

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

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
COMMONWEALTH OF PENNSYLVANIA,	)	
	)	
Plaintiff-Intervenor	)	October 10, 1995 Final
	)	
v.	)	Civil Action No. 90-7984
	)	
PUBLICKER INDUSTRIES INC.,	)	
CUYAHOGA WRECKING CORPORATION,	)	
OVERLAND CORPORATION,	)	
AMERICAN CRYOGAS INDUSTRIES, INC.	)	
	)	
Defendants.	)	

PARTIAL CONSENT DECREE

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PARTIAL CONSENT DECREE

I. BACKGROUND

A. The United States of America ("United States"), by authority of the Attorney General and at the request of the Administrator of the United States Environmental Protection Agency ("EPA"), filed a complaint in this action on December 19, 1990 pursuant to Sections 107(a) and 113(g)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. §§ 9607(a), 9613(g)(2).

B. In its complaint, the United States sought, among other relief, reimbursement of response costs incurred by the United States at the Publicker Industries National Priorities List Superfund Site ("the Site"), located at or about 3223 South Delaware Avenue in Philadelphia, Pennsylvania and a declaratory judgment as to liability for future response costs to be incurred by the United States at the Site. The Site is adjacent to the Delaware River. The defendants named in the United States' original complaint were Publicker Industries Inc. ("Publicker"), Cuyahoga Wrecking Corporation, and Overland Corporation.

C. Sagrocry, Inc., formerly named American Cryogas Industries, Inc., formerly named Thermice Corporation ("ACI"), is a subsidiary of Publicker. ACI operated an industrial plant at the Site from approximately 1928 to 1987. The United States alleges that hazardous substances were disposed of at the Site during the period in which ACI operated its industrial plant at the Site. On December 22, 1994, the United States filed an amended complaint in which it added ACI as a defendant in this action pursuant to Sections 107(a)(2) and 113(g)(2) of CERCLA, 42 U.S.C. §§ 9607(a)(2), 9613(g)(2).

D. Publicker has asserted a counterclaim against the United States pursuant to Section 107(a) and Section 113(f)(1) of CERCLA, 42 U.S.C. §§ 9607(a), 9613(f)(1).

E. Pursuant to Section 107(f)(2)(A) of CERCLA, 42 U.S.C. § 9607(f)(2)(A), the Secretary of Commerce and the Secretary of the Interior have been designated federal trustees for certain Natural Resources. See 40 C.F.R. § 300.600(b). The National Oceanic and Atmospheric Administration ("NOAA") is a component of the U.S. Department of Commerce. NOAA and the U.S. Department of the Interior ("DOI") have each determined that hazardous substances released from the Site have caused damages to Natural Resources for which the Secretary of Commerce and the Secretary of the Interior are trustees. Through the entry of this Consent Decree, the United States' complaint in this action is deemed to be amended to add a claim for Natural Resource Damages against Publicker and ACI under Section 107(a)(4)(C) and 107(f) of CERCLA, 42 U.S.C. § 9607(a)(4)(C) and 9607(f).

F. On or about May 12, 1993, the Commonwealth of Pennsylvania ("Commonwealth") filed a motion to intervene as of right and a complaint against Publicker, Cuyahoga Wrecking

Corporation, and Overland Corporation. On July 6, 1993, the Court granted the Commonwealth's motion to intervene.

G. On October 12, 1995, the Commonwealth filed an amended complaint in which it added ACI as a defendant in this action. On October 11, 1995, the Court granted the Commonwealth's motion to file an amended complaint.

H. Publicker and ACI (collectively, the "Settling Defendants") represent, and for purposes of this Consent Decree the United States and the Commonwealth rely upon this representation, that the Settling Defendants' business, corporate and financial transactions, and financial condition have been accurately stated in Publicker's 10-Q, 8-K, and 10-K Forms filed with the Securities and Exchange Commission ("SEC") during the three years prior to the Effective Date.

I. The United States, the Commonwealth, Publicker, and ACI (collectively, the "Settling Parties") have entered into this Consent Decree. The Settling Parties do not admit any liability arising out of the transactions or occurrences alleged in the United States' and the Commonwealth's amended complaints or the Settling Defendants' counterclaim. The Settling Parties reserve the right to contest any allegations in the United States' and the Commonwealth's amended complaints or the Settling Defendants'

counterclaim in all future proceedings in this or any other action.

J. The Settling Parties recognize, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Settling Parties in good faith and implementation of this Consent Decree will avoid prolonged and complicated litigation among the Settling 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

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. § 9613(b). This Court also has personal jurisdiction over the Settling Parties. Solely for the purposes of this Consent Decree and the underlying amended complaints and counterclaim, Settling Parties waive all objections and defenses that they may have to jurisdiction of the court or to venue in this District. The Settling Parties shall not challenge the terms of this Consent Decree or this Court's jurisdiction to enter and enforce this Consent Decree.

III. PARTIES BOUND

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

B. The obligations of the Settling Defendants under this Consent Decree (including the obligation to pay amounts owed the United States and the Commonwealth under this Consent Decree) are joint and several. In the event of the insolvency or other failure of any one Settling Defendant to pay any amount owed the United States or the Commonwealth under this Consent Decree, the other Settling Defendant shall pay such amount owed.

IV. DEFINITIONS

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, the following definitions shall apply:

"ACI" shall mean Sagrocry, Inc., formerly named American Cryogas Industries, Inc., formerly named Thermice Corporation.

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

"Certification of Completion of the Remedial Action" shall mean the Commonwealth's written certification, pursuant to Section 706 of HSCA, 35 P.S. § 6020.706, that the Remedial Action at the Site has been completed in accordance with the requirements of (a) ~~CERCLA~~, (b) HSCA, including, but not limited to, Section 706 of HSCA; and (c) this Consent Decree.

"Commonwealth" shall mean the Commonwealth of Pennsylvania, Department of Environmental Protection (formerly the Department of Environmental Resources), the executive agency of the Commonwealth with the duty and authority to administer, enforce, file and settle claims for cost recovery and natural resource damages pursuant to CERCLA and HSCA.

"Completion of response actions" shall mean the completion of all response actions at the Site. Completion of response actions shall not be deemed to have occurred until all performance standards set forth in any existing or future Record of Decision for the Site have been achieved and all remedial

actions set forth in any existing or future Record of Decision for the Site have been completed.

"Consent Decree" shall mean this Decree.

"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.

"Effective Date" shall mean the date that the Court enters this Consent Decree.

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

"Future Response Costs" shall mean all response costs, including, but not limited to, direct and indirect costs, that the United States and/or the Commonwealth incurred and will incur at the Site on and after the Lodging Date.

"HSCA" shall mean the Hazardous Sites Cleanup Act, Act of October 18, 1988, P.L. 756, No. 108, as amended, 35 P.S. § 6020.101 et seq.

"Hazardous Substances" shall have the same meaning provided in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14) and Section 103 of HSCA, 35 P.S. § 6020.103. As applied to claims under HSCA, the term shall also include "contaminants" as defined by Section 103 of HSCA, 35 P.S. § 6020.103.

"Lodging Date" shall mean the date that the United States lodged this Consent Decree with the Court.

"Motion for Entry Date" shall mean the date that the United States files with the Court a motion for entry of this Consent Decree.

"Natural Resources" shall have the meaning provided in Section 101(16) of CERCLA, 42 U.S.C. § 9601(16).

"Natural Resource Damages" means damages, including costs of damages assessment, recoverable under Section 107 of CERCLA, 42 U.S.C. § 9607, and/or Section 702 of HSCA, 35 P.S. § 6020.702, for injury to, destruction of, or loss of any and all Natural Resources at the Site.

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

"Past Response Costs" shall mean all response costs, including, but not limited to, direct and indirect costs and

interest, that the United States and/or the Commonwealth incurred at the Site prior to the Lodging Date.

"Plaintiff-Intervenor" shall mean the Commonwealth.

"Pollutant or contaminant" shall have the same meaning provided in Section 101(33) of CERCLA, 42 U.S.C. § 9601(33).

"Publicker" shall mean Publicker Industries Inc.

"RCRA" shall mean the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901-6992k, which is also known as the Solid Waste Disposal Act.

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

"Settling Federal Agencies" shall mean all agencies, departments, instrumentalities, or other constituent components of the United States and their officials and employees acting solely in their official capacities that may have CERCLA or HSCA liability at the Site including, but not limited to, the U.S. Department of Commerce and the General Services Administration.

"Settling Parties" shall mean the United States, the Commonwealth, Publicker and ACI.

"Site" shall mean the Publicker Industries Inc. Superfund Site identified in Paragraph I.B above.

"Solid waste" shall have the same meaning provided under Section 1004(27) of the Solid Waste Disposal Act, 42 U.S.C. § 6903(27).

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

"Waste Material" shall mean (1) any hazardous substance; (2) any pollutant or contaminant; and (3) any solid waste.

V. REIMBURSEMENT OF RESPONSE COSTS AND
PAYMENT OF NATURAL RESOURCE DAMAGES
TO THE UNITED STATES BY SETTLING DEFENDANTS

A. Initial Payment. On April 6, 1995, the Settling Defendants deposited with the Clerk of this Court the sum of four million, five hundred thousand dollars (\$4,500,000) to be held for use as payment of a portion of Past Response Costs allegedly incurred by the United States in connection with the Site and for payment of a portion of Natural Resource Damages allegedly sustained at the Site. In the Joint Motion And Stipulation To Establish An Escrow Account filed with the Court on December 20, 1994 and entered on January 10, 1995 ("the Escrow Stipulation"), the Settling Parties agreed that the Escrow Account could be terminated prior to the Effective Date under conditions specified in the Escrow Stipulation.

1. If the Escrow Account is still in existence on the Effective Date, the Clerk of this Court shall, within ten (10) days of the later of the Effective Date or the determination as to the "agreed refund" pursuant to Paragraph V.B below, release to the United States the sum of \$4,500,000 plus all interest accrued in the Escrow Account on the \$4,500,000 ("Accrued Escrow Account Interest").

2. In addition to the disbursement of funds pursuant to Subparagraph V.A.1, if the Escrow Account is still in existence on the Effective Date, within thirty (30) days of the Effective Date, the Settling Defendants shall pay \$4,500,000, plus an amount equal to the Accrued Escrow Account Interest (a) into the Escrow Account if the determination as to the "agreed refund" has not been made in accordance with Paragraph V.B below or (b) in accordance with the provisions of that determination if it has been made. Payment under Subparagraphs V.A.1 and V.A.2 shall not release the Settling Defendants from the payments required under Paragraph V.C.

3. If the Escrow Account has been terminated prior to the Effective Date and the monies deposited into the Escrow Account have been returned to the Settling Defendants, the Settling Defendants shall pay to the United States the following

sums: (a) \$3,000,000 within thirty (30) days of the Effective Date; (b) \$1,500,000 on the one year anniversary of the Effective Date; (c) \$1,500,000 on the two year anniversary of the Effective Date; (d) \$1,500,000 on the three year anniversary of the Effective Date; (e) \$1,500,000 on the four year anniversary of the Effective Date; (f) an interest payment on the first anniversary of the Effective Date equal to the amount of interest accrued at the rate of four percent per annum on the outstanding balance of \$9,000,000 running from the date that the \$4,500,000 was originally placed in the Escrow Account; and (g) an interest payment on the second, third, and fourth anniversaries of the entry of the Effective Date equal to the amount of interest accrued during the previous one year period at the rate of seven percent per annum on the outstanding balance due. Payment under this Subparagraph V.A.3 shall not release the Settling Defendants from the payments required under Paragraph V.C.

B. Agreed Refund. Litigation counsel for the United States have informed the Settling Defendants that a contractor who was involved with the Site is being investigated for possible fraud in connection with work performed at another site. Litigation counsel have further informed Settling Defendants that the

investigation did not arise from allegations related to activities at the Site.

1. Litigation counsel for the United States have undertaken to inform the Settling Defendants when the investigation into that contractor's activities has been completed and whether that investigation showed that the United States incurred costs at the Site as a result of fraud by that contractor. The Settling Parties shall then attempt to agree as to whether and to what extent the United States incurred such fraudulent costs at the Site and, failing such agreement, and upon motion by any of the Settling Parties, such determination shall be made by order of the Court. In the event the Settling Parties agree or the Court determines that the United States incurred \$500,000 or more in costs at the Site as a result of fraud involving said contractor, the Settling Defendants shall be entitled to a reduction in the amount of their settlement payments of two-thirds of the amount of the fraudulent charges above \$500,000 ("agreed refund").

