 9613(k) or 9617, 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, 42 U.S.C. § 9621(c), 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 for the Site, the Settling Defendants shall undertake such further

response actions to the extent that the reopener conditions in Paragraph 83 or Paragraph 84 (United States' reservations of liability based on unknown conditions or new information) are satisfied. If EPA requires Settling Defendants to undertake such further actions pursuant to this Paragraph, Settling Defendants may invoke the procedures set forth in Section XIX (Dispute Resolution) to dispute (1) EPA's determination that the reopener conditions of Paragraph 83 or Paragraph 84 of Section XXI (Covenants and Reservations by the United States) are satisfied, (2) EPA's determination that the Remedial Action is not protective of human health and the environment, or (3) 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 68 (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. While conducting all sample collection and analysis activities required by this Consent Decree, the Settling Defendants shall implement quality assurance, quality control, and chain of custody procedures in accordance with "EPA Requirements for Quality Assurance Project Plans (EPA QA/R-5)"(EPA 240 B-01 003, March 2001); "EPA NEIC Policies and Procedures Manual," (May 1986) (EPA 330/978-001-R); National Functional Guidelines for Inorganic Data Review (EPA 540/R-94/013) and Modifications to the National Functional Guidelines for Inorganic Data Review (EPA Region III: April 1993); National Functional Guidelines for Organic Data Review (EPA 540/R-94/012) and Modifications to the National Functional Guidelines for Organic Data Review (EPA Region III: September 1994); "Region III Innovative Approaches to Data Validation," (EPA Region III: September 1994); "Data Quality Objectives Process for Superfund," (EPA 540/R-93/071: September 1994); and subsequent amendments to such guidelines upon notification by EPA to Settling Defendants of such amendment. Amended guidelines shall apply only to procedures conducted after such notification. Prior to the commencement of any monitoring project under this Consent Decree, Settling Defendants shall submit to EPA for approval, after a reasonable opportunity for review and comment by the State, a Quality Assurance Project Plan ("QAPP") for the Work that is consistent with the NCP and the guidance documents cited above. 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 Decree. Settling Defendants shall ensure that EPA and State personnel and their 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. Settling Defendants shall submit to EPA the selected laboratory's(ies') Quality Assurance Program Plan (QAPP) and their qualifications, which shall include, at a minimum, previous certifications, Performance Evaluation (PE) results, equipment lists and personnel resumes. Settling Defendants shall ensure that all field methodologies utilized in collecting samples for subsequent analysis pursuant to this Decree will be conducted in accordance with the procedures set forth in the QAPP approved by EPA. At the request of EPA, Settling Defendants shall conduct one or more audits of the selected laboratory(ies) to verify analytical capability and compliance with the QAPP. Auditors shall conduct lab audits during the time the laboratory(ies) is analyzing samples collected pursuant to this Consent Decree. The lab audit shall be conducted according to procedures available from the QA Branch. Audit reports shall be submitted to the EPA Project Coordinator within fifteen (15) days of completion of the audit. The Settling Defendants shall report serious deficiencies, including all those which adversely impact data quality, reliability or accuracy, and take action to correct such deficiencies within twenty-four (24) hours of the time the Settling Defendants knew or should have known of the deficiency.

23. Upon request, the Settling Defendants shall allow split or duplicate samples to be taken by EPA and the State or their authorized representatives. Settling Defendants shall notify EPA and the State not less than ten (10) 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 the Settling Defendants to take split or duplicate samples of any samples they take as part of the Plaintiff's oversight of the Settling Defendants' implementation of the Work.

24. Settling Defendants shall submit to EPA and the State three (3) copies 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.

25. 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

26. If 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 Settling Defendant, such Settling Defendant shall:

a. commencing upon the date of lodging of this Consent Decree, provide the United States, the State, and their representatives, including EPA and its contractors, with access at all reasonable times to the Site, or such other property, for the purpose of conducting any activity related to this Consent Decree including, but not limited to:

i. Monitoring the Work;

ii. Verifying any data or information submitted to the United States or the State;

iii. Conducting investigations relating to contamination at or near the Site;

iv. Obtaining samples;

v. Assessing the need for, planning, or implementing additional response actions at or near the Site;

vi. Assessing implementation of quality assurance and quality control practices as defined in the approved Quality Assurance Project Plans;

vii. Implementing the Work pursuant to the conditions set forth in Paragraph 87 of this Consent Decree (Work Takeover);

viii. Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Settling Defendants or their agents, consistent with Section XXIV;

ix. Assessing Settling Defendants' compliance with this Consent Decree; and

x. 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;

b. commencing on the date of lodging of this Consent Decree, refrain from using the Site, or such other property, in any manner that would interfere with or adversely affect the

integrity or protectiveness of the remedial measures to be implemented pursuant to this Consent Decree; and

c. upon the request of EPA, execute and record in the Recorder of Deeds' Office of Montgomery County, Commonwealth of Pennsylvania, an easement, running with the land, 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 listed in Paragraph 26(a) of this Consent Decree, and (ii) grants the right to enforce any land or water use restrictions that EPA determines are necessary to implement, ensure non-interference with, or ensure the protectiveness of the remedial measures to be performed pursuant to this Consent Decree. Such Settling Defendant shall grant the access rights and the rights to enforce the land/water use restrictions to one or more of the following persons, as determined by EPA: the United States (on behalf of EPA) and its representatives, the State and its representatives, other Settling Defendants and their representatives or any other appropriate grantees. Within thirty (30) days of such request, such Settling Defendant shall submit to EPA for review and approval with respect to such property:

i. A draft easement, in substantially the form attached hereto as Appendix B , that is enforceable under the laws of the Commonwealth of Pennsylvania; 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 easement to be free and clear of all prior liens and encumbrances (except when those liens or encumbrances are approved by EPA or when, despite best efforts, Settling Defendants are unable to obtain release or subordination of such prior liens or encumbrances).

Within fifteen (15) days of EPA's approval and acceptance of the easement and title insurance, such Settling Defendant shall update the title search and, if it is determined that nothing has occurred since the Effective Date of the commitment or report to affect the title adversely, record the easement with the Recorder of Deeds' Office of Montgomery County. Within thirty (30) days of recording the easement, such Settling Defendant shall provide EPA with final title insurance policy or other final evidence of title acceptable to EPA and a certified copy of the original recorded easement showing the clerk's recording stamps. If the easement is to be conveyed to the United States, the easement 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. § 255.

27. If 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 persons other than any of

the Settling Defendants, Settling Defendants shall use best efforts to secure from such persons:

a. an agreement to provide access thereto for Settling Defendants, as well as for the United States on behalf of EPA, and the State, as well as their representatives (including contractors), for the purpose of conducting any activity related to this Consent Decree including, but not limited to, those activities listed in Paragraph 26(a)of this Consent Decree;

b. an agreement, enforceable by the Settling Defendants and the United States, to refrain from using the Site, or such other property, in any manner that would interfere with or adversely affect the implementation, integrity or protectiveness of the remedial measures to be performed pursuant to this Consent Decree.

c. upon the request of EPA, the execution and recordation in the Recorder of Deeds' Office of Montgomery County, Commonwealth of Pennsylvania, of an easement, running with the land, 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 listed in Paragraph 26(a) of this Consent Decree, and (ii) grants the right to enforce any land/water use restrictions that EPA determines are necessary pursuant to Paragraph 26(b) of this Consent Decree. The access rights and/or rights to enforce land/water use restrictions shall be granted to one or more of the following persons, as determined by EPA: the United States (on behalf of EPA) and its representatives, the State and its representatives, other Settling Defendants and their representatives, or any other appropriate grantees. Within forty-five (45) days of entry of this Consent Decree, such Settling Defendant shall submit to EPA for review and approval with respect to such property:

i. A draft easement, in substantially the form attached hereto as Appendix B that is enforceable under the laws of the Commonwealth of Pennsylvania; 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 easement to be free and clear of all prior liens and encumbrances (except when those liens or encumbrances are approved by EPA or when, despite best efforts, Settling Defendants are unable to obtain release or subordination of such prior liens or encumbrances).

Within fifteen (15) days of EPA's approval and acceptance of the easement and title insurance, such Settling Defendant shall update the title search and, if it is determined that nothing has occurred since the Effective Date of the commitment or report to affect the title adversely, the easement shall be recorded with the Recorder of Deeds' Office of Montgomery County. Within

thirty (30) days of recording the easement, such Settling Defendant shall provide EPA with a final title insurance policy or other evidence of title acceptable to EPA and a certified copy of the original recorded easement showing the clerk's recording stamps. If the easement is to be conveyed to the United States, the easement 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. § 255.