2. If the Settling Defendants are entitled to such an agreed refund under Subparagraph V.B.1 above, the agreed refund shall be disbursed to Settling Defendants from the Escrow Account in accordance with Paragraph II.D. of the Escrow Stipulation, and

all remaining funds shall be disbursed to the United States. Provided, however, that if the amount of the agreed refund is determined prior to the Settling Defendants having made all payments required of them under Paragraph V.C, the agreed refund shall be made first by canceling the Settling Defendants' obligation to make future payments, and disbursements to the Settling Defendants from the Escrow Account shall be made only to the extent that the amount of the agreed refund exceeds the total of future payments. Any agreed refund that is made hereunder by canceling the Settling Defendants' obligation to make future payments shall be applied to future payments on a *pro rata* basis (such that each future payment is reduced by the same ratio as the agreed reduction bears to the total of future payments). All funds in the Escrow Account that are not to be refunded to the Settling Defendants hereunder shall be disbursed to the United States pursuant to Paragraph II.D of the Escrow Stipulation.

3. If the Escrow Account has been terminated prior to the Effective Date and the monies deposited into the Escrow Account have been returned to the Settling Defendants, the agreed refund shall be credited *pro rata* against payments due pursuant to Subparagraph V.A.3 above.

C. Six Annual Payments. The Settling Defendants shall pay four million three hundred fifty thousand dollars (\$4,350,000) plus interest to the United States within six years of the Effective Date as payment of a portion of Past Response Costs allegedly incurred by the United States in connection with the Site. If at the time any of the foregoing annual payments are due the Escrow Account has not been terminated, such payment(s) shall be made into the Escrow Account in accordance with Paragraph V.H.; if the Escrow Account has been terminated, such payment(s) shall be made to the United States in accordance with Paragraph V.H. The Settling Defendants' payment shall be made in accordance with the schedule set forth in Subparagraphs V.C.1 through V.C.6 below.

1. First Annual Payment. On or before the one year anniversary of the Effective Date, the Settling Defendants shall pay to the United States \$633,333 plus interest. Interest shall be calculated from the period beginning on the Effective Date through to the date of payment of the \$633,333 pursuant to this Subparagraph V.C.1. Interest during this period shall accrue on the outstanding balance of \$4,350,000.

2. Second Annual Payment. On or before the two year anniversary of the Effective Date, the Settling Defendants shall

pay to the United States \$683,332 plus interest. Interest shall be calculated from the period beginning on the date payment was made pursuant to the preceding Subparagraph V.C.1 through to the date of payment of the \$683,332 pursuant to this Subparagraph V.C.2. Interest during this period shall accrue on the outstanding balance of \$3,716,667.

3. Third Annual Payment. On or before the three year anniversary of the Effective Date, the Settling Defendants shall pay to the United States \$683,334 plus interest. Interest shall be calculated from the period beginning on the date payment was made pursuant to the preceding Subparagraph V.C.2 through to the date of payment of the \$683,334 pursuant to this Subparagraph V.C.3. Interest during this period shall accrue on the outstanding balance of \$3,033,335.

4. Fourth Annual Payment. On or before the four year anniversary of the Effective Date, the Settling Defendants shall pay to the United States \$783,332 plus interest. Interest shall be calculated from the period beginning on the date payment was made pursuant to the preceding Subparagraph V.C.3 through to the date of payment of the \$783,332 pursuant to this Subparagraph V.C.4. Interest during this period shall accrue on the outstanding balance of \$2,350,001.

5. Fifth Annual Payment. On or before the five year anniversary of the Effective Date, the Settling Defendants shall pay to the United States \$783,334 plus interest. Interest shall be calculated from the period beginning on the date payment was made pursuant to the preceding Subparagraph V.C.4 through to the date of payment of the \$783,334 pursuant to this Subparagraph V.C.5. Interest during this period shall accrue on the outstanding balance of \$1,566,669.

6. Sixth Annual Payment. On or before the six year anniversary of the Effective Date, the Settling Defendants shall pay to the United States \$783,335 plus interest. Interest shall be calculated from the period beginning on the date payment was made pursuant to the preceding Subparagraph V.C.5 through to the date of payment of the \$783,335 pursuant to this Subparagraph V.C.6. Interest during this period shall accrue on the outstanding balance of \$783,335.

D. Rate of Interest. The rate of interest to be used in calculating annual interest payments pursuant to Subparagraphs V.C.1 through V.C.6 shall be an annual rate of five percent (5%).

E. Insurance Recoveries. If the Settling Defendants, in their sole discretion, pursue claims against their insurance carriers, then, in further payment of a portion of Past Response

Costs and a portion of Future Response Costs allegedly incurred by the United States in connection with the Site, the Settling Defendants shall pay to the United States thirty-five percent (35%) of all monies received by the Settling Defendants from any insurance company, insurance agent, insurance broker, or insurance carrier with respect to any insurance or related claim pertaining to the Site, net of any litigation expenses incurred by and not reimbursed to the Settling Defendants. The Settling Defendants shall make the 35% payment(s) required pursuant to the preceding sentence within sixty (60) days of the Settling Defendants' receipt of any such monies from any insurance company, insurance agent, insurance broker, or insurance carrier.

F. Other potentially responsible parties.

1. The Settling Defendants have assigned to the United States any and all claims for cost recovery (including contribution claims for cost recovery) that the Settling Defendants may have against Holt Cargo Systems, Inc., Delaware Avenue Enterprises, Inc., Cresmont Limited Partnership, their successors and assigns, and their officers, directors, shareholders, partners, employees, agents, and their successors (collectively, "Holt") with respect to the Site, and Holt has assigned all of its claims for cost recovery (including

contribution claims for cost recovery) against Settling Defendants (and Settling Defendants' successors, assigns, officers, directors, shareholders, partners, employees, agents, and their successors) to the United States (which claims are subject to the covenant not to sue set forth below). These assignments, which become effective on the Effective Date, are attached as Exhibits A and B to this Consent Decree. In addition, the Settling Defendants have assigned, transferred, quitclaimed, and released to Delaware Avenue Enterprises, Inc. or its designees all of their right, title, and interest in and to the Site, including without limitation all easements, rights of way, usage, access or occupancy rights, all rights in and to any pipelines, tanks, equipment, and/or piers, and any other rights or privileges relating to or affecting the Site, and any obligations or restrictions binding upon or affecting in any way the Site, the owner or occupants thereof, their successors and assigns. The quitclaim deed is confirmed in an instrument duly acknowledged and in proper form for recording with the recorder's office, which deed becomes effective on the Effective Date and is attached as Exhibit C.

2. In further payment of a portion of Past Response Costs and a portion of Future Response Costs allegedly incurred

by the United States in connection with the Site, the United States shall receive thirty-five percent (35%) of all monies recovered by the Settling Defendants in any action(s) that Settling Defendants may, in their sole discretion, bring against any other potentially responsible party(ies) at the Site, net of any litigation expenses incurred by and not reimbursed to the Settling Defendants. The Settling Defendants shall make the 35% payment(s) required pursuant to the preceding sentence within sixty (60) days of Settling Defendants' receipt of any such monies from any such potentially responsible party(ies). Nothing in this Paragraph V.F shall affect the subordination of Settling Defendants' claims against such other potentially responsible party(ies) pursuant to Section 113(f)(3)(C) of CERCLA, 42 U.S.C. § 9613(f)(3)(C).

G. Allocation Between Response Costs and Natural Resource Damages. Ten thousand dollars (\$10,000) paid to the United States pursuant to Paragraph V.A shall be deemed to be to the United States on behalf of the NOAA Damage Assessment and Restoration Revolving Fund. Four hundred ninety-seven thousand dollars (\$497,000) paid to the United States pursuant to Paragraph V.A shall be deemed to be to the United States on behalf of the DOI Natural Resource Damage Assessment and

Restoration Fund. In addition, five and five tenths percent (5.5%) of all accrued interest paid to the United States pursuant to Paragraph V.A shall be deemed to be to the United States on behalf of the DOI Natural Resource Damage Assessment and Restoration Fund. All remaining monies paid to the United States pursuant to Paragraph V.A shall be deemed to be to the United States on behalf of EPA in reimbursement of a portion of Past Response Costs incurred at the Site. All payments made to the United States pursuant to Subparagraphs V.C.1 through V.C.6 shall be deemed to be to the United States on behalf of EPA in reimbursement of a portion of Past Response Costs and Future Response Costs incurred at the Site.

H. Payment Method. All payments required to be made to the Escrow Account pursuant to the preceding Paragraphs V.A and V.C shall be made by certified or cashier's check, payable to "Clerk, U.S.D.C.," and shall be accompanied by a letter referencing the caption of this case and stating that the check is a payment into the interest-bearing escrow account established by the parties' Joint Motion and Stipulation to Establish an Escrow Account, which was approved by the Court on January 10, 1995. All other payments to the United States shall be by Electronic Funds Transfer (EFT or wire transfer) or by certified check to the U.S.

Department of Justice lockbox bank, and referencing: CERCLA Number 03-3A; DOJ Case Number 90-11-3-689; and the U.S. Attorney's Office File Number 9002108. Any EFTs received at the United States Department of Justice lockbox bank after 4:00 P.M. (Eastern Time) will be credited on the next business day. Payment to the United States shall be made in accordance with written instructions provided by the United States within twenty (20) days of the Effective Date. A written copy of the EFT payment authorization shall be sent to the United States.

VI. REIMBURSEMENT OF RESPONSE COSTS AND PAYMENT OF NATURAL RESOURCE DAMAGES TO THE COMMONWEALTH BY SETTLING DEFENDANTS

A. Payment Specifications. Settling Defendants shall pay the Commonwealth one million dollars (\$1,000,000) in settlement of the Commonwealth's claims for response costs and natural resource damages sought in this action. This payment shall consist of a \$350,000 initial payment and four equal annual installment payments, plus interest. All payments to the Commonwealth shall be by certified or cashier's check(s) made payable to the Hazardous Sites Cleanup Fund. Payments shall reference the Publicker CERCLA Site. Payments shall be mailed certified or hand-delivered to:

George Danyliw
HSCA Manager - SE Region
Department of Environmental
Protection
Hazardous Sites Cleanup
Lee Park, Suite 6010
555 North Lane
Conshohocken, Pennsylvania 19428

In the alternative, Settling Defendants may make payments to the Commonwealth by Electronic Funds Transfer (EFT or wire transfer) made to:

State Depository Bank of Deposit:	Corestates
State Depository Bank Code:	031000011
State Depository Bank Account No.:	01966288

At least five working days prior to any such EFT, the Settling Defendants shall notify the Commonwealth in writing of the expected date and amount of the EFT. Such notification shall be made to Lauree Balsbaugh, Bureau of Waste Management, Hazardous Sites Cleanup Program, 400 Market Street, 14th Floor RCSOB, Harrisburg, PA 17105-8471. Any EFTs received by the Commonwealth's bank after 4:00 p.m. (Eastern time) will be credited to the next business day. The Settling Defendants shall also send a written copy of the EFT payment authorization to George Danyliw, HSCA Manager - SE Region, Department of Environmental Protection, Hazardous Sites Cleanup, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

B. Initial Payment. The initial payment of \$350,000 shall be made within ten (10) days of the Effective Date.

C. Four Annual Payments. The Settling Defendants shall pay Six Hundred and Fifty Thousand Dollars (\$650,000) plus interest to the Commonwealth within four years of the Effective Date to complete payment in settlement of the Commonwealth's claims for response costs and natural resource damages sought in this action. The Settling Defendants' payments shall be made in accordance with the schedule set forth in Subparagraphs C.1 through C.4 below.

1. First Annual Payment. On or before the one-year anniversary of the Effective Date, the Settling Defendants shall pay to the Commonwealth \$162,500 plus interest. Interest shall be calculated from the period beginning on the Effective Date through to the date of payment of the \$162,500 pursuant to this Subparagraph C.1. Interest during this period shall accrue on the outstanding balance of \$650,000.

2. Second Annual Payment. On or before the two-year anniversary of the Effective Date, the Settling Defendants shall pay to the Commonwealth \$162,500 plus interest. Interest shall be calculated from the period beginning on the date payment was made pursuant to the preceding Subparagraph C.1 through to the

date of payment on the \$162,500 pursuant to this Subparagraph

C.2. Interest during this period shall accrue on the outstanding balance of \$487,500.

3. Third Annual Payment. On or before the three-year anniversary of the Effective Date, the Settling Defendants shall pay to the Commonwealth \$162,500 plus interest. Interest shall be calculated from the period beginning on the date payment was made pursuant to the preceding Subparagraph C.2 through to the date of payment on the \$162,500 pursuant to this Subparagraph

C.3. Interest during this period shall accrue on the outstanding balance of \$325,000.

4. Fourth Annual Payment. On or before the four-year anniversary of the Effective Date, the Settling Defendants shall pay to the Commonwealth \$162,500 plus interest. Interest shall be calculated from the period beginning on the date payment was made pursuant to the preceding Subparagraph C.3 through to the date of payment on the \$162,500 pursuant to this Subparagraph

C.4. Interest during this period shall accrue on the outstanding balance of \$162,500.