28. For purposes of Paragraph 27 of this Consent Decree, "best efforts" includes the payment of reasonable sums of money in consideration of access, access easements, land/water use restrictions, restrictive easements, and/or an agreement to release or subordinate a prior lien or encumbrance. If (a) any access or land/water use restriction agreements required by Paragraphs 27(a) or 27(b) of this Consent Decree are not obtained within forty-five (45) days of the date of entry of this Consent Decree, or (b) any access easements or restrictive easements required by Paragraph 27(c) of this Consent Decree are not submitted to EPA in draft form within forty-five (45) days of the date of entry of this Consent Decree, or (c) Settling Defendants are unable to obtain an agreement pursuant to Paragraph 26(c)(i) or Paragraph 27(c)(i) from the holder of a prior lien or encumbrance to release or subordinate such lien or encumbrance to the easement being created pursuant to this Consent Decree within forty-five (45) days of the date of entry of this Consent Decree, then 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 of this Consent Decree. The United States may, as it deems appropriate, assist Settling Defendants in obtaining access or land/water use restrictions, either in the form of contractual agreements or in the form of easements running with the land or in obtaining the release or subordination of a prior lien or encumbrance. Settling Defendants shall reimburse the United States in accordance with the procedures in Section XVI (Payment for Response Costs), for all costs incurred, direct or indirect, by the United States in obtaining such access, land/water use restrictions, 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.

29. If EPA determines that land/water use restrictions in the form of state or local laws, regulations, ordinances or other governmental controls are needed to implement the remedy selected in the ROD, ensure the integrity and protectiveness thereof, or ensure non-interference therewith, Settling Defendants shall cooperate with EPA's efforts to secure such governmental controls.

30. 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 land/water use restrictions, including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statute or regulations.

X. REPORTING REQUIREMENTS

31. In addition to any other requirement of this Consent Decree, Settling Defendants shall submit to EPA and the State three (3) copies each of written monthly progress reports or, commencing upon the completion of any construction activities required by the Remedial Action Work Plan, quarterly progress reports that: (a) describe the actions which have been taken toward achieving compliance with this Consent Decree during the previous month or quarter; (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 or quarter; (c) identify all work plans, plans, and other deliverables required by this Consent Decree completed and submitted during the previous month or quarter; (d) describe all actions, including, but not limited to, data collection and implementation of work plans, which are scheduled for the next six weeks for monthly reports or for the next three months for quarterly reports 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 or quarter and those to be undertaken in the next six weeks for monthly reports or in the next three months for quarterly reports. Settling Defendants shall submit these progress reports to EPA and the State by the tenth day of every month following the entry of this Consent Decree and on the first day of each quarter after completion of any construction activities required by the Remedial Action Work Plan 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.

32. 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, implementation of work plans, no later than seven (7) days prior to the performance of the activity. Notwithstanding the foregoing, the Settling Defendants shall notify EPA of any change in the schedule described in the monthly progress reports for the performance of data collection no later than ten (10) days prior to the performance of such activity.

33. Upon the occurrence of any event during performance of the Work that Settling Defendants are required to report pursuant to Section 103 of CERCLA, 42 U.S.C. § 9603, or Section 304 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11004, Settling Defendants shall within twenty-four (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 EPA Region III Hotline at (215) 814-3255. These reporting requirements are in addition to the reporting required by CERCLA § 103 or EPCRA § 304.

34. Within twenty (20) days of the onset of such an event, Settling Defendants shall furnish to Plaintiff 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 thirty (30) days of the conclusion of such an event, Settling Defendants shall submit a report setting forth all actions taken in response thereto.

35. Settling Defendants shall submit three (3) copies of all plans, reports, and data required by 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. Settling Defendants shall simultaneously submit two (2) copies of all such plans, reports, and data to the State. Upon request by EPA, Settling Defendants shall submit in electronic form all portions of any report or other deliverable Settling Defendants are required to submit pursuant to the provisions of this Consent Decree.

36. All reports and other documents submitted by Settling Defendants to EPA (other than the monthly and quarterly progress reports required by Paragraph 31) which purport to document Settling Defendants' compliance with the terms of this Consent Decree shall be signed by a Duly Authorized Representative of the Settling Defendants.

XI. EPA APPROVAL OF PLANS AND OTHER SUBMISSIONS

37. After review of any plan, report or other item which is required to be submitted for approval pursuant to this Consent Decree, EPA, after reasonable opportunity for review and comment by the State, shall: (a) approve, in whole or in part, the submission; (b) approve the submission upon specified conditions; (c) modify the submission to cure the deficiencies; (d) disapprove, in whole or in part, the submission, directing that the Settling Defendants modify the submission; or (e) any combination of the above. However, EPA shall not modify a submission without first providing Settling Defendants at least one notice of deficiency and an opportunity to cure within fourteen (14) days, or such other time as specified by EPA in such notice, except where to do so would cause serious disruption to the Work, or where previous submission(s) have been disapproved due to material defects and the deficiencies in the submission under consideration indicate to EPA a bad faith lack of effort to submit an acceptable deliverable.

38. In the event of approval, approval upon conditions, or modification by EPA pursuant to Paragraph 37(a-c), Settling Defendants shall proceed to take any action required by the plan, report, or other item, as approved or modified by EPA 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. In the event that EPA modifies the submission to cure the deficiencies pursuant to Paragraph 37(c) and the submission has a material defect, EPA retains its right to seek stipulated penalties, as provided in Section XX (Stipulated Penalties).

39. a. Upon receipt of a notice of disapproval pursuant to Paragraph 37(d), Settling Defendants shall, within fourteen (14) days, or such other time as specified by EPA in such notice, correct the deficiencies and resubmit the plan, report, or other item for approval. Any stipulated penalties applicable to the submission, as provided in Section XX, shall accrue during the fourteen (14)-day period, or otherwise specified period, but shall not be payable unless the resubmission is disapproved or modified due to a material defect as provided in Paragraphs 40 and 41.

b. Notwithstanding the receipt of a notice of disapproval pursuant to Paragraph 37(d), Settling Defendants shall proceed, at the direction of EPA, to take any action required by any non-deficient portion of the submission. Implementation of any non-deficient portion of a submission shall not relieve Settling Defendants of any liability for stipulated penalties under Section XX (Stipulated Penalties).

40. In the event that a resubmitted plan, report or other item, or portion thereof, is disapproved by EPA, EPA may again require the Settling Defendants to correct the deficiencies, in accordance with the preceding Paragraphs. EPA also retains the right to modify or develop the plan, report or other item. Settling Defendants shall implement any such plan, report, or item as modified or developed by EPA, subject only to their right to invoke the procedures set forth in Section XIX (Dispute Resolution).

41. If upon resubmission, a plan, report, or item is disapproved or modified by EPA due to a material defect, Settling Defendants shall be deemed to have failed to submit such plan, report, or item timely and adequately unless the Settling Defendants invokes the dispute resolution procedures set forth in Section XIX (Dispute Resolution) and EPA's action is overturned pursuant to that Section. The provisions of Section XIX (Dispute Resolution) and Section XX (Stipulated Penalties) shall govern the implementation of the Work and accrual and payment of any stipulated penalties during Dispute Resolution. If EPA's disapproval or modification is upheld, stipulated penalties shall accrue for such violation from the date on which the initial submission was originally required, as provided in Section XX.

42. All plans, reports, and other items required to be submitted to EPA under this Consent Decree shall, upon approval or modification by EPA, be enforceable under this Consent Decree. In the event EPA approves or modifies a portion of a plan, report, or other item required to be submitted to EPA under this Consent Decree, the approved or modified portion shall be enforceable under this Consent Decree.

XII. PROJECT COORDINATORS

43. The EPA Project Coordinator and Alternate Project Coordinator for this Site are:

EPA Project Coordinator:
Ruth Scharr (3HS21)
U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103-2029
(215) 814-3191 (phone)
(215) 814-3001(telefax)

EPA Alternate Project Coordinator:
Peter Ludzia (3HS21)
U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103-2029
(215) 814-3021 (phone)
(215) 814-3001 (telefax)

Within five (5) business days of the Effective Date this Consent Decree, Settling Defendants will notify EPA, in writing, of the name, address and telephone number of its designated Project Coordinator(s) and Alternate Project Coordinator(s). The Project Coordinator(s) or Alternate Project Coordinator(s) may be the same person as the Resident Engineer and/or Supervising Contractor. 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 (5) working days before the changes occur, unless impracticable, but in no event later than the actual day the change is made. The Settling Defendants' Project Coordinator and Alternate Project Coordinator shall be subject to acceptance or disapproval by EPA and shall have the technical expertise sufficient to adequately oversee all aspects of the Work. The Settling Defendants' Project Coordinator and Alternate Project Coordinator shall not be an attorney for any of the Settling Defendants in this matter. The Settling Defendants' Project Coordinator and Alternate Project Coordinator may assign other representatives, including other contractors, to serve as a Site representative for oversight of performance of daily operations during remedial activities.

44. Plaintiff may designate other representatives, including, but not limited to, EPA and State employees, and federal and State contractors and consultants, to observe and monitor the progress of any activity undertaken pursuant to this Consent Decree. EPA's Project Coordinator and Alternate 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. In addition, EPA's Project Coordinator and Alternate 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.

45. EPA's Project Coordinator and the Settling Defendants' Project Coordinator will confer, at a minimum, on a monthly basis in person or by telephone.

XIII. ASSURANCE OF ABILITY TO COMPLETE WORK

46. Within thirty (30) days of entry of this Consent Decree, Settling Defendants shall establish and maintain financial security in the amount of $1,000,000.00 in one or more of the following forms:

a. A surety bond guaranteeing performance of the Work;

b. One or more irrevocable letters of credit equaling the total estimated cost of the Work;

c. A trust fund;

d. A guarantee to perform the Work by one or more parent corporations or subsidiaries, or by one or more unrelated corporations that have a substantial business relationship with at least one of the Settling Defendants; or

e. A demonstration that one or more Settling Defendant satisfies the requirements of 40 C.F.R. § 264.143(f) (for these purposes, references in 40 C.F.R. § 264.143(f) to "the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates" shall mean the amount of financial security specified above).

Such financial security shall be maintained by the Settling Defendants until EPA agrees that the Work has been completed and issues a Certification of Completion in accordance with Paragraph 51(b).

47. If the Settling Defendants seek to demonstrate the ability to complete the Work through a guarantee by a third party pursuant to Paragraph 46(d) of this Consent Decree, Settling Defendants shall demonstrate that the guarantor satisfies the requirements of 40 C.F.R. § 264.143(f). If Settling Defendants seek to demonstrate their ability to complete the Work by means of the financial test or the corporate guarantee pursuant to Paragraph 46(d) or 46(e), they shall resubmit sworn statements conveying the information required by 40 C.F.R. Part 264.143(f) annually, on the anniversary of the Effective Date of this Consent Decree. In the event that EPA, after a reasonable opportunity for review and comment by the State, determines at any time that

the financial assurances provided pursuant to this Section are inadequate, Settling Defendants shall, within thirty (30) days of receipt of notice of EPA's determination, obtain and present to EPA for approval one of the other forms of financial assurance listed in Paragraph 46 of this Consent Decree. Settling Defendants' inability to demonstrate financial ability to complete the Work shall not excuse performance of any activities required under this Consent Decree.

48. If Settling Defendants can show that the estimated cost to complete the remaining Work has diminished below the amount set forth in Paragraph 46 above after entry of this Consent Decree, Settling Defendants may, on any anniversary date of entry of this Consent Decree, or at any other time agreed to by the Parties, reduce the amount of the financial security provided under this Section to the estimated cost of the remaining work to be performed. Settling Defendants shall submit a proposal for such reduction to EPA, in accordance with the requirements of this Section, and may reduce the amount of the security upon approval by EPA. In the event of a dispute, Settling Defendants may reduce the amount of the security in accordance with the final administrative or judicial decision resolving the dispute.

49. Settling Defendants may change the form of financial assurance provided under this Section at any time, upon notice to and approval by EPA, provided that the new form of assurance meets the requirements of this Section. In the event of a dispute, Settling Defendants may change the form of the financial assurance only in accordance with the final administrative or judicial decision resolving the dispute.

XIV. CERTIFICATION OF COMPLETION

50. Completion of the Remedial Action

a. Within ninety (90) days after Settling Defendants conclude that the Remedial Action with respect to Work at the Source Location has been fully performed and the Performance Standards for the Source Location that is specified in Appendix C have been attained, Settling Defendants shall schedule and conduct a pre-certification inspection to be attended by Settling Defendants, EPA, and the State if the State so elects. If, after the pre-certification inspection, the Settling Defendants still believe that the Remedial Action has been fully performed and the Performance Standards for the Source Location that is specified in Appendix C have been attained, they shall submit a written report requesting certification to EPA for approval, with a copy to the State, pursuant to Section XI (EPA Approval of Plans and Other Submissions) within thirty (30) days of the inspection. In the report, a registered professional engineer and the 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 Duly Authorized Representative of a Settling Defendant or the Settling Defendants' Project Coordinator:

"To the best of my knowledge, after thorough investigation, I certify that the information contained in or accompanying this submission is 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, after reasonable opportunity for review and comment by the State, 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 selected in the ROD," as that term is defined in Paragraph 14(b) and to the extent that such activities (except for providing hook-up to public water as required by the ROD) are to be conducted within the boundaries of the Source Location. EPA will set forth in the notice a schedule for performance of such activities consistent with the Consent Decree or require the Settling Defendants to submit a schedule to EPA for approval pursuant to Section XI (EPA Approval of Plans and Other Submissions). 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 and after a reasonable opportunity for review and comment by the State, that the Remedial Action for the Source Location has been performed in accordance with this Consent Decree and that the Performance Standards for the Source Location 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 and Reservations by the United States). Certification of Completion of the Remedial Action shall not affect Settling Defendants' obligations under this Consent Decree.

51. Completion of the Work

a. Within ninety (90) days after Settling Defendants conclude that all phases of the Work (including O & M), have been fully performed, Settling Defendants shall schedule and conduct a pre-certification inspection to be attended by Settling Defendants, EPA and the State, if the State so elects. If, after the pre-certification inspection, the 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 following statement, signed by a Duly Authorized Representative of a Settling Defendant or the Settling Defendants' Project Coordinator:

> "To the best of my knowledge, after thorough investigation, I certify that the information contained in or accompanying this submission is 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 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 selected in the ROD," as that term is defined in Paragraph 14(b) and to the extent that such activities (except for providing hook-up to public water as required by the ROD) are to be conducted within the boundaries of the Source Location. EPA will set forth in the notice a schedule for performance of such activities consistent with the Consent Decree or require the Settling Defendants to submit a schedule to EPA for approval pursuant to Section XI (EPA Approval of Plans and Other Submissions). 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 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 the Settling Defendants in writing.

XV. EMERGENCY RESPONSE

52. In the event of any action or occurrence during the performance of the Work which 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, the Settling Defendants shall notify the EPA Region III Hotline at (215) 814-3255. 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 this Consent Decree. 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 not inconsistent with the NCP pursuant to Section XVI (Payments for Response Costs).

53. Nothing in the preceding Paragraph or in this Consent Decree shall be deemed to limit any authority of the United States to (a) 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) 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, subject to Section XXI (Covenants and Reservations by the United States).

XVI. PAYMENTS FOR RESPONSE COSTS

54. Payments for Past Response Costs and Future Oversight Costs. Settling Defendants are not required to reimburse the United States for Past Response Costs nor for Future Oversight Costs.

55. Payments for Future Response Costs.

a. Settling Defendants shall pay to EPA all Future Response Costs that are not inconsistent with the National Contingency Plan and that are incurred with respect to the Work at the Source Location or with respect to connection to public water as required by the ROD, including, without limitation, Future Response Costs incurred pursuant to Paragraph 52. On a periodic basis, the United States will send Settling Defendants bills with cost summaries that set forth direct and indirect costs incurred by EPA, DOJ, and their contractors. Settling Defendants shall make all payments within thirty (30) days of Settling Defendants' receipt of each bill requiring payment, except as otherwise provided in Paragraph 56. The Settling Defendants shall make all payments required by this Paragraph in the form of a certified or cashier's check or checks made payable to "EPA Hazardous Substance Superfund" and referencing the name and address of the party making payment, EPA Site/Spill ID #03W9, DOJ case number 90-11-2-06024/18. The Settling Defendants shall send the check(s) to

U.S. EPA Region III
Attention: Superfund Accounting
P.O. Box 360515
Pittsburgh, PA 15251-6515.

Settling Defendants shall send copies of the check(s) to the United States as specified in Section XXVI (Notices and Submissions) and to

Docket Clerk (3RC00)
U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103-2029,

and

Barbara Borden (3PM30)
U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103-2029.

56. Settling Defendants may contest payment of any Future Response Costs under Paragraph 55 if they determine that the United States has made an accounting error or if they allege that a cost item that is included represents costs that are inconsistent with the NCP or outside the scope of the Work at the Source Location or connection to public water as required by the ROD. Such objection shall be made in writing within thirty (30) days of 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, the Settling Defendants shall within the thirty (30) day period pay all uncontested Future Response Costs to the United States in the manner described in Paragraph 55. Simultaneously, the Settling Defendants shall establish an interest-bearing escrow account in a federally-insured bank duly chartered in the Commonwealth of Pennsylvania and remit to that escrow account funds equivalent to the amount of the contested Future Response Costs. The Settling Defendants 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, the Settling Defendants shall initiate the Dispute Resolution procedures in Section XIX (Dispute Resolution). If the United States prevails in the dispute, within five (5) days of the resolution of the dispute, the Settling Defendants shall pay the sums due (with accrued interest) to the United

States in the manner described in Paragraph 55. If the Settling Defendants prevail concerning any aspect of the contested costs, the Settling Defendants shall pay that portion of the costs (plus associated accrued interest) for which they did not prevail to the United States in the manner described in Paragraph 55; Settling Defendants shall be disbursed any 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.