D. Rate of Interest. The rate of interest to be used in calculating annual interest payments pursuant to Subparagraphs S

C.1 through C.4 shall be at the annual rate of seven and one-half percent (7.5%).

VII. FAILURE TO MAKE TIMELY PAYMENTS

A. Acceleration. If the Settling Defendants fail to make any payments required by and in accordance with the schedule set forth in Section V (Reimbursement Of Response Costs And Payment Of Natural Resource Damages to the United States By Settling Defendants) or Section VI (Reimbursement of Response Costs and Payment of Natural Resources Damages to the Commonwealth by Settling Defendants), and if such default is not cured within forty-five days, then, on the date on which such period for curing nonpayment expires, the United States and/or the Commonwealth may make a written demand, in the sole discretion of the demanding party, that Settling Defendants pay all amounts owed by Settling Defendants to the demanding party under this Consent Decree, including all future payments. If the United States and/or the Commonwealth makes such a demand, Settling Defendants shall be liable for and shall be required to pay the sum(s) demanded in accordance with Paragraph V.H. (as to the United States) and/or Paragraph VI.A. (as to the Commonwealth). Settling Defendants shall pay the Commonwealth a stipulated penalty in the amount of \$250 per day for each day of failure to

make payment to the Commonwealth beginning on the date on which such period for curing nonpayment expires. Such stipulated penalties are due and collectible immediately, and payment shall immediately be made to the Commonwealth as per the method specified in Paragraph VI.A.

B. Interest.

1. To the United States. If Settling Defendants fail to make payments required by Section V (Reimbursement Of Response Costs And Payment Of Natural Resource Damages By Settling Defendants) or this Section VII (Failure To Make Timely Payments) in accordance with the schedule set forth in Section V and Section VII, Settling Defendants shall pay to the United States interest on the unpaid obligation from the first day payment is overdue until the obligation is paid in full. Interest shall accrue at the annual rate of seven percent. Interest pursuant to this Subparagraph VII.B.1 shall be paid to the United States at such time as Settling Defendants make late payment of the amounts due.

2. To the Commonwealth. If Settling Defendants fail to make payments required by Section VI (Reimbursement of Response Costs and Payment of Natural Resources Damages to the Commonwealth by Settling Defendants) or this Section VII (Failure

to Make Timely Payments) in accordance with the schedule set forth in Section VI and Section VII, Settling Defendants shall pay to the Commonwealth interest on the unpaid obligation from the first day payment is overdue until the obligation is paid in full. Interest shall accrue at the annual rate of seven and one-half percent (7.5%). Interest pursuant to this Paragraph VII.B.2 shall be paid to the Commonwealth at such time as Settling Defendants make late payment of the amounts due.

C. Debt Collection. This Consent Decree shall be considered an enforceable judgment for purposes of post-judgment collection in accordance with Federal Rule of Civil Procedure 69 and the Federal Debt Collection Procedures Act, 28 U.S.C. §§ 3001-3308. Settling Defendants and the Commonwealth agree that the Commonwealth has rights equivalent to those possessed by the United States pursuant to the Federal Debt Collection Act, 28 U.S.C. §§ 3001-3308, and that counsel for the Commonwealth has powers equivalent to those of "Counsel for the United States" as defined by the Federal Debt Collection Act, 28 U.S.C. §§ 3001-3308, 3002(1).

D. Non-exclusivity. Payments made under Paragraphs VII.A, VII.B, and VII.C shall be in addition to any other remedies or sanctions available to the United States and the

Commonwealth by virtue of Settling Defendants' failure to make timely payments required by this Consent Decree.

VIII. PAYMENT OF RESPONSE COSTS
BY THE UNITED STATES AS COUNTERCLAIM DEFENDANT

A. Payment. The United States, on behalf of Settling Federal Agencies, shall pay to the EPA Hazardous Substance Superfund \$500,000, either: (1) if no appeal of the entry of this Consent Decree is filed, within 120 days after the time for filing an appeal of the entry of this Consent Decree has expired; or (2) if the entry of this Consent Decree is appealed, within 120 days after this Consent Decree is upheld on final appeal, including any denial of certiorari by the United States Supreme Court. Such payment shall constitute reimbursement of an agreed upon share of all Past Response Costs and all Future Response Costs subject to the proviso of Paragraph X.A. below. Payment to the EPA Hazardous Substance Superfund shall be by Electronic Funds Transfer (EFT or wire transfer) to the U.S. Department of Justice lockbox bank, and referencing: CERCLA Number 03-3A; DOJ Case Number 90-11-3-689; and the U.S. Attorney's Office File Number 9002108. A written copy of the EFT payment authorization shall be sent to the United States. The United States, on behalf of Settling Federal Agencies, shall pay interest on the unpaid

amount from the first day payment is overdue until the obligation is paid in full. Interest shall accrue at the rate as provided for in Section 107(a) of CERCLA, 42 U.S.C. §9607(a).

B. Anti-Deficiency Act. Payment by the Settling Federal Agencies pursuant to the preceding Paragraph VIII.A is subject to the availability of appropriated funds. No provision of this Consent Decree shall be interpreted as or constitute a commitment or requirement that the Settling Federal Agencies obligate or pay funds in contravention of the Anti-Deficiency Act, 31 U.S.C. §1341.

C. Full Satisfaction. The payment of the Settling Federal Agencies set forth in Paragraph VIII.A of this Consent Decree is in full satisfaction and full settlement of all past and future CERCLA liability at the Site for the Settling Federal Agencies, subject to the proviso of Paragraph X.A below. The failure of the Settling Federal Agencies to make payment as provided by the preceding Paragraph VIII.A shall not void this Consent Decree or the covenants not to sue set forth in Paragraphs IX.A, IX.C, and X.A. However, this paragraph and this Consent Decree do not affect any potential liability of the Settling Federal Agencies to the Commonwealth pursuant to CERCLA, HSCA or any other statutory provision or common law theory.

IX. COVENANTS NOT TO SUE BY THE UNITED STATES AND THE
COMMONWEALTH

A. EPA/NOAA/DOI to Settling Defendants. In consideration of the payments that will be made by the Settling Defendants under the terms of the Consent Decree, and except as specifically provided in Paragraphs IX.E, IX.F, IX.G, IX.H, IX.J or X.B below, the United States covenants not to sue or to take administrative action against Settling Defendants and Settling Defendants' past or present corporate officers, directors, and employees pursuant to Sections 104, 106, 107(a), 107(f), 113(f), or 113(g)(2) of CERCLA, 42 U.S.C. §§ 9604, 9606, 9607(a), 9607(f), 9613(f), 9613(g)(2), or Section 7003 of RCRA, 42 U.S.C. § 6973, for performance of response actions at the Site, for Past Response Costs, for Future Response Costs, or for Natural Resource Damages. This covenant not to sue is effective on the Effective Date, subject to Paragraph IX.E below. This covenant not to sue extends only to Settling Defendants and the Settling Defendants' past or present corporate officers, directors, and employees and does not extend to any other person.

B. EPA/NOAA/DOI to Settling Federal Agencies. Subject to the limitation for unknown conditions and information described in Paragraph IX.G, EPA covenants not to take administrative action against the Settling Federal Agencies under CERCLA or

Section 7003 of RCRA with respect to the Site, including, without limitation, claims for Past Response Costs, Future Response Costs, or future work with respect to the Site. Subject to the limitation for unknown conditions and information described in Paragraph IX.H., NOAA and DOI also covenant not to take administrative action against the Settling Federal Agencies under Section 107(a) or 107(f) of CERCLA, 42 U.S.C. § 9607(a), (f), for Natural Resource Damages in connection with the Site.

C. Settling Federal Agencies to Settling Defendants.

Except as provided in Paragraph X.B, the United States covenants not to sue Settling Defendants or the Settling Defendants' past or present corporate officers, directors, or employees for contribution with respect to the Site on behalf of the Settling Federal Agencies.

D. Commonwealth to Settling Defendants.

1. Subject to the reservations provided in this Paragraph D. and Paragraphs IX.E, IX.F, IX.G, IX.H, IX.J, or X.B and in consideration of the payments paid by Settling Defendants, the Commonwealth covenants not to sue or to take administrative action against Settling Defendants and Settling Defendants' past or present corporate officers, directors, and employees pursuant to Sections 104, 106, 107(a), 107(f), 113(f) or 113(g)(2) of

CERCLA, 42 U.S.C. §§ 9604, 9606, 9607(a), 9607(f), 9613(f), and 9613(g)(2), Section 7003 of RCRA, 42 U.S.C. § 6963, and Sections 507, 701, 702, 1101, 1102, and 1114 of HSCA, 35 P.S. §§ 6020.507, 6020.701, 6020.702, 6020.1101, 6020.1102, and 6020.1114 for performance of response actions at the Site, for Past Response Costs, for Future Response Costs, or for Natural Resource Damages.

2. Except with respect to future liability under HSCA, this covenant not to sue shall take effect upon the signing of this Consent Decree by the Parties. With respect to future liability under HSCA, this covenant not to sue shall become effective upon certification by the Commonwealth in accordance with Section 706 of HSCA, 35 P.S. § 6020.706, that the remedial action[s] for the site have attained the performance standards as set forth in the Record[s] of Decision pertaining to the site and all remedial action[s] thereunder have been completed in accordance with the requirements of ~~CERCLA~~, HSCA, and this Consent Decree. These covenants not to sue extend only to the Settling Defendants and Settling Defendants' past or present corporate officers, directors, and employees and do not extend to any other person.

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E. General Reservation of Rights. The covenants not to sue set forth in Paragraphs IX.A, IX.B, IX.C and IX.D do not pertain to any matters other than those expressly specified therein. The United States and the Commonwealth reserve, and this Consent Decree is without prejudice to, all rights against Settling Defendants and the Settling Defendants' corporate officers, directors, and employees with respect to all other matters. Except as provided in Paragraphs IX.A and IX.D, nothing contained herein shall in any way limit or restrict the response and enforcement authority of the United States or the Commonwealth to initiate or continue appropriate action, either judicial or administrative, under Sections 104, 106, and 107 of CERCLA, 42 U.S.C. §§ 9604, 9606, and 9607, under RCRA, under HSCA, or under any other provision of law, against Settling Defendants, the Settling Defendants' corporate officers, directors, or employees, or against any other person or entity not a party to this Consent Decree.

F. Additional Reservations. The covenants not to sue set forth in Paragraphs IX.A, IX.B, IX.C. and IX.D do not apply, inter alia, in the following circumstances:

- (1) the covenants to Settling Defendants (and not the covenant set forth in Paragraph IX.B) shall be null and void

void if Settling Defendants owe any amounts under this Consent Decree, other than during the 45-day cure period provided for in Paragraph VII.A, or are not in compliance with the other requirements of this Consent Decree, subject to Paragraphs XI.C and D, in which event the United States or the Commonwealth may continue this action or bring a separate action for (a) the full amount of unreimbursed response costs incurred and to be incurred in connection with the Site, (b) all interest accrued since December 19, 1990 pursuant to Section 107(a) of CERCLA, and/or (c) the full amount of Natural Resource Damages sustained in connection with the Site;

(2) the covenants do not apply to disposal activities that took place at other sites;

(3) the covenants do not apply to liability arising from any action taken by the Settling Defendants or their corporate officers, directors, or employees after the filing date of the Escrow Stipulation; and

(4) the covenants do not apply to any criminal liability.

G. Specific Reservation With Respect To Unknown Conditions Or Information. Notwithstanding any other provision of this

Consent Decree, the United States and/or the Commonwealth reserve, 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, to compel Settling Defendants or the Settling Defendants' corporate officers, directors, or employees (1) to perform further response actions relating to the Site and/or (2) to reimburse the United States and/or the Commonwealth for additional response costs if

(i) conditions at the Site, previously unknown to EPA and the Commonwealth on the motion for entry date of the Consent Decree, are discovered, or

(ii) information, previously unknown to EPA and the Commonwealth on the motion for entry date of the Consent Decree, is received,

and further response actions are needed or additional response costs are incurred due to these previously unknown conditions or information. Conditions at the Site known to EPA and the Commonwealth on the motion for entry date of the Consent Decree and information known to EPA and the Commonwealth on the motion for entry date of the Consent Decree include only information contained in documents in the files of EPA Region III, EPA's Office of Solid Waste and Emergency Response (OSWER), and EPA's

Office of Enforcement and Compliance Assurance (OECA) at the motion for entry date of the Consent Decree.