57. In the event that the payments required by Paragraph 55 are not made within thirty (30) days of the Settling Defendants' receipt of the bill, Settling Defendants shall pay Interest on the unpaid balance. The Interest on Future Response Costs shall begin to accrue on the date of the bill. The Interest shall accrue through the date of the Settling Defendants' payment. Payments 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. The Settling Defendants shall make all payments required by this Paragraph in the manner described in Paragraph 55.

XVII. INDEMNIFICATION AND INSURANCE

58. a. The United States does not assume any liability by entering into this agreement 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, or 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, 42 U.S.C. § 9604(e). Further, the 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 the 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 Paragraph 58(a), and shall consult with Settling Defendants prior to settling such claim.

59. Settling Defendants waive all claims 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 Settling Defendant 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 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.

60. No later than fifteen (15) days before commencing any on-site Work, Settling Defendants shall secure, and shall maintain comprehensive general liability insurance with limits of five million dollars, combined single limit, and automobile liability insurance with limits of $500,000, combined single limit, naming the United States as an additional insured. 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 of this Consent Decree. 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 which is not maintained by the contractor or subcontractor. Settling Defendants may satisfy the provisions of this Paragraph 60 if they submit to EPA for approval one of the financial assurance mechanisms of Section XIII (Assurance of Ability to Complete Work) in at least the amounts stated in this Paragraph 60 demonstrating that Settling Defendants are able to pay any claims arising out of Settling Defendants' performance of their obligations under this Consent Decree. Such financial assurance mechanism shall meet all of the requirements of Section XIII (Assurance of Ability to Complete Work). If Settling Defendants seek to utilize the mechanisms set forth in Section XIII (Assurance of Ability to Complete Work) to satisfy the provisions of this Paragraph 60, they must demonstrate an ability to pay the amounts required under this Paragraph, above and beyond that required by the obligations of Section XIII (Assurance of Ability to Complete Work).

XVIII. FORCE MAJEURE

61. "Force majeure," for purposes of this Consent Decree, is defined as any event arising from causes beyond the control of the 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 the Settling Defendants exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any potential force majeure event (a) as it is occurring, and (b) following the potential force majeure event, such that the delay is minimized to the greatest extent possible. "Force Majeure" does not include financial inability to complete the Work, a failure to attain the Performance Standards, or increased costs.

62. If any event occurs or has occurred that may delay the performance of any obligation under this Consent Decree, whether or not caused by a force majeure event, the Settling Defendants shall notify orally EPA's Project Coordinator or, in his or her absence, EPA's Alternate Project Coordinator or, in the event both of EPA's designated representatives are unavailable, the Director of EPA Region III Hazardous Site Cleanup Division within forty-eight (48) hours of when Settling Defendants first knew that the event might cause a delay. Within five (5) days thereafter, Settling Defendants shall provide in writing to EPA and the State 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; the Settling Defendants' rationale for attributing such delay to a force majeure event if they intend to assert such a claim; and a statement as to whether, in the opinion of the Settling Defendants, such event may cause or contribute to an endangerment to public health, welfare or the environment. The Settling Defendants shall include with any notice all available documentation supporting their claim that the delay was attributable to a force majeure. Failure to comply with the above requirements shall preclude Settling Defendants from asserting any claim of force majeure for that event for the period of time of such failure to comply, and for any additional delay caused by such failure. 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.

63. If EPA, after a reasonable opportunity for review and comment by the State, agrees that the delay or anticipated delay is attributable to a force majeure event, the time for performance of the obligations under this Consent Decree that are affected by the force majeure event will be extended by EPA, after a reasonable opportunity for review and comment by the State, for such time as is necessary to complete those obligations on an expedited basis. An extension of the time for performance of the obligations affected by the force majeure event shall

not, of itself, extend the time for performance of any other obligation. If EPA, after a reasonable opportunity for review and comment by the State, does not agree that the delay or anticipated delay has been or will be caused by a force majeure event, EPA will notify the Settling Defendants in writing of its decision. If EPA, after a reasonable opportunity for review and comment by the State, agrees that the delay is attributable to a force majeure event, EPA will notify the Settling Defendants in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure event.

64. If the Settling Defendants elect to invoke the dispute resolution procedures set forth in Section XIX (Dispute Resolution), they shall do so no later than fifteen (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 event, 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 61 and 62, above. 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

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

66. Any dispute which arises under or with respect to 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 twenty (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.

67. 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 fourteen (14) 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 the Settling Defendants. The Statement of Position shall specify the Settling Defendants' position as to whether formal dispute resolution should proceed under

Paragraph 68 or Paragraph 69.

b. Within fourteen (14) 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 68 or 69. Within seven (7) days after receipt of EPA's Statement of Position, Settling Defendants may submit a Reply.

c. If there is disagreement between EPA and the Settling Defendants as to whether dispute resolution should proceed under Paragraph 68 or 69, the parties to the dispute shall follow the procedures set forth in the Paragraph determined by EPA to be applicable. However, if the 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 68 and 69.

68. 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: (1) the adequacy or appropriateness of plans, procedures to implement plans, or any other items requiring approval by EPA under this Consent Decree; and (2) 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 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 Hazardous Site Cleanup Division, EPA Region III, will issue a final administrative decision resolving the dispute based on the administrative record described in Paragraph 68(a). This decision shall be binding upon the Settling Defendants, subject only to the right to seek judicial review pursuant to Paragraph 68(c and d).

c. Any administrative decision made by EPA pursuant to Paragraph 68(b). shall be reviewable by this Court, provided that a motion for judicial review of the decision is filed by the Settling Defendants with the Court and served on all Parties within ten (10) days of 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 the Hazardous Sites Cleanup Division, EPA Region III, 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 68(a).

69. 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 67, the Director of the Hazardous Sites Cleanup Division, EPA Region III, will issue a final decision resolving the dispute. The Director's decision shall be binding on the Settling Defendants unless, within ten (10) days of receipt of the decision, the 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 L of Section I (Background) of this Consent Decree, judicial review of any dispute governed by this Paragraph shall be governed by applicable principles of law.

70. The invocation of formal dispute resolution procedures under this Section shall not extend, postpone, or affect in any way any obligation of the Settling Defendants under this Consent Decree 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 the 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

71. Settling Defendants shall be liable for stipulated penalties in the amounts set forth in Paragraphs 72 and 73 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 the activities under this Consent Decree or any work plan or other plan approved under this Consent Decree identified below in accordance with all applicable requirements of law, this Consent Decree, and any plans or other documents approved by EPA pursuant to this Consent Decree and within the specified time schedules established by and approved under this Consent Decree.

72. a. The following stipulated penalties shall accrue per violation per day for any noncompliance identified in Subparagraph 72(b):

Penalty Per Violation Per Day	Period of Noncompliance
$500	1st through 14th day
$1,000	15th through 30th day
$1,200	31st day and beyond

b. Failure to comply with requirements of Section VI (Performance of the Work by Settling Defendants), Section VII (Remedy Review), Section VIII (Quality Assurance, Sampling, and Data Analysis), Section XI (EPA Approval of Plans and Other Submissions), and Section XV (Emergency Response).

73. a. The following stipulated penalties shall accrue per violation per day for any noncompliance identified in Subparagraph 73(b):

Penalty Per Violation Per Day	Period of Noncompliance
$500	1st through 14th day
$600	15th through 30th day
$700	30th day and beyond

b. All requirements of this Consent Decree that are not identified in Subparagraph 72(b) of this Consent Decree.

74. In the event that EPA assumes performance of a portion or all of the Work pursuant to Paragraph 87 of Section XXI (Covenants and Reservations by the United States), Settling Defendants shall be liable for a stipulated penalty in the amount of $10,000.00.

75. 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: (1) with respect to a deficient submission under Section XI (EPA Approval of Plans and Other Submissions), 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; (2) with respect to a decision by the Director of the Hazardous Sites Cleanup Division, EPA Region III, under Paragraph 68(b) or 69(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 of the Hazardous Sites Cleanup Division, EPA Region III, issues a final decision regarding such dispute; or (3) 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 herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Decree.

76. 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 the 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.

77. All penalties accruing under this Section shall be due and payable to the United States within thirty (30) days of the 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). The Settling Defendants shall make all payments required by this Section in the form of a certified or cashier's check or checks made payable to "EPA Hazardous Substance Superfund" and referencing the name and address of the party making payment, EPA Site/Spill ID #03W9, DOJ case number 90-11-2-06024/18. All payments shall indicate that the payment is for stipulated penalties and shall be mailed to

U.S. EPA Region III
Attention: Superfund Accounting
P.O. Box 360515
Pittsburgh, PA 125251-6515.

Copies of check(s) paid pursuant to this Section, and any accompanying transmittal letter(s), shall be sent to the United States as provided in Section XXVI (Notices and Submissions), and to

Docket Clerk (3RC00)
U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103-2029,

and

Barbara Borden (3PM30)
U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103-2029.

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

79. Penalties shall continue to accrue as provided in Paragraph 75 during any dispute resolution period, but need not be paid until the following:

a. If the dispute is resolved by agreement or by a decision of EPA that is not appealed to this Court, accrued penalties determined to be owing shall be paid to EPA within fifteen (15) days of 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 sixty (60) days of receipt of the Court's decision or order, except as provided in Subparagraph 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 owing to the United States into an interest-bearing escrow account within sixty (60) days of receipt of the Court's decision or order. Penalties shall be paid into this account as they continue to accrue at least every sixty (60) days. Within fifteen (15) days of 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. a. If Settling Defendants fail to pay stipulated penalties when due, the United States may institute proceedings to collect the penalties, as well as interest. Settling Defendants shall pay Interest on the unpaid balance, which shall begin to accrue on the date of demand made pursuant to Paragraph 77.

b. 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 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. § 9621(l). Provided, however, that for any particular violation of this Consent Decree, the United States shall be limited to either demanding stipulated penalties pursuant to this

Section XX of the Consent Decree or pursuing civil penalties pursuant to Section 122(l) of CERCLA, 42 U.S.C. § 9621(l), except in the case of a willful violation of the Consent Decree.

81. 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 AND RESERVATIONS BY THE UNITED STATES

82. Covenants by the United States. In consideration of the actions that will be performed and the payments that will be made by the Settling Defendants under the terms of the Consent Decree, and except as specifically provided in Paragraphs 83, 84, and 86 of this Section, 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(a), relating to the Site. Except with respect to future liability, these covenants not to sue shall take effect upon entry of this Consent Decree. With respect to future liability, these covenants not to sue shall take effect upon Certification of Completion of Remedial Action by EPA pursuant to Paragraph 50(b) of Section XIV (Certification of Completion). These covenants not to sue are conditioned upon the satisfactory performance by Settling Defendants of their obligations under this Consent Decree. These covenants not to sue extend only to the Settling Defendants and do not extend to any other person.

83. 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, or to issue an administrative order seeking to compel Settling Defendants to perform further response actions relating to the Site or to reimburse the United States for additional costs of response if, prior to Certification of Completion of the Remedial Action:

a. conditions at the Site, previously unknown to EPA, are discovered, or

b. information, previously unknown to EPA, is received, in whole or in part,

and EPA determines that these previously unknown conditions or information together with any other relevant information indicate that the Remedial Action is not protective of human health or the environment.

84. 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, or to issue an administrative order seeking to compel Settling Defendants to perform further response actions relating to the

Site or to reimburse the United States for additional costs of response if, subsequent to Certification of Completion of the Remedial Action:

a. conditions at the Site, previously unknown to EPA, are discovered, or

b. information, previously unknown to EPA, is received, in whole or in part,

and 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.

85. For purposes of Paragraph 83, the information and the conditions known to EPA shall include only that information and those conditions known to EPA as of the date the ROD was signed and set forth in the Record of Decision for the Site and the administrative record supporting the Record of Decision. For purposes of Paragraph 84, 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 Record of Decision, the administrative record supporting the Record of Decision, the post-ROD administrative record, or in any information received by EPA pursuant to the requirements of this Consent Decree or any other Consent Decree for Remedial Design and/or Remedial Action with respect to the Site, or received by EPA as a consequence of its conduct of Remedial Design, Remedial Action or oversight activities at the Site prior to Certification of Completion of the Remedial Action.

86. General reservations of rights. The covenants not to sue set forth above do not pertain to any matters other than those expressly specified in Paragraph 82. 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 the United States' covenant not to sue. Notwithstanding any other provision of this Consent Decree, the United States reserves all rights against Settling Defendants with respect to all other matters, including but not limited to the following:

a. claims based on a failure by 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 Materials outside of the Site;

c. liability based upon the Settling Defendants' ownership or operation of the Site, or upon the Settling Defendants' transportation, treatment, storage, or disposal, or the arrangement for the 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 the Settling Defendants

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

e. criminal liability;

f. liability for violations of federal or state law which occur during or after implementation of the Remedial Action; and

g. liability, prior to Certification of Completion of the Remedial Action, for additional response actions that EPA determines are necessary to achieve Performance Standards, but that cannot be required pursuant to Paragraph 14 (Modification of the Work).

87. Work Takeover. In the event EPA determines that Settling Defendants have ceased implementation of any portion of the Work, are seriously or repeatedly deficient or late in their performance of the Work, or are implementing the Work in a manner which may cause an endangerment to human health or the environment, EPA may assume the performance of all or any portions of the Work as EPA determines necessary. Settling Defendants may invoke the procedures set forth in Section XIX (Dispute Resolution), Paragraph 68, to dispute EPA's determination that takeover of the Work is warranted under this Paragraph. Costs incurred by the United States in performing the Work pursuant to this Paragraph shall be considered Future Response Costs that Settling Defendants shall pay pursuant to Section XVI (Payments for Response Costs).

88. 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 AND RESERVATIONS BY SETTLING DEFENDANTS

89. Covenants by Settling Defendants. Subject to the reservations in Paragraph 90 Settling Defendants hereby covenant not to sue and agree not to assert any claims or causes of action against the United States with respect to the Site, including, but not limited to:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund (established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507) through Sections 106(b)(2), 107, 111, 112 and 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, and 9613, or any other provision of law;

b. any claims against the United States, including any department, agency or instrumentality of the United States under Sections 107 or 113 of CERCLA, 42 U.S.C. §§ 9607 or 9613, related to the Site, 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 Constitution of the Commonwealth of Pennsylvania, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law.

90. a. The 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, 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 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, any such claim shall not include a claim for any damages caused, in whole or in part, by the act or omission of any person, including any contractor, who is not a federal employee as that term is defined in 28 U.S.C. § 2671; nor shall any such claim include a claim based on EPA's selection of response actions, or the oversight or approval of the Settling Defendants' plans or activities. The foregoing applies only to claims which are brought pursuant to any statute other than CERCLA and for which the waiver of sovereign immunity is found in a statute other than CERCLA.

b. Nothing in this Section shall affect the right of Settling Defendants to assert any defense available to Settling Defendants in law or equity to a claim by the United States made pursuant to Paragraphs 83 or 84 above.

91. 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).

92. Waiver of Claims Against De Micromis Parties. Settling Defendants agree not to assert any claims and to waive all claims or causes of action that they may have for all matters relating to the Site, including for contribution, against any person where the person's liability to Settling Defendants with respect to the Site is based solely on having arranged for disposal or treatment, or for transport for disposal or treatment, of hazardous substances at the Site, or having accepted for transport for disposal or treatment of hazardous substances at the Site if the materials contributed by such person to the Site containing hazardous substances did not exceed the greater of (i) 0.002% of the total volume of waste at the Site, or (ii) 110 gallons of liquid materials or 200 pounds of solid materials. This waiver shall not apply to any claim or cause of action against any person meeting the above criteria if EPA has determined that the materials

contributed to the Site by such person contributed or could contribute significantly to the costs of response at the Site. This waiver also shall not apply with respect to any defense, claim, or cause of action that a Settling Defendant may have against any person if such person asserts a claim or cause of action relating to the Site against such Settling Defendant.

XXIII. EFFECT OF SETTLEMENT; CONTRIBUTION PROTECTION

93. Except as provided in Paragraph 92 (Waiver of Claims Against De Micromis Parties), 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. The preceding sentence shall not be construed to waive or nullify any rights that any person not a signatory to this Consent Decree may have under applicable law. Each of the Parties expressly reserves any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action which 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.

94. The Parties agree, and by entering this Consent Decree this Court finds, that the Settling Defendants are entitled, as of the Effective Date of this Consent Decree, to protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), for matters addressed in this Consent Decree. For purposes of this Consent Decree, "matters addressed" shall include all costs incurred and to be incurred at the Site and all response actions taken or to be taken at the Site.

95. The Settling Defendants agree that with respect to any suit or claim for contribution brought by them for matters related to this Consent Decree they will notify the United States in writing no later than sixty (60) days prior to the initiation of such suit or claim.

96. The Settling Defendants also agree that with respect to any suit or claim for contribution brought against them for matters related to this Consent Decree they will notify in writing the United States within ten (10) days of service of the complaint on them. In addition, Settling Defendants shall notify the United States within ten (10) days of service or receipt of any Motion for Summary Judgment and within ten (10) days of receipt of any order from a court setting a case for trial.

97. 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 Defendants 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 and Reservations by the United States).

XXIV. ACCESS TO INFORMATION

98. Settling Defendants shall provide to EPA, upon request, copies of all documents and information 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 related to 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.