H. Reservations Concerning Natural Resource Injury.

Notwithstanding any other provision of this Consent Decree, the United States, on behalf of its natural resource trustees, and the Commonwealth, reserve the right to institute proceedings against Settling Defendants and the Settling Defendants' corporate officers, directors, and employees in this action or in a new action seeking recovery of Natural Resource Damages, based on:

- (a) conditions with respect to the Site, unknown to the United States and the Commonwealth at the motion for entry date of this Consent Decree, that result in releases of hazardous substances that contribute to injury to, destruction of, or loss of natural resources; or
- (b) information received after the motion for entry date of the Consent Decree which indicates that there is injury to, destruction of, or loss of natural resources of a type that was unknown, or of a magnitude substantially greater than was known, to the United States or the

Commonwealth at the motion for entry date of this Consent Decree.

The information and conditions known (whether actually or by assumption) to the United States or the Commonwealth at the motion for entry date of this Consent Decree include without limitation the following:

1. With regard to terrestrial resources: soil and sediment have been contaminated at the concentrations specified in the attached tables (labeled as Exhibit D to this Consent Decree) and such contamination levels pose Site-wide toxicity threats;

2. With regard to aquatic resources:

- a. Releases from the Site have resulted in sediment contamination in the slip areas by one or more of the following organic chemicals or trace elements at a concentration equal to or greater than the NOAA ER-M value (the median concentration in the effects range above which toxic effects on aquatic life usually or frequently occur): arsenic, chromium, copper, lead, mercury, zinc, total PAHs, and total PCBs.

- b. For purposes of the preceding Subparagraph VIII.G.2.(a), the ER-M values (in ppm dry weight) are as follows: arsenic, 70; chromium, 370; copper, 270; lead, 223; mercury, 0.71; zinc, 410; total PAHs, 44.79; total PCBs, 0.18.

3. The information contained in documents in the files of EPA Region III, EPA's Office of Solid Waste and Emergency Response (OSWER), and EPA's Office of compliance Assurance (OECA), in DOI's files, and in NOAA's files prior to the motion for entry date of the Consent Decree.

I. Knowledge of the Commonwealth. In addition to the conditions and information described in Paragraphs IX.G and IX.H, the conditions and information known to the Commonwealth include information actually possessed by the Commonwealth prior to the motion for entry date of the Consent Decree. Such information includes, but is not limited to, all reports, writings, charts, graphs, data or other documents, which are in the possession of the Commonwealth relating to the Site.

J. Representations Regarding Settling Defendants' Financial Condition. The covenants not to sue set forth in Paragraphs IX.A and IX.C shall be null and void if Settling Defendants' representation in Paragraph I.G above is false and Settling Defendants have materially understated their financial strength or results of operations in any SEC Form identified in Paragraph I.G.

K. Response Action Authority. Notwithstanding any other provision of this Consent Decree, the United States and/or the

Commonwealth retain all authority and reserve all rights to take any and all response actions authorized by law.

L. Agreement Between NOAA and DOI. Upon NOAA's receipt of the \$10,000 pursuant to Paragraph V.G, NOAA shall be deemed to have assigned to DOI all monies, rights, or interests obtained by NOAA in the Settlement Agreement with Freedom Savings and Loan Association and other parties that was approved by the Court of Appeals for the Second Circuit in the opinion styled In re: Cuyahoga Equipment Corp., 980 F.2d 110 (2d Cir. 1992).

X. COVENANT NOT TO SUE BY SETTLING DEFENDANTS

A. Settling Defendants hereby covenant not to sue and agree not to assert any claims or causes of action against the United States and/or the Commonwealth with respect to the Site or this Consent Decree, including, but not limited to: (i) 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 CERCLA Sections 106(b)(2), 111, 112, 113(f), or 113(g)(2); (ii) any direct or indirect claim for reimbursement, contribution, and/or indemnity from the Pennsylvania Hazardous Sites Cleanup Fund through Section 505(f) of HSCA, 35 P.S. § 6020.505(f), or based on any other statutory provision or common law theory; (iii) any claim against the

United States, including any agency, department, instrumentality, or other constituent component of the United States or any employee of the United States, under CERCLA Sections 107, 113(f), or 113(g)(2) related to the Site; (iv) any claims against the Commonwealth under CERCLA Sections 107, 113(f) or 113(g)(2), or HSCA Sections 507, 701, 702, or 1114; or (v) any claims arising out of response activities at the Site, including any claims asserted against the United States' or the Commonwealth's contractors; provided, however, that to the extent that Settling Defendants are sued under the reopener clause in Paragraph IX.G or IX.H above, neither this covenant not to sue by the Settling Defendants nor any provision of this Consent Decree shall bar Settling Defendants from claiming or counterclaiming against the United States or the Commonwealth with respect to the amount obtained from the Settling Defendants in such subsequent lawsuit or administrative action brought by the United States or the Commonwealth. The United States and the Commonwealth will interpose no objection to such claim or counterclaim based on said covenant not to sue or any other provision of this Consent Decree. 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).

B. The covenants not to sue set forth in Paragraphs IX.A, IX.C and IX.D do not apply to and are null and void as to any past or present corporate officer, director, or employee of the Settling Defendants who brings an action against the United States and/or the Commonwealth, including any agency, department, instrumentality, or other constituent component of the United States or the Commonwealth, or any employee of the United States or the Commonwealth, pertaining to the Site.

XI. EFFECT OF SETTLEMENT: CONTRIBUTION PROTECTION

A. 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 decree may have under applicable law. Each of the Settling 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.

B. With regard to claims for contribution for matters addressed in this Consent Decree, the United States and the Settling Defendants agree that Settling Defendants and the Settling Federal Agencies are entitled to such protection from contribution actions or claims as is provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), and the Commonwealth and Settling Defendants agree that Settling Defendants are entitled to such contribution protection as is provided by said Section 113(f)(2). With regard to HSCA claims for contribution against Settling Defendants for matters addressed in this Consent Decree, the Commonwealth and the Settling Defendants agree that Settling Defendants are entitled to such protection from contribution actions or claims as is provided by Section 705(c)(2) of HSCA, 35 P.S. § 6020.705(c)(2). Settling Defendants shall be entitled to such protection from claims for contribution as is provided by Section 113(f) of CERCLA and by § 705(c)(2) of HSCA which protection shall take effect upon the Effective Date and which shall be effective if Settling Defendants do not owe any amounts under this Consent Decree, other than during the 45-day cure period provided for in Paragraph VII.A, or are otherwise in compliance with the terms of this Decree, subject to Paragraphs XI.C and D.

C. Settling Defendants agree that with respect to any suit or judicial claim for contribution brought by any of Settling Defendants for matters related to this Consent Decree or the Site and with respect to any insurance or related judicial claim brought by any of Settling Defendants for matters related to this Consent Decree or the Site, Settling Defendants will notify the United States in writing no later than 60 days prior to the initiation of such suit or judicial claim. Settling Defendants shall pay a stipulated penalty in the amount of \$1,500 per day for each day that notice required under this Paragraph XI.C is not given for the first seven days of such failure, and \$2,500 per day for each day that such notice is not given thereafter. Stipulated penalties are due and payable within thirty (30) days of Settling Defendants' receipt from EPA of a demand for payment of the penalties. All payments pursuant to this Paragraph XI.C shall be paid by certified check made payable to the "EPA Hazardous Substance Superfund," shall be mailed to EPA, Region III, Attention: Superfund Accounting, P.O. Box 360515, Pittsburgh, PA 15251-6515, and shall reference CERCLA Number 03-3A and DOJ Case Number 90-11-3-689. Copies of checks paid pursuant to this Paragraph XI.C shall be sent to the United States. Notwithstanding any other provision of this Consent

Decree, the Covenant Not to Sue by the United States under Section IX above and the Contribution Protection under Section XI above shall not be affected by a violation of the notice requirement of this Paragraph XI.C so long as the Settling Defendants provide notice sufficient in content and in time so that the rights and interests of the United States are not prejudiced.

D. Settling Defendants also agree that, with respect to any suit or judicial claim for contribution brought against either of them for matters related to this Consent Decree, Settling Defendants will notify in writing the United States within 10 days of service of the complaint on either of them. In addition, Settling Defendants shall notify the United States within 10 days of service or receipt of any dispositive motion and within 10 days of receipt of any order from a court setting a case for trial. Settling Defendants shall pay a stipulated penalty in the amount of \$1,500 per day for each day that notice required under this Paragraph XI.D is not given for the first seven days of such failure, and \$2,500 per day for each day that such notice is not given thereafter. Stipulated penalties are due and payable within thirty (30) days of Settling Defendants' receipt from EPA of a demand for payment of the penalties. All payments pursuant

to this Paragraph XI.D shall be paid by certified check made payable to the "EPA Hazardous Substance Superfund," shall be mailed to EPA, Region III, Attention: Superfund Accounting, P.O. Box 360515, Pittsburgh, PA 15251-6515, and shall reference CERCLA Number 03-3A and DOJ Case Number 90-11-3-689. Copies of checks paid pursuant to this Paragraph XI.D shall be sent to the United States. Notwithstanding any other provision of this Consent Decree, the Covenant Not to Sue by the United States under Paragraph IX above and the Contribution Protection under Paragraph XI above shall not be affected by a violation of the notice requirement of this subparagraph so long as the Settling Defendants provide notice sufficient in content and in time so that the rights and interests of the United States are not prejudiced.

E. In any subsequent administrative or judicial proceeding initiated by the United States and/or the Commonwealth for injunctive relief, recovery of response costs, or other appropriate relief relating to the Site, Settling Defendants and Settling Defendants' past or present corporate officers, directors, or employees 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 or the Commonwealth in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph XI.E affects the enforceability of the covenants not to sue set forth in Section IX (Covenant Not To Sue By the United States and the Commonwealth). However, the Settling Defendants expressly reserve the right to assert any and all other possible defenses and claims against the United States and/or the Commonwealth in any subsequent administrative or judicial proceeding initiated by the United States or the Commonwealth pursuant to this Consent Decree. Notwithstanding the foregoing, nothing in this Paragraph affects the enforceability of the covenants not to sue set forth in this Consent Decree.

F. This Consent Decree was negotiated at arms' length, is a settlement of contested claims, and is executed by the Settling Parties in good faith to minimize litigation. The participation by Settling Defendants in this Consent Decree shall not be considered an admission of liability and shall not be admissible in evidence against Settling Defendants in any judicial or administrative proceeding other than a proceeding between the

Settling Parties to adjudicate, interpret, or enforce this Consent Decree.

G. Settling Defendants acknowledge that the United States and/or the Commonwealth have no obligation to defend Settling Defendants in any suit, demand or claim for contribution for any matters arising from the release and threatened release of hazardous substances at the Site, arising out of the CERCLA actions at the Site, or arising out of this Consent Decree.

H. The representations in Paragraphs 15 and 16(c) of the Agreement In Principle between the United States and the Settling Defendants are not extinguished by this Consent Decree.

XII. ACCESS TO INFORMATION

A. Settling Defendants shall provide to EPA and/or the Commonwealth, upon request, copies of all documents and information within their possession or control or that of their contractors or agents relating to the Site or to the implementation of this Consent Decree. Settling Defendants shall also make available to EPA and/or the Commonwealth, for purposes of investigation, information gathering, or testimony, their employees, agents, or representatives with knowledge of relevant facts concerning the Site.

B. Settling Defendants may assert business confidentiality claims covering part or all of the documents or information submitted to the United States 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, the public may be given access to such documents or information without further notice to Settling Defendants.

C. 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 Settling Defendants asserts such a privilege in lieu of providing documents, Settling Defendants shall provide the United States and the Commonwealth 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. If a claim of privilege applies only to a portion of a document, the document shall be provided to the United States in redacted form to mask only the portion of the document claimed to be privileged.

D. 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.

XIII. RETENTION OF RECORDS

A. Unless otherwise authorized in writing by the United States and the Commonwealth, Settling Defendants shall preserve and retain all records and documents now in their possession or control or which come into their possession or control that relate in any manner to the Site or the liability of any person for response actions conducted and to be conducted at the Site, regardless of any corporate document retention policy to the contrary.

B. At any time after the Effective Date, the United States and/or the Commonwealth shall have the right, upon written notice

to the Settling Defendants, to review all such records and documents at the Settling Defendants' offices or at such other locations where the records and documents are stored. Prior to such review, Settling Defendants may assert that any record or document to be reviewed by the United States or the Commonwealth is privileged in accordance with Paragraph XII.C, in which event Settling Defendants shall provide to the United States and/or the Commonwealth the information required under that Paragraph. If the Settling Defendants do not assert such privilege with respect to a record or document prior to review by the United States or the Commonwealth, the Settling Defendants shall be deemed to have waived any privilege with respect to the record or document.

C. Notwithstanding anything to the contrary in the foregoing Paragraphs XIII.A or XIII.B, at any time twelve months or more after the Effective Date, the Settling Defendants may send a notice in writing by certified mail to the United States and the Commonwealth of the Settling Defendants' intention to destroy specified records or documents, or groups of records or documents. If within fourteen (14) days after receiving such notice, neither the United States nor the Commonwealth directs the Settling Defendants to deliver the specified records or documents, or groups of records or documents, to the United

States or to the Commonwealth, the Settling Defendants may, at their option, destroy said specified records or documents or groups of records or documents; provided, however, that Settling Defendants shall not destroy any record or document with respect to which Settling Defendants shall have asserted a claim of privilege in accordance with Paragraph XIII.B.