99. Business Confidential and Privileged Documents.

a. Settling Defendants may assert business confidentiality claims covering part or all of the documents or information 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). Documents or information 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 documents or information when they are submitted to EPA, or if EPA has notified Settling Defendants that the documents or information are not confidential under the standards of Section 104(e)(7) of CERCLA, 42 U.S.C. § 104(e)(7), the public may be given access to such documents or information without further notice to Settling Defendants.

b. The Settling Defendants may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If the Settling Defendants assert such a privilege in lieu of providing documents, they shall provide the Plaintiff with the following: (1) the title of the document, record, or information; (2) the date of the document, record, or information; (3) the name and title of the author of the document, record, or information; (4) the name and title of each addressee and recipient; (5) a description of the contents of the document, record, or information: and (6) the privilege asserted by Settling Defendants. However, no documents, reports or other information created or generated pursuant to the requirements of the Consent Decree shall be withheld on the grounds that they are privileged.

100. No claim of confidentiality 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

101. Until six (6) years after the Settling Defendants' receipt of EPA's notification pursuant to Paragraph 51(b) of Section XIV (Certification of Completion), each Settling Defendant shall preserve and retain all non-identical copies of records and documents (including records or documents in electronic form) now in its possession or control or which come into its possession or control that relate in any manner to its liability under CERCLA with respect to the Site, provided, however, that Settling Defendants who are potentially liable as owners or operators of the Site must retain, in addition, all documents and 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 documents or records (including documents or records in electronic form) now in its possession or control or which 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 documents required to be retained. Each of the above record retention requirements shall apply regardless of any corporate retention policy to the contrary.

102. At the conclusion of this document retention period, Settling Defendants shall notify the United States at least ninety (90) days prior to the destruction of any such records or documents, and, upon request by the United States, Settling Defendants shall deliver any such records or documents to EPA. If the United States has not responded to Settling Defendants' notice prior to the time Settling Defendants intend to destroy the records or documents, Settling Defendants shall deliver all such records and documents to EPA no earlier than ten (10) days after providing an additional written notice that such records and documents will be delivered, unless EPA provides otherwise after receiving such notice. The Settling Defendants may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If the Settling Defendants assert such a privilege, they shall provide the Plaintiffs with the following: (1) the title of the document, record, or information; (2) the date of the document, record, or information; (3) the name and title of the author of the document, record, or information; (4) the name and title of each addressee and recipient; (5) a description of the subject of the document, record, or information; and (6) the privilege asserted by Settling Defendants. However, no documents, reports, or other information created or generated pursuant to the requirements of the Consent Decree shall be withheld on the grounds that they are privileged.

103. Each Settling Defendant hereby certifies individually that, to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed, or otherwise disposed of any records, documents, or other information (other than identical

copies) relating to its potential liability regarding the Site since 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 requests for information 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.

XXVI. NOTICES AND SUBMISSIONS

104. 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 herein shall constitute complete satisfaction of any written notice requirement of the Consent Decree with respect to the United States, EPA, and the Settling Defendant, respectively.

As to the United States:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20044-7611
Re: DOJ # 90-11-2-06024/18

As to EPA:

Ruth Scharr (3HS21)
EPA Project Coordinator
U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103

and

Thomas A. Cinti (3RC42)
Senior Assistant Regional Counsel
U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103

As to the Settling Defendants:

Thomas A. Deeney
Vice President
AMETEK, Inc.
37 North Valley Road
Building 4
Paoli, PA 19301-1391

and

Frank Davey
President
John Evans' Sons, Inc.
P.O. Box 885
One Spring Ave.
Lansdale, PA 19446-0885

XXVII. EFFECTIVE DATE

105. The Effective Date of this Consent Decree shall be the date upon which this Consent Decree is entered by the Court, except as otherwise provided herein.

XXVIII. RETENTION OF JURISDICTION

106. This Court retains jurisdiction over both the subject matter of this Consent Decree and the 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) hereof.

XXIX. APPENDICES

107. Appendices.

a. The following appendices are attached to and incorporated into this Consent Decree:

"Appendix A" is the ROD.

"Appendix B" is the Draft Easement.

"Appendix C" is a description of the Source Location that is applicable to Settling Defendants.

b. Appendix D is the Cost Allocation Agreement between the Settling Defendants. Appendix D is attached to this Consent Decree for the limited purposes set forth in subparagraph 6(d).

XXX. COMMUNITY RELATIONS

108. Settling Defendants shall propose to EPA their participation in the community relations plan to be developed by EPA. EPA will determine the appropriate role for the 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 which may be held or sponsored by EPA to explain activities at or relating to the Site.

XXXI. MODIFICATION

109. Schedules specified in this Consent Decree for completion of the Work may be modified by agreement of the EPA Project Coordinator and the Settling Defendants. All such modifications shall be made in writing.

110. Except as otherwise provided in this Paragraph, no modifications shall be made to provisions of this Consent Decree without written notification to and written approval of the United States, Settling Defendants, and the Court. Prior to providing its approval to any modification to the provisions of this Consent Decree, the United States will provide the State with a reasonable opportunity to review and comment on the proposed modification. Modifications to the Remedial Design Work Plan, Remedial Action Work Plan, and any other plan approved by EPA under this Consent Decree that do not materially alter the requirements of those documents may be made by written agreement between the EPA Project Coordinator, after providing the State with a reasonable opportunity to review and comment on the proposed modification, and the Settling Defendants. Modifications to the Work made pursuant to Paragraph 14 ("Modification of the Work") may be made by EPA. Nothing in this Decree shall be deemed to alter the Court's power to enforce, supervise, or approve modifications to this Consent Decree.

XXXII. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

111. This Consent Decree shall be lodged with the Court for a period of not less than thirty (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 which indicate that the Consent Decree is inappropriate, improper, or inadequate. Settling Defendants consent to the entry of this Consent Decree without further notice.

112. 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.

XXXIII. SIGNATORIES/SERVICE

113. Each undersigned representative of a Settling Defendant to this Consent Decree and the Assistant Attorney General for Environment and Natural Resources 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.

114. Each Settling Defendant hereby 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 the Settling Defendants in writing that it no longer supports entry of the Consent Decree.

115. 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 hereby 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. The parties agree that the Settling Defendants need not file an answer to the complaint unless the Court expressly declines to enter this Consent Decree.

XXXIV. FINAL JUDGMENT

116. This Consent Decree and its appendices constitute the final, complete, and exclusive agreement and understanding among the parties with respect to 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. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment between and among the United States and the Settling Defendants. The Court finds that there is no just reason for delay and therefore 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

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. AMETEK, Inc. and John Evans' Sons, Inc. relating to the North Penn Area Six Superfund Site.

FOR THE UNITED STATES OF AMERICA

Date: _____

SUE ELLEN WOOLDRIDGE
Assistant Attorney General
Environment & Natural Resources Division
United States Department of Justice

Date: 18 January 2006

CATHERINE MALININ DUNN
Environmental Enforcement Section
Environment & Natural Resources Division
United States Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
202-514-1461

PATRICK L. MEEHAN
United States Attorney
Eastern District of Pennsylvania

Date: _____

MARGARET L. HUTCHINSON
Assistant United States Attorney
Eastern District of Pennsylvania
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106-4476
215-861-8282

DONALD S. WELSH
Regional Administrator
U.S. Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103

WILLIAM C. EARLY
Regional Counsel
U.S. Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103

THOMAS A. CINTI
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. AMETEK, Inc. and John Evans' Sons, Inc. relating to the North Penn Area Six Superfund Site

FOR AMETEK, INC.

Date: 12/06/05 Thomas A Deeney

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

Name: Thomas A Deeney

Title: VP Corp Compliance & Auditing

Address: AMETEK, Inc
37 N Valley Rd, Bldg 4
Paoli, PA 19301

Telephone: 610-889-5208

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. AMETEK, Inc. and John Evans' Sons, Inc. relating to the North Penn Area Six Superfund Site

FOR JOHN EVANS' SONS, INC.

Date: December 8, 2005

Frank L Davey
Chairman

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

Name: Frank L. Davey

Title: Chairman

Address: 1 Spring Avenue
Lansdale, Pennsylvania 19446

Telephone: 215-368-7700

APPENDIX A: Record of Decision

APPENDIX B

ENVIRONMENTAL PROTECTION EASEMENT
AND
DECLARATION OF RESTRICTIVE COVENANTS

1. This Environmental Protection Easement and Declaration of Restrictive Covenants is made this ____ day of _____, 20___, by and between _____, ("Grantor"), having an address of _____, and, _____ _____("Grantee"), having an address of _____ _____.