D. Settling Parties hereby certify that, to the best of their knowledge, they have not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents or other information relating to their potential liability regarding the Site since notification of potential liability by the United States or the filing of this action regarding the Site and that Settling Parties have, to the best of their knowledge, fully complied with any and all EPA requests for information pursuant to Section 104(e) of CERCLA and production requests served in this action pursuant to Fed.R.Civ.P. 34.

XIV. NOTICES

A. Whenever, under the terms of this Consent Decree, written notice is required to be given or a 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, the Commonwealth and Settling Defendants, respectively.

As to the United States:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
Re: DOJ # 90-11-3-689

Susan Dein Bricklin
Assistant United States Attorney
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106

Brian M. Nishitani (3RC33)
Sr. Assistant Regional Counsel
U.S. Environmental Protection Agency Region III
841 Chestnut Street
Philadelphia, PA 19107

As to EPA:

Brian M. Nishitani (3RC31)
Sr. Assistant Regional Counsel
U.S. Environmental Protection Agency Region III
841 Chestnut Street
Philadelphia, PA 19107

As to the Commonwealth:

George Danyliw
HSCA Manager - SE Region
Department of Environmental Protection
Hazardous Sites Cleanup
Lee Park, Suite 6010
555 North Lane
Conshohocken, Pennsylvania 19428

Patrick H. Zaepfel
Assistant Counsel
Office of Chief of Counsel
Department of Environmental Protection
400 Market Street
9th Floor
Harrisburg, Pennsylvania 17105-8464

As to Settling Defendants:

James J. Weis
President
Publicker Industries Inc.
1445 East Putnam Avenue
Old Greenwich, CT 06870

Joseph D'Amato
Sagrocry, Inc.
1445 East Putnam Avenue
Old Greenwich, CT 06870

Timothy A. Vanderver, Jr.
PATTON BOGGS, L.L.P.
2550 M Street, N.W.
Washington, D.C. 20037

XV. EFFECTIVE DATE

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.

XVI. RETENTION OF JURISDICTION

This Court retains jurisdiction over both the subject matter of this Consent Decree and Settling Parties for the duration of the performance of the terms and provisions of this Consent Decree for the purpose of enabling any of the Settling 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.

XVII. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

A. This Consent Decree shall be lodged with the Court for a period of not less than thirty (30) days for public notice and comment. 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.

B. This Consent Decree shall be lodged with the Court for not less than sixty (60) days and until the requirements of Section 1113 of HSCA, 35 P.S. § 6020.1113, are met. The Commonwealth reserves the right to withdraw or withhold its

consent if the comments regarding this Consent Decree disclose facts or considerations which indicate that this Consent Decree is inappropriate, improper or not in the public interest.

C. 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.

D. If entry of the Consent Decree is reversed on appeal, all money paid to the United States by the Settling Defendants shall be returned to the payor.

XVIII. SIGNATORIES

A. The undersigned representative of the Settling Defendants and the Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice each 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.

B. Upon Settling Defendants' signature of this Consent Decree, Settling Defendants hereby agree not to oppose entry of this Consent Decree by this Court or to challenge any provision of this Consent Decree unless the United States has notified

Settling Defendants in writing that it no longer supports entry
of the Consent Decree.

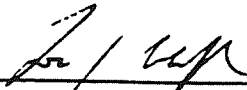
SO ORDERED THIS _____ DAY OF _____, 1995.

United States District Judge

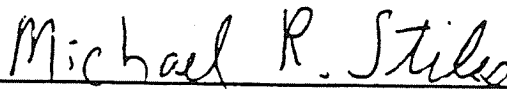
THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. Publicker Industries Inc., et al., Civil Action No. 90-7984, relating to the Publicker Industries Superfund Site:

FOR THE UNITED STATES OF AMERICA:

Date: 11/1/95


LOIS J. SCHIFFER
Assistant Attorney General
Environment and Natural Resources
Division
U.S. Department of Justice
Washington, D.C. 20530

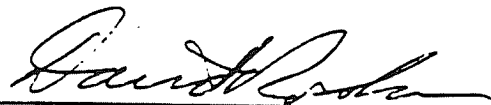
Date: 12/28/95


MICHAEL R. STILES
United States Attorney
Eastern District of Pennsylvania
U.S. Department of Justice

Date: 12/15/95


SUSAN DEIN BRICKLIN
Assistant United States Attorney
Eastern District of Pennsylvania
U.S. Department of Justice
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106
(215) 451-5318

Date: 10/20/95


DAVID ROSSKAM
Trial Attorney
Environmental Enforcement Section
Environment and Natural Resources
Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
(202) 514-3974

Date: _____

12/8/95

Mark Nitczynski
MARK NITCZYNSKI

ROBIN RICHARDSON

Trial Attorneys

Environmental Defense Section

Environment and Natural Resources
Division

U.S. Department of Justice

10th St. & Pennsylvania Ave., N.W.

Washington, D.C. 20530

Date: _____

W. Michael McCabe
W. MICHAEL MCCABE

Regional Administrator, Region III
Agency

841 Chestnut Building

Philadelphia, PA 19107

Date: _____

Marcia E. Mulkey
MARCIA E. MULKEY

Regional Counsel, Region III

U.S. Environmental Protection Agency

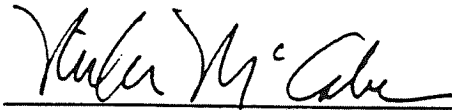
841 Chestnut Building

Philadelphia, PA 19107

Date: _____

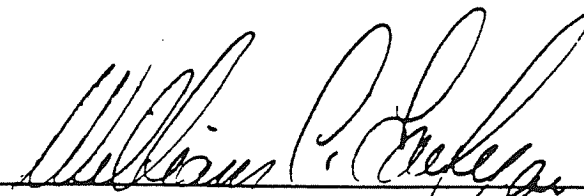
MARK NITCZYNSKI
ROBIN RICHARDSON
Trial Attorneys
Environmental Defense Section
; Environment and Natural Resources
Division
U.S. Department of Justice
10th St. & Pennsylvania Ave., N.W.
Washington, D.C. 20530

Date: 12/27/95



W. MICHAEL MCCABE
Regional Administrator, Region III
Environmental Protection Agency
841 Chestnut Building
Philadelphia, PA 19107

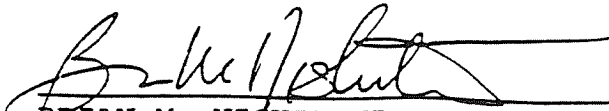
Date: 12/27/95



MARCIA E. MULKEY
Regional Counsel, Region III
U.S. Environmental Protection Agency
841 Chestnut Building
Philadelphia, PA 19107

Date:

12/22/95



BRIAN M. NISHITANI

Sr. Assistant Regional Counsel,
Region III

U.S. Environmental Protection Agency
841 Chestnut Building
Philadelphia, PA 19107

FOR THE COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

Date:

BRUCE D. BEITLER

Environmental Cleanup Manager
SE Region
Department of Environmental
Protection

Date:

PATRICK H. ZAEPFEL

Assistant Counsel
Office of Chief Counsel
Bureau of Hazardous Sites and
Superfund Enforcement
Department of Environmental
Protection

Date: _____

BRIAN M. NISHITANI
Sr. Assistant Regional Counsel,
Region III
U.S. Environmental Protection Agency
841 Chestnut Building
Philadelphia, PA 19107

FOR THE COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

Date: 12/11/95

Bruce D. Beitler
BRUCE D. BEITLER
Environmental Cleanup Manager
SE Region
Department of Environmental
Protection

Date: 12/7/95

Patrick H. Zaeffel
PATRICK H. ZAEFFEL
Assistant Counsel
Office of Chief Counsel
Bureau of Hazardous Sites and
Superfund Enforcement
Department of Environmental
Protection

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. Publicker Industries Inc., et al., Civil Action No. 90-7984, relating to the Publicker Industries Superfund Site:

FOR PUBLICKER INDUSTRIES INC.:

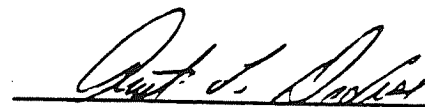
Date: 10/31/95



JAMES J. WEIS
President
Publicker Industries Inc.
1445 East Putnam Avenue
Old Greenwich, CT 06870

FOR SAGROCRY, INC.

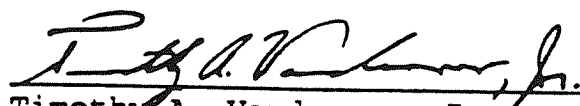
Date: 10/31/95



~~JOSEPH D. AMATO~~ ANTONIO L. DELISE
Sagrocry, Inc. SECRETARY
1445 East Putnam Avenue
Old Greenwich, CT 06870

Attorney-of-record for Publicker Industries Inc. and
Sagrocry, Inc.:

Date: 11/1/95



Timothy A. Vanderver, Jr.
PATTON BOGGS, L.L.P.
2550 M Street, N.W.
Washington, D.C. 20037
(202) 457-6000

Exhibit A

ASSIGNMENT AGREEMENT

1. Publicker Industries Inc. and American Cryogas, Inc. (collectively, the "Publicker Companies") hereby assigns to the United States and the United States hereby accepts the assignment of the following claims:

Any and all claims for recovery of any costs or damages (including any claim for contribution to any liability) arising out of or related in any way to environmental contamination at or in the vicinity of the facility formerly owned by Publicker Industries Inc. at or about 3223 South Delaware Avenue in Philadelphia, Pennsylvania that the Publicker Companies may have against Holt Cargo Systems, Inc., Delaware Avenue Enterprises, Inc., Crestmont Limited Partnership, their successors and assigns, and their officers, directors, shareholders, partners, employees, agents, and their successors.

2. This assignment becomes effective upon the entry by the United States District Court for the Eastern District of Pennsylvania of a partial consent decree between the United States and the Publicker Companies, which decree was lodged before the Court on _____, _____, in United States v. Publicker Industries, Inc., et al., Civil Action No. 90-7984 (E.D. Pa.)

IT IS SO AGREED BY:

PUBLICKER INDUSTRIES, INC.

By: _____ Date: _____

STATE OF _____)
) ss.
COUNTY OF _____)

On the ____ day of _____, 199____, before me, the subscriber, a Notary Public in and for the _____ aforesaid, personally appeared the above-named _____, and in due form of law acknowledged the foregoing instrument to be his/her act and deed and desired that the same might be recorded as such.

WITNESS my hand and seal and day and year aforesaid.

Notary Public

My Commission Expires:

IT IS SO AGREED BY:

AMERICAN CRYOGAS, INC.

By: _____ Date: _____

STATE OF _____)
) ss.
COUNTY OF _____)

On the ____ day of _____, 199____, before me, the subscriber, a Notary Public in and for the _____ aforesaid, personally appeared the above-named _____, and in due form of law acknowledged the foregoing instrument to be his/her act and deed and desired that the same might be recorded as such.

WITNESS my hand and seal and day and year aforesaid.

Notary Public

My Commission Expires:

IT IS SO AGREED BY:

THE UNITED STATES

By: _____ Date: _____

STATE OF _____)
) ss.
COUNTY OF _____)

On the ____ day of _____, 199____, before me, the subscriber, a Notary Public in and for the _____ aforesaid, personally appeared the above-named _____, and in due form of law acknowledged the foregoing instrument to be his/her act and deed and desired that the same might be recorded as such.

WITNESS my hand and seal and day and year aforesaid.

Notary Public

My Commission Expires:

Exhibit B

ASSIGNMENT AGREEMENT

1. Holt Cargo Systems, Inc., Delaware Avenue Enterprises, Inc., and Crestmont Limited Partnership (collectively, "Holt") hereby assigns to the United States and the United States hereby accepts the assignment of the following claims:

Any and all claims for recovery of any costs or damages (including any claim for contribution to any liability) arising out of or related in any way to environmental contamination at or in the vicinity of the facility formerly owned by Publicker Industries, Inc. at or about 3223 South Delaware Avenue in Philadelphia, Pennsylvania that Holt may have against Publicker Industries, Inc., American Cryogas, Inc., their successors and assigns, and their officers, directors, shareholders, partners, employees, agents, and their successors (collectively, the "Publicker Companies").

2. This assignment shall become effective upon the entry by the United States District Court for the Eastern District of Pennsylvania of a partial consent decree between the United States and the Publicker Companies, which decree was lodged before the Court on _____, _____, in United States v. Publicker Industries, Inc., et al., Civil Action No. 90-7984 (E.D. Pa.)