WITNESSETH:

2. WHEREAS, Grantor is the owner of a parcel of land located in the county of _____, State of _____, more particularly described on **Exhibit A** attached hereto and made a part hereof (the "Property"); and

3. WHEREAS, the Property is part of the _____ Superfund Site ("Site"), which the U.S. Environmental Protection Agency ("EPA"), pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9605, placed on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register on _____; and

4. WHEREAS, in a Record of Decision dated _____ (the "ROD"), the EPA Region __ Regional Administrator selected a "remedial action" for the Site, which provides, in part, for the following actions:

and

5. WHEREAS, with the exception of_____

_____, the remedial action has been implemented at the Site; and

6. WHEREAS, the parties hereto have agreed 1) to grant a permanent right of access over the Property to the Grantee for purposes of implementing, facilitating and monitoring the remedial action; and 2) to impose on the Property use restrictions as covenants that will run with the land for the purpose of protecting human health and the environment; and

7. WHEREAS, Grantor wishes to cooperate fully with the Grantee in the implementation of all response actions at the Site;

NOW, THEREFORE:

8. Grant: Grantor, on behalf of itself, its successors and assigns, in consideration of [the terms of the Consent Decree in the case of ____ v. ____, etc.], does hereby covenant and declare that the Property shall be subject to the restrictions on use set forth below, and does give, grant and convey to the Grantee, and its assigns, with general warranties of title, 1) the perpetual right to enforce said use restrictions, and 2) an environmental protection easement of the nature and character, and for the purposes hereinafter set forth, with respect to the Property.

9. Purpose: It is the purpose of this instrument to convey to the Grantee real property rights, which will run with the land, to facilitate the remediation of past environmental contamination and to protect human health and the environment by reducing the risk of exposure to contaminants.

10. Restrictions on use: The following covenants, conditions, and restrictions apply to the use of the Property, run with the land and are binding on the Grantor:

11. Modification of restrictions: The above restrictions may be modified, or terminated in whole or in part, in writing, by the Grantee. If requested by the Grantor, such writing will be executed by Grantee in recordable form.

12. Environmental Protection Easement: Grantor hereby grants to the Grantee an irrevocable, permanent and continuing right of access at all reasonable times to the Property for purposes of:

a) Implementing the response actions in the ROD, including but not limited to_____ _____;

b) Verifying any data or information submitted to EPA.

c) Verifying that no action is being taken on the Property in violation of the terms of this instrument or of any federal or state environmental laws or regulations;

d) Monitoring response actions on the Site and conducting investigations relating to contamination on or near the Site, including, without limitation, sampling of air, water, sediments, soils, and specifically, without limitation, obtaining split or duplicate samples;

e) Conducting periodic reviews of the remedial action, including but not limited to, reviews required by applicable statutes and/or regulations; and

f) Implementing additional or new response actions if the Grantee, in its sole discretion, determines i) that such actions are necessary to protect the environment because either the original remedial action has proven to be ineffective or because new technology has been developed which will accomplish the purposes of the remedial action in a significantly more efficient or cost effective manner; and, ii) that the additional or new response actions will not impose any significantly greater burden on the Property or unduly interfere with the then existing uses of the Property.

13. Reserved rights of Grantor: Grantor hereby reserves unto itself, its successors, and assigns, all rights and privileges in and to the use of the Property which are not incompatible with the restrictions, rights and easements granted herein.

14. Nothing in this document shall limit or otherwise affect EPA's rights of entry and access or EPA's authority to take response actions under CERCLA, the NCP, or other federal law.

15. No Public Access and Use: No right of access or use by the general public to any portion of the Property is conveyed by this instrument.

16. Notice requirement: Grantor agrees to include in any instrument conveying any

interest in any portion of the Property, including but not limited to deeds, leases and mortgages, a notice which is in substantially the following form:

> **NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL PROTECTION EASEMENT AND DECLARATION OF RESTRICTIVE COVENANTS, DATED _____, 20__, RECORDED IN THE PUBLIC LAND RECORDS ON _____, 20___, IN BOOK _____, PAGE _____, IN FAVOR OF, AND ENFORCEABLE BY, THE UNITED STATES OF AMERICA.**

Within thirty (30) days of the date any such instrument of conveyance is executed, Grantor must provide Grantee with a certified true copy of said instrument and, if it has been recorded in the public land records, its recording reference.

17. Administrative jurisdiction: The federal agency having administrative jurisdiction over the interests acquired by the United States by this instrument is the EPA.

18. Enforcement: The Grantee shall be entitled to enforce the terms of this instrument by resort to specific performance or legal process. All remedies available hereunder shall be in addition to any and all other remedies at law or in equity, including CERCLA. Enforcement of the terms of this instrument shall be at the discretion of the Grantee, and any forbearance, delay or omission to exercise its rights under this instrument in the event of a breach of any term of this instrument shall not be deemed to be a waiver by the Grantee of such term or of any subsequent breach of the same or any other term, or of any of the rights of the Grantee under this instrument.

19. Damages: Grantee shall be entitled to recover damages for violations of the terms of this instrument, or for any injury to the remedial action, to the public or to the environment protected by this instrument.

20. Waiver of certain defenses: Grantor hereby waives any defense of laches, estoppel, or prescription.

21. Covenants: Grantor hereby covenants to and with the United States and its assigns, that the Grantor is lawfully seized in fee simple of the Property, that the Grantor has a good and lawful right and power to sell and convey it or any interest therein, that the Property is free and clear of encumbrances, except those noted on **Exhibit D** attached hereto, and that the Grantor will forever warrant and defend the title thereto and the quiet possession thereof.

22. Notices: Any notice, demand, request, consent, approval, or communication that

either party desires or is required to give to the other shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

To Grantor:	To Grantee:
_____	_____
_____	_____
_____	_____

23. General provisions:

a) Controlling law: The interpretation and performance of this instrument shall be governed by the laws of the United States or, if there are no applicable federal laws, by the law of the state where the Property is located.

b) Liberal construction: Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the grant to effect the purpose of this instrument and the policy and purpose of CERCLA. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

c) Severability: If any provision of this instrument, or the application of it to any person or circumstance, is found to be invalid, the remainder of the provisions of this instrument, or the application of such provisions to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.

d) Entire Agreement: This instrument sets forth the entire agreement of the parties with respect to rights and restrictions created hereby, and supersedes all prior discussions, negotiations, understandings, or agreements relating thereto, all of which are merged herein.

e) No Forfeiture: Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

f) Joint Obligation: If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.

g) Successors: The covenants, terms, conditions, and restrictions of this

instrument shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property. The term "Grantor", wherever used herein, and any pronouns used in place thereof, shall include the persons and/or entities named at the beginning of this document, identified as "Grantor" and their personal representatives, heirs, successors, and assigns. The term "Grantee", wherever used herein, and any pronouns used in place thereof, shall include the persons and/or entities named at the beginning of this document, identified as "Grantee" and their personal representatives, heirs, successors, and assigns. The rights of the Grantee and Grantor under this instrument are freely assignable, subject to the notice provisions hereof.

h) Termination of Rights and Obligations: A party's rights and obligations under this instrument terminate upon transfer of the party's interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

i) Captions: The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

j) Counterparts: The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

TO HAVE AND TO HOLD unto the United States and its assigns forever.

IN WITNESS WHEREOF, Grantor has caused this Agreement to be signed in its name.

Executed this _____ day of _____, 20__.

_____

By: _____

Its: _____

STATE OF _____.

COUNTY OF _____

On this __ day of _____, 20__, before me, the undersigned, a Notary Public in and for the State of _____, duly commissioned and sworn, personally appeared _____, known to be the _____ of _____, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute said instrument.

Witness my hand and official seal hereto affixed the day and year written above.

_____
Notary Public in and for the
State of _____

My Commission Expires: _____.

This easement is accepted this ____ day of _____ , 20__.

UNITED STATES OF AMERICA

the persons and/or entities named at the beginning of this document, identified as "Grantor" and their personal representatives, heirs, successors, and assigns.

U.S. ENVIRONMENTAL PROTECTION AGENCY

By: _____

_____

Attachments:	Exhibit A	-	legal description of the Property
	Exhibit B	-	identification of proposed uses and construction plans, for the Property
	Exhibit C	-	identification of existing uses of the Property
	Exhibit D	-	list of permitted title encumbrances

APPENDIX C

Source Location

For purposes of the Consent Decree among the United States of America, John Evans' Sons, Inc. and Ametek, Inc. relating to Operable Unit 3 of the North Penn Area Six Superfund Site:

"Source Location" shall mean the John Evans' Sons facility and property located at 1 Spring Avenue in Lansdale, Pennsylvania, bearing tax parcel number 11-00-10508-002, and the former Philadelphia Toboggan Company property at 8th Street and Maple Avenue in Lansdale, Pennsylvania, bearing tax parcel number 11-00-10504-006.

The groundwater extraction and treatment system shall be constructed at the Source Location to address contaminated groundwater impacted by releases from the Source Location. The groundwater extraction and treatment system shall operate until cleanup standards identified on page 24 of the ROD (Table 1) are achieved at the points of compliance within the contaminated plume impacted by releases from the Source Location.

The locations of the points of compliance shall be determined during the remedial design and/or remedial action phase. The location of the monitoring points shall be selected to monitor the performance of the designed extraction system and to minimize monitoring of constituents from sources outside the capture zone.