IT IS SO AGREED BY:

HOLT CARGO SYSTEMS, INC.

By: _____ Date: _____

STATE OF _____)
) ss.
COUNTY OF _____)

On the ____ day of _____, 199____, before me, the subscriber, a Notary Public in and for the _____ aforesaid, personally appeared the above-named _____, and in due form of law acknowledged the foregoing instrument to be his/her act and deed and desired that the same might be recorded as such.

WITNESS my hand and seal and day and year aforesaid.

Notary Public

My Commission Expires:

IT IS SO AGREED BY:

DELAWARE AVENUE ENTERPRISES, INC.

By: _____ Date: _____

STATE OF _____)
) ss.
COUNTY OF _____)

On the ____ day of _____, 199____, before me, the subscriber, a Notary Public in and for the _____ aforesaid, personally appeared the above-named _____, and in due form of law acknowledged the foregoing instrument to be his/her act and deed and desired that the same might be recorded as such.

WITNESS my hand and seal and day and year aforesaid.

Notary Public

My Commission Expires:

IT IS SO AGREED BY:

CRESTMONT LIMITED PARTNERSHIP

By: _____ Date: _____

STATE OF _____)
) ss.
COUNTY OF _____)

On the ____ day of _____, 199____, before me, the subscriber, a Notary Public in and for the _____ aforesaid, personally appeared the above-named _____, and in due form of law acknowledged the foregoing instrument to be his/her act and deed and desired that the same might be recorded as such.

WITNESS my hand and seal and day and year aforesaid.

Notary Public

My Commission Expires:

IT IS SO AGREED BY:

THE UNITED STATES

By: _____ Date: _____

STATE OF _____)
) ss.
COUNTY OF _____)

On the ____ day of _____, 199____, before me, the subscriber, a Notary Public in and for the _____ aforesaid, personally appeared the above-named _____, and in due form of law acknowledged the foregoing instrument to be his/her act and deed and desired that the same might be recorded as such.

WITNESS my hand and seal and day and year aforesaid.

Notary Public

My Commission Expires:

QUIT-CLAIM DEED

PUBLICKER INDUSTRIES, INC., a Pennsylvania corporation

("Grantor")

TO

**DELAWARE AVENUE ENTERPRISES, INC., a
Pennsylvania corporation**

("Grantee")

Premises:

**Bigler Street and Christopher Columbus
Boulevard (formerly Delaware Avenue)
Philadelphia County
Commonwealth of Pennsylvania**

**Tax Parcel Numbers: 39-5-0571-00; 39-5-1175-00; 39-5-1184-00;
88-4-3000-00; 88-4-1465-00; 88-4-1410-00; 88-4-1410-10**

Prepared By:

**Joseph S. Finkelstein, Esquire
WOLF, BLOCK, SCHORR and SOLIS-COHEN
Twelfth Floor, Packard Building
15th and Chestnut Streets
Philadelphia, Pennsylvania 19102-2678**

QUIT-CLAIM DEED

THIS INDENTURE made this _____ day of _____, 199_ between PUBLICKER INDUSTRIES, INC., a Pennsylvania corporation ("Grantor"), and DELAWARE AVENUE ENTERPRISES, INC., a Pennsylvania corporation ("Grantee").

WHEREAS, Grantor formerly granted and conveyed the subject premises, which are further described on Schedule "A", to Overland Corporation, a Pennsylvania corporation, in a deed dated March 31, 1986 and recorded in the Philadelphia Department of Records at Deed Book 423, page 211; and

WHEREAS, Grantee is successor-in-title to Overland Corporation pursuant to a deed from Chester B. Salomon, Trustee of the Estate of Overland Corporation, dated January 9, 1995 and recorded in the Philadelphia Department of Records at Deed Book ____, page ____.

NOW WITNESSETH, that Grantor, for and in consideration of the sum of One Dollar (\$1.00), lawful money of the United States of America, to it, well and truly paid by Grantee, at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has assigned, transferred, remised, released and quit-claimed, and by these presents, does assign, transfer, remise, release and quit-claim unto Grantee, and to its successors

and assigns, forever, all of its right, title and interest, if any, without warranty or representation of any kind, in and to:

ALL THOSE CERTAIN tracts of land with the buildings and improvements thereon erected, SITUATE in the 39th Ward of the City of Philadelphia and more particularly described in Schedule A hereto, including without limitation all easements, rights of way, usage, access or occupancy rights, all rights in and to any pipelines, tanks, equipment, and/or piers, and any other rights or privileges relating to or affecting the above- described premises, and any obligations or restrictions binding upon or affecting in any way such premises, the owner or occupants thereof, or their successors and assigns.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in any wise appertaining, and the reversions, remainders, rents, issues and profits thereof: AND also, all the estate, right, title, interest, property, claim and demand whatsoever, as well in law as in equity, of Grantor, of, in, or to the above-described premises, and every part and parcel thereof, with the appurtenances.

ALSO TOGETHER with, without limiting the foregoing, all Grantor's rights, title and interest, if any, in and to the following agreements and instruments:

1) Easement and Maintenance Agreement between Overland Corporation, a Pennsylvania corporation, and Publicker Industries, Inc., a Pennsylvania corporation, dated March 31, 1986 and recorded on April 3, 1986 in Deed Book FHS 423 page 223.

2) Agreement between the City of Philadelphia and Publicker Industries, Inc. as to Steam and Water pipe as in Deed Book CAD 1107 page 567.

3) Agreement between The City of Philadelphia and Publicker Industries, Inc. as two fuel oil pipelines as in Deed Book EFP 248 page 120.

TO HAVE AND TO HOLD all and singular the above-mentioned and described premises, together with the appurtenances, unto Grantee, its successors and assigns forever.

IN WITNESS WHEREOF, Grantor has hereunto set its hand and seal the day and year first above written.

WITNESS/ATTEST:

PUBLICCKER INDUSTRIES, INC.

By: _____ (SEAL)

Name: _____

Title: _____

THE ADDRESS OF GRANTEE IS:

c/o Wolf, Block, Schorr and Solis-Cohen
Twelfth Floor, Packard Building
S.E. Corner 15th and Chestnut Streets
Philadelphia, Pennsylvania 19102-2678

On Behalf of Grantee

STATE OF _____ :

: ss.

COUNTY OF _____ :

On this, the _____ day of _____, 199_,
before me, a Notary Public for the State and County aforesaid, the
undersigned Officer, personally appeared _____,
who acknowledged himself/herself to be the _____ of
PUBLICKER INDUSTRIES, INC., a Pennsylvania corporation, and that
_he as such _____, being authorized to do so executed the
foregoing instrument for the purposes therein contained by signing
the name of the corporation by himself/herself as _____.

IN WITNESS WHEREOF, I hereunto set my hand and official
seal.

Notary Public
My Commission Expires:

SCHEDULE "A"

In accordance with a plan of property prepared by Barton and Martin Engineers dated March 10, 1986 situate in the 39th Ward of the City of Philadelphia.

Beginning at the point of intersection of the Northerly side of Packer Avenue (148 feet wide) with the Easterly side of Delaware Avenue (250 feet wide); thence from said point of beginning extending along the said Easterly side of Delaware Avenue N 14° 30' 00" E 846.000 feet to a point in the center line of Bigler Street (60 feet wide, not legally opened); thence extending along said centerline of Bigler Street S 75° 30' 00" E 884.177 feet to a point; thence extending N 12° 14' 22" E 180.023 feet to a point; thence extending S 75° 30' 00" E 355.986 feet to a point on the bulkhead line established by the Secretary of War on September 10, 1940; thence extending along said bulkhead line S 01° 26' 33.9" W 113.426 feet to an angle point; thence still extending along said bulkhead line crossing Bigler Street S 11° 38' 16" W 916.533 feet to a point on the Northerly side of Packer Avenue; thence extending along said Northerly side of Packer Avenue N 75° 30' 00" W 1304.370 feet to the point and place of beginning.

Containing in area 26.45305 Acres.

LAND BETWEEN BULKHEAD AND PIERHEAD LINES

Beginning at an interior point on the bulkhead lines established by the Secretary of War on September 10, 1940, said point being located the following four (4) courses and distances from the intersection of the Northerly side of Packer Avenue (148 feet wide) with the Easterly side of Delaware Avenue (148 feet wide):

- 1) along said Easterly side of Delaware Avenue N 14° 30' 00" E 846.000 feet to a point on the centerline of Bigler Street (60 feet wide not legally opened);
- 2) along the centerline of Bigler Street S 75° 30' 00" E 884.117 feet to a point;
- 3) N 12° 14' 22" E 180.023 feet to a point;
- 4) S 75° 30' 00" E 355.896 feet to a point on the bulkhead line, the point of beginning;

Thence from said point of beginning extending S 75° 30' 00" E 469.565 feet to a point on the pierhead line established by the Secretary of War on September 10, 1940; thence extending along

said pierhead line crossing the head of Bigler Street S 02° 30' 27.2" W 349.408 feet to an angle point; thence still extending along said pierhead line S 13° 53' 11.1" W 684.140 feet to a point on the Northerly side of Packer Avenue; thence extending along said Northerly side of Packer Avenue N 75° 30' 00" W 478.100 feet to a point on the bulkhead line; thence extending along said bulkhead line crossing Bigler Street N 11° 38' 16" E 916.533 feet to an angle point; thence still extending along said bulkhead line N 01° 26' 33.9" E 113.426 feet to the point and place of beginning.

Containing in area 11.48938 Acres.

Beginning at the point of intersection of the Easterly side of Delaware Avenue (250 feet wide) with the Southerly side of Packer Avenue (148 feet wide); thence from said point of beginning extending along said Southerly side of Packer Avenue S 75° 30' 00" E 300.000 feet to a point on the Westerly side of a 30 foot access road; thence along said Westerly side of said access road S 14° 30' 00" W 84.447 feet to a point on the Northerly right of way line for the Walt Whitman Bridge; thence along said Northerly right of way line N 72° 28' 07" W 300.420 feet to a point on the Easterly side of Delaware Avenue; thence along said Easterly side of Delaware Avenue N 14° 30' 00" E 68.560 feet to the point and place of beginning.

Containing in Area 22,951 square feet.

Beginning at a point on the Easterly side of Delaware Avenue (250 feet wide) said point being measured along said side of Delaware Avenue S 14° 30' 00" W 344.018 feet from the Southerly side of Packer Avenue (148 feet wide); thence from said point of beginning extending S 72° 28' 07" E 30.000 feet to a point; thence extending N 14° 30' 00" E 30.000 feet to a point; thence extending N 72° 28' 07" W 29.000 feet to a point; thence extending N 14° 30' 00" E 75.542 feet to a point; thence extending S 72° 28' 07" E 34.000 feet to a point; thence extending N 14° 30' 00" E 30.00 feet to a point on the Southerly right of way line for the Walt Whitman Bridge; thence along said right of way line S 72° 28' 07" E 265.420 feet to a point; thence extending S 14° 30' 00" W 325.637 feet to a point; thence extending N 75° 30' 00" W 300.000 feet to a point in the Easterly side of Delaware Avenue; thence extending along said Easterly side of Delaware Avenue N 14° 30' 00" E 205.982 feet to the point and place of beginning.

Containing in area 2.25095 Acres.

Beginning at the point of intersection of the Easterly side of a 30 foot access road with the Southerly side of Packer Avenue (148 feet wide), said point being measured S 75° 30' 00" E 330.000 feet along said Southerly side of Packer Avenue from the Easterly side of Delaware Avenue (250 feet wide); thence from said point of beginning extending along said Southerly side of Packer

Avenue S 75° 30' 00" E 145.242 feet to a point; thence extending on a line curving to the right having a radius of 267.500 feet, a central angle of 4° 03' 2.73" and an arc distance of 18.912 to a point; thence extending S 17° 31' 53" W 84.289 feet to a point on the Northerly right of way line for the Walt Whitman Bridge; thence extending along said right of way line N 72° 28' 07" W 156.947 feet to a point on the Easterly side of the aforesaid 30 foot access road; thence extending along said easterly side of the access road N 14° 30' 00" E 86.036 feet to the point and place of beginning.

Containing in area 14,289 square feet.

Beginning at the point of intersection of the Southerly side of Packer Avenue with the Easterly side of a 25 foot railroad right of way, said point being measured along said Southerly side of Packer Avenue S 75° 30' 00" E 550.511 feet from the Easterly side of Delaware Avenue (250 feet wide); thence from said point of beginning extending along said Southerly side of Packer Avenue S 75° 30' 00" E 157.309 feet to a point; thence extending S 59° 58' 33" E 186.815 feet to a point; thence extending S 14° 30' 00" W 43.090 feet to a point in the Northerly right of way line for the Walt Whitman Bridge; thence extending the following three (3) courses and distances along said Northerly right of way line for the Walt Whitman Bridge:

- 1) N 72° 28' 07" W 93.963 feet to a point;
- 2) S 17° 31' 53" W 22.455 feet to a point;
- 3) N 72° 28' 07" W 168.854 feet to a point on the Easterly side of the aforesaid 25 foot railroad right of way;

thence extending along said Easterly side of the 25 foot railroad right of way on a line curving to the left having a radius of 312.500 feet, a central angle of 23° 10' 11" and an arc distance of 126.371 feet to the point and place of beginning.

Containing in area 25,215 square feet.

PENNSYLVANIA HAZARDOUS SITES CLEANUP ACT DISCLOSURES

The property being conveyed hereunder (the "Site") is currently listed on the National Priorities List ("NPL"), and is being remediated by the United States Environmental Protection Agency ("EPA") in accordance with the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"). The investigation of the Site revealed that the following hazardous substances are located in the sediments and soils at the Site: Volatile Organic Compounds, Polycyclic Aromatic Hydrocarbons, Polychlorinated Biphenyls, dioxins, pesticides, and inorganic

compounds. The remedy chosen to cleanup the Site will be/is contained in a Record of Decision ("ROD") on file with the EPA, Region III. The grantee of this deed, and any person who subsequently purchases, leases, inherits, or otherwise comes to control all or any portion of the Site, shall not put the Site to any use which would disturb or be inconsistent with the remedial response action being implemented at the Site by the EPA. Every deed for the conveyance of title, easement or other legal or equitable interest in the Site or any portion thereof shall contain in the property description section of the conveyance document, a provision precluding any use of the Site which would disturb or be inconsistent with the remedial response action implemented at the Site and shall contain a provision allowing for the continued unimpeded access to the Site by the EPA and the Pennsylvania Department of Environmental Resources ("DER"). All restrictions and obligations in the Prospective Purchaser Agreement, effective as of December 5, 1994 and filed with the Department of Records, Philadelphia, Pennsylvania (the "PPA"), including but not limited to Sections VI and XVI thereof, shall run with the land and be binding upon any and all persons who shall subsequently purchase or lease the Site or any portion thereof.

This acknowledgement has been included in satisfaction of the requirements set forth in Section 6.3 of the PPA, Section 405 of the Solid Waste Management Act, 35 P.S. § 6018.405, and Section 512(b) of the Hazardous Sites Cleanup Act, 35 P.S. § 6020.512(b) ("HSCA") for the purpose of indicating that (1) a disposal of hazardous substances has taken place in an extensive manner throughout much of the Site (precluding any metes and bounds description of the areas of such disposal), (2) the Site is being remediated by the EPA in accordance with the National Contingency Plan, and (3) unless and until such remediation has been complete to the satisfaction of EPA and DER, the restrictions on its use and the requirement for the continued acknowledgment and subsequent deed restriction shall continue in full force and effect.

Date: 09/22/93
Time: 10:37:26

PUBLICER RI/FS
SURFACE SOILS ANALYSIS
Chemical class: Metals

Page: 1

Location:	SS-01	SS-02	SS-03	SS-04	SS-05	SS-06	SS-07	SS-08
Lab Sample ID:	MCJL01	MCJL02	MCJL03	MCJL04	MCJL05	MCJL06	MCJL07	MCJL08
Case:	17401	17401	17401	17401	17401	17401	17401	17401
Sample Delivery Group:	MCJL37	MCJL37	MCJL37	MCJL37	MCJL37	MCJL37	MCJL37	MCJL37
Depth:	0-1 ft	0-1 ft	0-1 ft	0-1 ft	0-1 ft	0-1 ft	0-1 ft	0-1 ft
Sample Date:	11/12/91	11/12/91	11/12/91	11/12/91	11/12/91	11/12/91	11/12/91	11/12/91
Unit of Measure:	MG/EG	MG/EG	MG/EG	MG/EG	MG/EG	MG/EG	MG/EG	MG/EG
Aluminum	6360.00	9000.00	3080.00	4090.00	8060.00	8060.00	8720.00	7130.00
Antimony	10.30 UL	10.40 UL	11.10 UL	11.00 UL	10.00 UL	10.20 UL	19.90 UL	10.60 UL
Arsenic	5.00 B	6.20 B	16.00	23.20	5.00 B	13.10	30.40	20.60
Barium	95.00	233.00	432.00	107.00	91.60	112.00	261.00	43.90
Beryllium	0.42 B	0.22 B	0.33 B	0.23 B	0.32 B	0.46 B	0.09 B	0.40 B
Cadmium	0.64 B	0.67 B	0.71 B	0.70 B	0.49 B	0.65 B	3.00	0.60 B
Calcium	29400.00 J	3700.00 J	16600.00 J	27100.00 J	10000.00 J	10500.00 J	7100.00 J	36900.00 J
Chromium	25.80	42.00	61.30	42.10	16.10	32.40	706.00	23.60
Cobalt	3.60	17.20	10.20	0.40	2.50	10.20	23.00	3.20
Copper	530.00	806.00	663.00	304.00	14.30	210.00	551.00	53.20
Iron	19100.00 J	66200.00 J	89000.00 J	65700.00 J	17500.00 J	47100.00 J	135000.00 J	14700.00 J
Lead	121.00 E	421.00 E	947.00 E	610.00 E	80.10 E	353.00 E	16500.00 E	86.50 E
Magnesium	8460.00 J	7030.00 J	2600.00 J	12400.00 J	8170.00 J	12200.00 J	4160.00 J	21900.00 J
Manganese	216.00	320.00	439.00	1200.00	194.00	723.00	556.00	209.00
Mercury	3.00	1.50	10.00	1.00	0.12 U	0.64	7.10	0.95
Nickel	25.00	50.10	40.20	29.50	0.90	42.10	60.60	9.10
Potassium	1230.00	3100.00	806.00	1430.00	703.00	2160.00	692.00	680.00
Selenium	0.93 UL	0.09 UL	0.93 UL	0.94 UL	0.93 UL	0.09 UL	1.70 UL	0.05 UL
Silver	0.00 B	0.09 B	0.94 B	0.93 B	0.92 B	0.87 B	1.70 B	0.90 B
Sodium	139.00	247.00	149.00	306.00	101.00	130.00	213.00	99.40
Thallium	0.92 B	0.09 B	0.93 B	0.94 B	0.93 B	0.89 B	1.70 B	0.05 B
Titanium	23.60	70.30	74.10	24.00	26.00	65.70	143.00	24.40
Zinc	207.00	349.00	826.00	301.00	91.30	472.00	6000.00	104.00
Cyanide	5.00 B	6.60 B	6.00 B	5.00 B	6.00 B	5.30 U	10.40 U	5.60 U

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reported value potentially low. S-Not detected substantially above levels in blanks. U-Below detection limit

EXHIBIT D

Date: 09/22/92
Time: 10:17:26

PUBLISHED RI/FS
SURFACE SOILS ANALYSIS
Chemical class: Metals

Page: 2

Location:	SS-09	SS-09-DUP	SS-10	SS-11	SS-12	SS-13	SS-14	SS-15
Lab Sample ID:	MCJL09	MCJL11	MCJL10	MCJL11	MCJL12	MCJL13	MCJL14	MCJL15
Case:	17401	17401	17401	17401	17401	17401	17401	17401
Sample Delivery Group:	MCJL17	MCJL43	MCJL17	MCJL17	MCJL17	MCJL43	MCJL43	MCJL43
Depth:	0-1 ft	0-1 ft	0-1 ft	0-1 ft	0-1 ft	0-1 ft	0-1 ft	0-1 ft
Sample Date:	11/12/91	11/14/91	11/12/91	11/12/91	11/12/91	11/14/91	11/14/91	11/14/91
Unit of Measure:	MG/EG	MG/EG	MG/EG	MG/EG	MG/EG	MG/EG	MG/EG	MG/EG
Aluminum	16500.00	10200.00	2010.00	2240.00	6250.00	3710.00	4330.00	8610.00
Antimony	13.20 UL	11.00 UL	14.40 UL	13.10 UL	13.40 UL	11.40 UL	10.00 UL	10.30 UL
Arsenic	113.00	66.00	26.00	79.00	20.10	34.70	12.00 L	9.10 L
Barium	393.00	235.00	222.00	355.00	170.00	211.00	123.00	80.20
Beryllium	2.70	1.40	0.31 U	0.55 B	0.30 B	0.25 B	0.22 B	0.61 B
Cadmium	0.04 U	0.70 U	0.92 U	0.70 U	0.05 U	0.71 U	0.64 U	0.66 U
Calcium	20400.00 J	10500.00 J	666.00 J	4540.00 J	8560.00 J	5910.00 J	20700.00 J	4710.00 J
Chromium	39.70	34.30	192.00	13.00	104.00	116.00	41.00	21.60
Cobalt	12.10	0.00	24.60	6.20	14.30	12.10	6.70	7.70
Copper	1400.00	1040.00 L	379.00	181.00	1260.00	271.00 L	317.00 L	172.00 L
Iron	20400.00 J	23900.00	37900.00 J	23700.00 J	143000.00 J	146000.00	27000.00	21100.00
Lead	127.00 U	104.00	1040.00 E	52.60 E	2930.00 E	835.00	703.00	139.00
Magnesium	7030.00 J	9820.00	3210.00 J	2520.00 J	3740.00 J	3240.00	14200.00	2920.00
Manganese	232.00	241.00 L	1140.00	64.70	521.00	667.00 L	202.00 L	253.00 L
Mercury	1.00	1.30	51.00	1.40	4.90	69.40	10.90	0.44
Nickel	20.90	23.10	100.00	14.90	51.70	35.30	19.40	10.70
Potassium	3990.00	2700.00	269.00	327.00	330.00	317.00	777.00	616.00
Selenium	1.10 UL	3.50 L	1.20 UL	1.00 UL	5.00 UL	1.00 UL	0.02 UL	0.04 UL
Silver	1.10 U	0.94 U	1.20 U	1.00 U	1.10 U	0.97 U	0.00 U	0.00 U
Sodium	354.00	231.00 B	209.00	85.70	241.00	113.00 B	163.00 B	81.40 B
Thallium	1.60	1.10	1.20 U	1.00 U	1.10 U	1.00 U	0.02 U	0.04 U
Tin	79.20	63.10	71.70	21.60	86.40	61.90	32.90	32.40
Vanadium	155.00	200.00 J	805.00	90.10	3430.00	765.00 J	619.00 J	104.00 J
Cyanide	6.90 U	8.00 U	7.90 U	6.30 U	7.20 U	6.50 U	5.60 U	5.50 U

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24-10-94 04:37 PM FROM OC STRIKE FORCE EPA

Date: 09/22/92
Time: 10:17:26

PUBLICED RI/FS
SURFACE SOILS ANALYSIS
Chemical class: Metals

Page: 3

Location:	SS-16	SS-17	SS-18	SS-19	SS-20	SS-21	SS-22	SS-23
Lab Sample ID:	MCJL16	MCJL17	MCJL18	MCJL19	MCJL20	MCJL21	MCJL22	MCJL23
Case:	17401	17401	17401	17401	17401	17401	17401	17401
Sample Delivery Group:	MCJL43	MCJL43	MCJL43	MCJL43	MCJL43	MCJL43	MCJL43	MCJL43
Depth:	0-1 ft	0-1 ft	0-1 ft	0-1 ft	0-1 ft	0-1 ft	0-1 ft	0-1 ft
Sample Date:	11/14/91	11/14/91	11/14/91	11/14/91	11/14/91	11/14/91	11/14/91	11/14/91
Unit of Measure:	MG/EG	MG/EG	MG/EG	MG/EG	MG/EG	MG/EG	MG/EG	MG/EG
Aluminum	4110.00	3490.00	11300.00	8770.00	21700.00	5420.00	6110.00	2070.00
Antimony	10.30 UL	0.50 UL	14.00 UL	10.30 UL	10.30 UL	10.30 UL	10.60 UL	10.10 UL
Arsenic	12.60 L	4.40 L	12.00 L	13.90	3.30 L	10.20 L	5.60 L	3.90 L
Barium	100.00	86.00	177.00	147.00	303.00	70.90	80.20	50.00
Beryllium	0.43 B	0.43 B	0.97 B	0.43 B	2.30	0.22 U	0.47 B	0.32 B
Cadmium	0.46 U	0.41 U	0.94 U	0.67 U	0.46 U	0.67 U	0.60 U	0.43 U
Calcium	44400.00 J	74200.00 J	129000.00 J	7400.00 J	105000.00 J	43300.00 J	20900.00 J	42400.00 J
Chromium	42.70	30.70	46.60	42.30	45.00	35.90	30.50	17.10
Cobalt	9.70	4.90	5.60	19.70	5.00	7.40	7.10	4.30
Copper	4840.00 L	239.00 L	371.00 L	342.00 L	164.00 L	91.50 L	114.00 L	1350.00 L
Iron	31300.00	26200.00	16700.00	35200.00	20100.00	37200.00	37900.00	24200.00
Lead	340.00	325.00	202.00	470.00	212.00	224.00	209.00	232.00
Magnesium	27000.00	42400.00	3310.00	4610.00	40700.00	10300.00	15300.00	24000.00
Manganese	412.00 L	249.00 L	135.00 L	539.00 L	1030.00 L	411.00 L	354.00 L	254.00 L
Mercury	1.10	0.53	0.46	2.20	0.51	0.57	0.67	0.14
Nickel	34.20	21.00	19.30	35.10	22.60	24.10	24.70	22.20
Potassium	890.00	830.00	635.00	460.00	2030.00	2070.00	1450.00	757.00
Selenium	0.92 UL	0.81 UL	11.60 L	0.95 UL	4.50 UL	0.89 UL	0.86 UL	0.80 UL
Silver	0.87 U	0.81 U	1.30 U	0.89 U	0.80 U	0.90 U	0.91 U	1.30
Sodium	104.00 B	203.00 B	203.00	170.00 B	041.00	204.00	1720.00	139.00 B
Thallium	0.92 U	0.81 U	1.30 UL	0.95 U	0.90 UL	0.89 U	0.86 U	0.80 U
Vanadium	44.00	23.10	29.60	30.60	31.30	20.00	32.10	19.30
Zinc	229.00 J	426.00 J	154.00 J	486.00 J	132.00 J	246.00 J	272.00 J	422.00 J
Cyanide	5.50 U	5.40 U	0.10 U	5.60 U	5.30 U	5.90 U	5.60 U	5.10 U