APPENDIX D

Cost Allocation Agreement

This Cost Allocation Agreement ("Agreement") dated as of the ____ day of _____, 2005, by and between Ametek, Inc. ("Ametek") and John Evans' Sons, Inc. ("JES") (Ametek and JES are collectively the "Parties" or the "Settling Defendants").

W I T N E S S E T H

WHEREAS, Ametek, Inc. is the former owner of a facility located on the north side of Spring Ave. at Maple Ave. in Lansdale, PA (the "Facility");

WHEREAS, JES is the current owner of the Facility;

WHEREAS, the United States of America ("United States") placed the North Penn Area Six Superfund Site in Lansdale Borough, Montgomery County, PA (the "Site") on the National Priorities List set forth at 40 C.F.R. Part 300, Appendix B by publication in the Federal Register on March 31, 1989, 54 Fed. Reg. 13296, pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605;

WHEREAS, the Facility comprises a portion of the Site;

WHEREAS, the United States contends, among other things, that there has been a release or threatened release of hazardous substances from the Facility to the groundwater under the Facility or under the adjacent Philadelphia Toboggan Company facility ("PTC facility") and that Ametek and JES are jointly and severally liable to the United States for the costs of responding to this alleged release or threatened release;

WHEREAS, Ametek and JES deny any liability to the United States;

WHEREAS, to avoid the risks of litigation, Ametek and JES have agreed to enter into a consent decree with the United States for Operable Unit 3 ("OU-3") (groundwater) at the Site ("Consent Decree"). Under the terms of the Consent Decree, Ametek and JES are jointly and severally liable to the United States to finance and perform certain response actions to address the presence of hazardous substances in groundwater under the Facility and the PTC facility, to

reimburse the United States for Future Response Costs, and, together with the signatories to the Companion Consent Decrees, to pay the cost to connect certain residences to public water, all as more fully set forth in the Consent Decree;

WHEREAS, JES has informed Ametek and the United States that JES does not have sufficient resources to finance and perform on its own the obligations imposed on Settling Defendants in the Consent Decree;

WHEREAS, the United States has consented to attaching this Cost Allocation Agreement to the Consent Decree on the following conditions: (1) JES agrees that the United States has made no findings concerning JES' financial condition, (2) this Cost Allocation Agreement neither limits nor affects the joint and several nature of Settling Defendants' obligations to the United States under the Consent Decree, (3) this Cost Allocation Agreement is not binding on the United States because the United States is not a Party to the Cost Allocation Agreement.

WHEREAS, Ametek and JES desire to enter into an Agreement with each other under the terms herein;

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is acknowledged and intending to be legally bound, the Parties agree as follows:

1. The recitals in this Agreement are incorporated as though fully set forth herein. Capitalized terms not defined herein shall have the meaning set forth in the Consent Decree.

2. Ametek shall perform all of Settling Defendants' obligations under the Consent Decree, by, among other things, entering into contracts with consultants selected by it with the consent of JES, which consent shall not be unreasonably withheld. Ametek shall pay all costs arising from the joint share of JES and Ametek under the Consent Decree, including without limitation, the cost of designing, constructing, operating and maintaining the groundwater treatment system on the Facility or PTC facility as required by the Consent Decree and Record of Decision ("ROD") for the Site, the Future Response Costs as defined in the Consent Decree, the cost of connecting any affected residences to water supplies as required by the Consent Decree, and all costs, expenses, or damages arising out of such other obligations, if any, as JES and

Ametek may jointly have to the government on account of the environmental condition of the Facility or releases or threatened releases from the Facility.

3. JES agrees to reimburse Ametek in the amount of 25% of the costs incurred and reasonably paid by Ametek pursuant to paragraph 2 above up to a cap of $300,000 (25% of $1,200,000). Evans shall make reimbursement payments required under this paragraph 3 within forty-five (45) days after Ametek presents JES with a copy of the invoice with reasonable backup information and proof of payment.

4. As costs are incurred and paid by Ametek, JES will grant Ametek a lien on the real property on which the Facility is located ("Facility Real Property") in the amount of 25% of the first $1,200,000 in costs incurred and paid by Ametek and 50% of all further costs incurred and paid by Ametek up to a maximum lien amount of $1,000,000. By way of example, if and when the lien reaches $1,000,000, Ametek's total costs would be $2,600,000 prior to reimbursement. JES agrees that it will execute such documents as may be required in order to allow Ametek to place the lien on the Facility Real Property. Ametek agrees to accept the payments specified in paragraph 3 above and the lien as provided herein in full satisfaction of any and all obligations of JES to Ametek arising out of the matters described in paragraph 2 above.

5. Ametek and JES agree to be responsible for their own respective past, present and future legal and internal costs, which costs shall not be included in the amounts calculated above. The Parties agree to reasonably cooperate with each other and share information for the purpose of implementing the remedy specified in the Consent Decree.

6. Ametek agrees to subordinate its lien to any other lien presently or in the future on the Facility to secure a loan(s) to JES. The maximum lien amount to which Ametek shall be obligated to subordinate is the lesser of $500,000 or 75% of the then-current agreed upon appraised value of Facility Real Property.

7. The Settling Defendants have requested and the United States has agreed to attach this Agreement to the Consent Decree. The Settling Defendants further agree that in the event Ametek does not fully perform its obligations hereunder, then without waiver of any rights of

JES, JES may seek a resolution of its remaining obligations to the United States under the Consent Decree based on its ability to pay.

8. Ametek shall have the right at any time to appraise the Facility Real Property. In the event that JES disputes the results of Ametek's appraisal, JES shall have the right to conduct its own appraisal. If the Parties cannot thereupon agree as to a value, the Parties shall split the cost of a third appraiser and the average value of the three appraisals shall be deemed to the be the agreed upon appraised value. JES shall provide Ametek with copies of all appraisals made of the Facility Real Property during the period that this Agreement is in effect. JES shall notify Ametek of JES' intent to obtain a loan secured by a lien on the Facility Real Property and the approximate amount of such loan, and, unless within sixty (60) days of the date of notice Ametek performs an appraisal and notifies JES of the results, Ametek shall be deemed to have waived its appraisal rights with respect to that loan only.

9. Ametek's lien on the Facility Real Property shall be satisfied, without recourse, upon the transfer or sale of the Facility Real Property or the transfer or sale of all or substantially all of the stock or substantially all of the assets of the business that JES currently operates on the Facility. In the event that such transfer is to or for the benefit of the family members, estate or heirs of Frank Davey and/or Elaine Davey, h/w, Allan and/or Ann Davey, h/w, or Regina Fleming (sister of Elaine Davey), then the obligation to satisfy the lien shall be stayed, and the lien shall be placed and continue on the Facility Real Property, until such time as: (a) the business is sold or transferred to a third party (regardless of whether title to the Facility Real Property is in the name of such third party); (b) the Facility Real Property is leased to a third party, or (c) there is a change in the use of the Facility.

10. This Agreement contains the entire understanding between the Parties with respect to the subject matter hereof and supersedes all prior oral or written representations, understandings, promises or agreements which are not included herein.

11. If any provision of this Agreement shall hereafter be held to be illegal or unenforceable, the other provisions hereof shall be construed as if the illegal or unenforceable provision had not been included therein.

12. This Agreement shall bind the Parties hereto, their successors and assigns, and shall be specifically enforceable.

13. This Agreement may be executed in counterpart, all of which together shall constitute an original.

14. The undersigned signatories represent that they have authority to act on behalf of the Party on whose behalf they are executing this Agreement, and that all actions necessary to make this Agreement binding on behalf of the respective Parties have been taken and are valid and effective.

IN WITNESS WHEREOF, the Parties have executed this presents the day and year first above written. The Parties have caused their common and corporate seal to be affixed to these presents by an officer of the Party and the same to be duly attested by its Secretary.

Dated the day and year first above written.

Ametek, Inc.

By: Thomas A. Deeney

Its VP Corp Compliance & Auditing

Attested:

Kathryn E. Sena

Secretary

John Evans' Sons, Inc.

By: _____

Its _____

Attested:

_____

Secretary

12. This Agreement shall bind the Parties hereto, their successors and assigns, and shall be specifically enforceable.

13. This Agreement may be executed in counterpart, all of which together shall constitute an original.

14. The undersigned signatories represent that they have authority to act on behalf of the Party on whose behalf they are executing this Agreement, and that all actions necessary to make this Agreement binding on behalf of the respective Parties have been taken and are valid and effective.

IN WITNESS WHEREOF, the Parties have executed this presents the day and year first above written. The Parties have caused their common and corporate seal to be affixed to these presents by an officer of the Party and the same to be duly attested by its Secretary.

Dated the day and year first above written.

Ametek, Inc.

By: _____

Its _____

Attested:

_____

Secretary

John Evans' Sons, Inc.

By: Frank L. Davey

Its Chairman

Attested:

Samuel G. Davey

Secretary