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UL-Not detected, quantitation limit is probably higher. E-Analyte present, reported value potentially high. L-Analyte present, reported value potentially low. B-Not detected substantially above levels in blanks. U-Below detection limit

04-10-94 04:37 PM FROM CC STRIKE FORCE E234

04-10-94 04:37 PM FROM CC STRIKE FORCE E22A

Date: 09/22/92
Time: 10:17:26

PUBLICER RI/FS
SURFACE SOILS ANALYSIS
Chemical class: Metals

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Location:	SS-23-DUP	SS-24	SS-25	SS-26	SS-27	SS-28	SS-29	SS-30
Lab Sample ID:	MCJL32	MCJL34	MCJL35	MCJL36	MCJL37	MCJL38	MCJL39	MCJL30
Case:	17401	17401	17401	17401	17401	17401	17401	17401
Sample Delivery Group:	MCJL43	MCJL43	MCJL49	MCJL43	MCJL43	MCJL43	MCJL43	MCJL43
Depth:	0-1 ft	0-1 ft	0-1 ft	0-1 ft	0-1 ft	0-1 ft	0-1 ft	0-1 ft
Sample Date:	11/14/91	11/14/91	11/15/91	11/14/91	11/14/91	11/14/91	11/14/91	11/14/91
Unit of Measure:	MG/BS	MG/BS	MG/BS	MG/BS	MG/BS	MG/BS	MG/BS	MG/BS
Aluminum	3310.00	3100.00	7800.00	4960.00	6570.00	14300.00	4740.00	3910.00
Antimony	9.50 UL	10.00 UL	10.00 UL	11.20 UL	11.00 UL	10.00 UL	10.90 UL	10.20 UL
Arsenic	3.90 L	21.70	10.40 J	10.90 L	11.70 L	9.90 L	27.50	7.60 L
Barium	54.30	530.00	116.00	233.00	251.00	400.00	140.00	190.00
Beryllium	0.42 B	0.23 B	0.23 B	0.23 B	0.23 B	35.00	0.40 B	0.30 B
Cadmium	0.61 B	0.70 B	0.40 UL	0.72 B	0.70 B	10.40	0.70 B	11.90 B
Calcium	47200.00 J	13700.00 J	8750.00 J	16400.00 J	38800.00 J	48300.00 J	13900.00 J	105000.00 J
Chromium	24.50	102.00	244.00	91.20	73.00	203.00	55.30	65.00
Cobalt	5.00	32.70	19.10	16.00	13.30	105.00	10.30	7.00
Copper	193.00 L	426.00 L	197.00	439.00 L	416.00 L	50400.00 L	352.00 L	238.00 L
Iron	19200.00	139000.00	110000.00	133000.00	71700.00	56300.00	40000.00	29400.00
Lead	163.00	606.00	411.00 J	336.00	543.00	3790.00	490.00	921.00
Magnesium	27300.00	4470.00	5050.00 J	7510.00	10100.00	8170.00	2090.00	67500.00
Manganese	212.00 L	740.00 L	1400.00	722.00 L	504.00 L	1630.00 L	1010.00 L	354.00 L
Mercury	0.17	1.00	1.00 J	0.73	3.20	0.70	0.46	0.10 U
Nickel	15.00	476.00	193.00 L	91.00	90.00	1220.00	87.40	22.70
Potassium	944.00	472.00	1000.00	1740.00	2170.00	805.00	533.00	552.00
Selenium	0.04 UL	1.00 L	0.00 UL	1.00 UL	0.09 UL	1.00 L	0.93 UL	0.05 UL
Silver	3.70	0.93 B	0.93 UL	0.93 B	0.94 B	12.20	0.93 B	4.00
Sodium	120.00 B	291.00	203.00	200.00	335.00	877.00	226.00 B	252.00 B
Thallium	0.04 B	0.07 B	0.90 B	1.00 B	0.09 UL	0.07 B	0.95 B	0.05 UL
Vanadium	10.50	3410.00	310.00	71.40	111.00	40.30	41.20	51.50
Zinc	253.00 J	916.00 J	410.00	829.00 J	844.00 J	13500.00 J	620.00 J	1060.00 J
Cyanide	5.20 B	6.00 B	4.10 B	6.00 B	5.60 B	5.40 B	5.60 B	5.30 B

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reported value potentially low. B-Not detected substantially above levels in blanks. B-Below detection limit

Date: 09/22/92
Time: 10:17:26

PUBLICER RI/FS
SURFACE SOILS ANALYSIS
Chemical class: Metals

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Location:	SS-SH-01	SS-SH-02
Lab Sample ID:	MCJL33	MCJL33
Case:	17401	17401
Sample Delivery Group:	MCJH33	MCJH33
Depth:	0-1 ft	0-1 ft
Sample Date:	11/15/91	11/15/91
Unit of Measure:	MG/L	MG/L

Aluminum	20.00 U	17.30 U
Antimony	47.00 U	14.00 U
Arsenic	2.00 U	2.00 U
Barium	7.40 U	1.00 U
Beryllium	1.00 U	1.00 U
Cadmium	1.00 U	1.00 U
Calcium	79.20 U	80.10 U
Chromium	4.00 U	2.00 U
Cobalt	0.00 U	2.00 U
Copper	3.00 U	2.00 U
Iron	24.00 U	20.00 U
Lead	2.20	1.40 L
Magnesium	46.00 U	37.40 U
Manganese	2.00 U	1.00 U
Mercury	0.10 U	0.10 U
Nickel	9.00 U	8.00 U
Potassium	133.00 U	73.00 U
Selenium	4.00 UL	4.00 U
Silver	4.00 U	3.00 U
Sodium	93.40	71.40 U
Thallium	1.00 UL	1.00 U
Vanadium	3.00 U	2.00 U
Zinc	13.00 U	3.00 U
Cyanide	10.00 U	10.00 U

Date: 09/22/92
Time: 10:16:17

PUBLICER HI/FS
SEDIMENTS ANALYSIS
Chemical class: Metals

Page: 1

Location:	SED-01	SED-02	SED-03	SED-04	SED-05	SED-06	SED-09	SED-12
Lab Sample ID:	MCJL93	MCJL97	MCJL99	MCJL04	MCJL06	MCJL92	MCJL01	MCJL50
Case:	17401	17401	17401	17401	17401	17401	17401	17401
Sample Delivery Group:	MCJL49	MCJL97	MCJL97	MCJL49	MCJL49	MCJL49	MCJL97	MCJL97
Depth:	0-1 ft	0-1 ft	0-1 ft	0-1 ft	0-1 ft	0-1 ft	0-1 ft	0-1 ft
Sample Date:	11/18/91	11/16/91	11/16/91	11/18/91	11/15/91	11/15/91	11/16/91	11/16/91
Unit of Measure:	MG/SG	MG/SG	MG/SG	MG/SG	MG/SG	MG/SG	MG/SG	MG/SG

Aluminum	1500.00	2070.00	7770.00	5000.00	1070.00	5400.00	4050.00	1070.00
Antimony	10.00 UL	27.00 U	15.00 U	20.00 UL	10.50 UL	12.70 UL	29.70 U	9.00 U
Arsenic	11.00 J	00.00	10.00	10.00 J	3.00 J	30.70 J	1210.00	10.70
Barium	21.00	910.00 L	230.00 L	102.00	49.20	290.00	447.00 L	146.00 L
Beryllium	0.23 U	0.37 U	0.54 U	0.45 U	0.23 U	0.55 U	0.63 U	0.21 U
Cadmium	0.69 UL	1.70 UL	1.00 UL	1.50 L	0.47 UL	0.81 UL	1.90 UL	0.62 UL
Calcium	49700.00 J	12500.00	20100.00	40100.00 J	24500.00 J	41900.00 J	154000.00	6620.00
Chromium	51.00	1530.00 J	82.50 J	49.00	11.10	220.00	27.20 J	157.00 J
Cobalt	0.00	26.10	17.00	9.30	7.40	10.00	37.00	30.60
Copper	1000.00	2440.00	644.00	205.00	810.00	1440.00	590.00	703.00
Iron	99400.00	165000.00	120000.00	32700.00	32400.00	54000.00	114000.00	322000.00
Lead	72.00 J	2750.00 J	320.00 J	320.00 J	230.00 J	1220.00 J	240.00 J	764.00 J
Magnesium	10000.00 J	4150.00	8400.00	23400.00 J	21300.00 J	26300.00 J	6200.00	1640.00
Manganese	424.00	600.00	690.00	250.00	450.00	400.00	3350.00	1500.00
Mercury	0.43 R	2.60 L	0.63 L	2.40 R	0.37 R	1.00 R	1.40 L	0.96 L
Nickel	50.00 L	91.00	83.40	34.70 L	19.70 L	33.10 L	56.00	299.00
Potassium	450.00	1070.00	1900.00	1230.00	334.00	1600.00	1120.00	167.00
Selenium	0.03 UL	2.50 U	1.30 U	1.70 UL	0.89 UL	1.00 UL	12.30 UL	4.20 U
Silver	0.02 UL	2.50 UL	1.50 UL	1.00 UL	0.09 UL	1.10 UL	2.50 UL	0.83 UL
Sodium	144.00 B	573.00	200.00	204.00	103.00 B	206.00	591.00	163.00 B
Thallium	0.03 U	2.30 U	1.30 U	1.70 U	0.09 U	1.00 U	2.50 U	0.05 U
Titanium	10.30	49.70	61.60	30.60	0.70	50.50	61.60	39.60
Vanadium	340.00	6300.00	534.00	793.00	235.00	1200.00	1040.00	1260.00
Zinc	2.40 U	33.70 U	0.00 U	11.00 U	5.60 U	7.10 U	16.00 U	5.60 U
Cyanide								

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04-13-94 04:37 PM 2204 00 STRIKE 20805 2224

Date: 09/22/92
Time: 10:16:37

PUBLICER RI/FS
SEDIMENTS ANALYSIS
Chemical class: Metals

Page: 2

Location: SED-ER
Lab Sample ID: MCJW47
Case: 17401
Sample Delivery Group: MCJW33
Depth: 0-1 ft
Sample Date: 11/15/91
Unit of Measure: MG/L

Aluminum	32.20 U
Antimony	47.00 U
Arsenic	3.00 U
Barium	2.00 U
Beryllium	1.00 U
Cadmium	1.00 U
Calcium	69.00 U
Chromium	4.00 U
Cobalt	0.40 U
Copper	3.00 U
Iron	34.50 U
Lead	2.40 U
Magnesium	46.00 U
Manganese	2.00 U
Mercury	0.20 U
Nickel	0.00 U
Potassium	133.00 U
Selenium	4.00 UL
Silver	4.00 U
Sodium	57.00 U
Thallium	1.00 UL
Titanium	3.00 U
Zinc	0.00 U
Cyanide	10.00 U

04-10-94 04:37 PM FROM OC STRIKE FORCE E22A

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CERTIFICATE OF SERVICE

I do hereby certify that service of the within Notice
of Lodging of Consent Decree was made upon:

Timothy A. Vanderver, Jr., Esq.
Patton Boggs
2550 M. Street N.W.
Washington, D.C. 20037

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by mailing a true and correct copy thereof, postage prepaid on
this 28th day of December, 1995.


SUSAN DEIN BRICKLIN
Assistant United States Attorney
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