

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

2011 JAN -7 P 2: 15

In the Matter of:

SAF Holland USA, Inc.
467 Ottawa Avenue
Holland, MI 49423

Langhals Enterprises LLC
1006 Fort Jennings Road
Delphos, OH 45833

Respondents

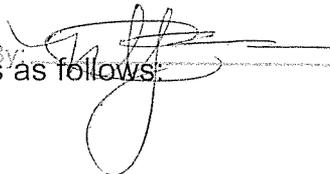
**Director's Final
Findings and Orders**

**Source Control /
Ground Water
Interim Action**

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

PREAMBLE

It is hereby agreed to by and among the Parties as follows:

By:  Date: 1/7/2011

I. JURISDICTION

1. These Director's Final Findings and Orders ("Orders") are issued pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Sections 3734.13, 3734.20, 6111.03, and 3745.01 of the Ohio Revised Code. Respondents consent to and agree not to contest Ohio EPA's jurisdiction to issue and enforce these Orders.

II. PARTIES BOUND

2. These Orders shall apply to and be binding upon SAF Holland USA, Inc., formerly known as Holland-Binkley Company, and Langhals Enterprises LLC ("Respondents") and successors in interest liable under Ohio law.

3. Nothing in the findings shall be considered to be an admission by Respondents of any matter of law or fact. No change in ownership or corporate status of Respondents including, but not limited to, any transfer of assets or real or personal property, shall in any way alter Respondents' obligations under these Orders.

4. Work Respondent shall provide a copy of these Orders to all contractors, subcontractors, laboratories and consultants retained to perform any portion of the Work performed pursuant to these Orders. Work Respondent shall ensure that all contractors, subcontractors, laboratories and consultants retained to perform Work pursuant to these Orders comply with the provisions of these Orders.

5. The signatories to these Orders certify that they are fully authorized to execute and legally bind the Party they represent.

III. DEFINITIONS

6. Unless otherwise expressly provided herein, terms used in these Orders or in any appendices shall have the same meaning as used in Chapters 3734 and 6111 of the Ohio Revised Code ("ORC"). Whenever the terms listed below are used in these Orders or in any appendices, attached hereto and incorporated herein, the following definitions shall apply:

a. "Day" shall mean a calendar day unless expressly stated to be a business day. "Business day" shall mean a day other than a Saturday, Sunday, or State Holiday. In computing any period of time under these Orders, where the last day would fall on a Saturday, Sunday, or State Holiday, the period shall run until the close of the next business day.

b. "Focused Site Characterization" ("FSC") shall mean a study to characterize sources of contaminant release and any pathways of contaminant migration at or from the Site, define vertical and horizontal extent of the resultant ground water contamination, determine Site physical characteristics, and obtain all other data necessary to design and implement a Source Control / Ground Water Interim Action.

c. "Landowner Respondent" shall mean Langhals Enterprises LLC.

d. "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan, codified at 40 C.F.R. Part 300 (1990), as amended.

e. "Ohio EPA" shall mean the Ohio Environmental Protection Agency and its designated representatives.

f. "Paragraph" shall mean a portion of these Orders identified by an arabic numeral or an upper or lower case letter.

g. "Parties" shall mean Respondents and the Ohio EPA.

h. "Property" shall mean the 23.14 acre parcel located at 1125 Spencerville Road, Delphos, Allen County, Ohio, which is owned by Langhals Enterprises LLC. The Allen County Auditor lists the parcel number as 25301105004000.

i. "Respondents" shall mean SAF Holland USA, Inc., formerly known as Holland-Binkley Company, and Langhals Enterprises LLC.

j. "Response Costs" shall mean all costs including, but not limited to, payroll costs, contractor costs, travel costs, direct costs, indirect costs, legal and enforcement-related costs, oversight costs, laboratory costs, the costs of reviewing or developing plans, reports, and other items pursuant to these Orders, verifying the Work, or otherwise implementing or enforcing these Orders.

k. "Section" shall mean a portion of these Orders identified by a roman numeral.

l. "Site" shall mean the 23.14 acre property located at 1125 Spencerville Road, Delphos, Allen County, Ohio, formerly known as the Holland Axle Products Property, where treatment, storage, and/or disposal of waste material, and/or the discharge into waters of the state of waste material has occurred, including any other area where such waste material may have migrated or threatens to migrate.

m. "Source Areas" shall mean any contaminated media which, after applying the procedures identified in the attached Statement of Work, demonstrate the potential to elevate ground water contaminant concentrations above ground water remediation goals.

n. "Source Control / Ground Water Interim Actions" ("SCIA") shall mean those actions taken at the Site in order to accomplish the following: 1) eliminate, wherever practicable, or otherwise control Source Areas; 2) delineate and characterize any resultant ground water contaminant plume(s); and 3) address any resultant ground-water contaminant plume(s) (potential remedies may include, but are not limited to, monitored natural attenuation).

o. Source Control / Ground Water Interim Action Work Plan ("SCIA Workplan" or "Work plan"), shall mean the document submitted pursuant to Section VI of these Orders, that will describe all tasks necessary to perform the work required by the Statement of Work.

p. "Statement of Work" ("SOW") shall mean the statement of work for the implementation of the Source Control / Ground Water Interim Action Work Plan; a generic example of the SOW is set forth in Appendix A to these Orders.

q. "Waste Material" shall mean (1) any "hazardous waste" under ORC Section 3734.01(J); (2) any "solid waste" under ORC Section 3734.01(E); (3) any "industrial waste" under ORC Section 6111.01(C); and (4) any "other waste" under ORC Section 6111.01(D).

r. "Work" shall mean all activities Work Respondent is required to perform under these Orders.

s. "Work Respondent" shall mean SAF Holland USA, Inc.

IV. FINDINGS OF FACT, DETERMINATIONS, AND CONCLUSIONS OF LAW

7. All findings of fact, determinations, and conclusions of law necessary for the issuance of these Orders pursuant to ORC Sections 3734.13, 3734.20 and 6111.03 have been made and are outlined below. The Respondents do not admit any finding of fact or law. The Director of Ohio EPA has determined the following:

a. The property located at 1125 Spencerville Road on the south side of the City of Delphos, in the southwest corner of Section 30 of Township 2 South, Range 5 East, Marion Township, Allen County, Ohio ("Property") is owned by the Respondent, Langhals Enterprises LLC.

b. The Freuhauf Trailer Corporation began development at the Property beginning in 1965, and in 1967 commenced the manufacture of tractor-trailer axles and axle-related products at its facility on the Property. The Holland Hitch Corporation (predecessor to Holland-Binkley) assumed ownership and operated the facility until it ceased operations after 1999.

c. The Freuhauf Trailer Corporation manufacturing process relied upon four (4) pits referred to as the Snyder pits and the Swager pits to collect water-soluble biodegradable cutting oils associated with machines utilized for milling operations and petroleum-based hydraulic oil in the forging area of the facility.

d. Based on visual staining and fractured concrete flooring, Holland-Binkley performed environmental site assessments to evaluate potential releases of hazardous substances and/or petroleum associated with underground pits/sumps in the manufacturing area used to collect machine fluids or as part of the manufacturing process.

e. Initial subsurface investigations in the area of the Snyder and Swager pits indicated the presence of total petroleum hydrocarbons (TPH) and Volatile

Organic Compounds ("VOCs") including acetone, cis-1,2-dichloroethene, trans-1,2-dichloroethene, tetrachloroethene, trichloroethene, 2-butanone, 4-methyl-2-pentanone, xylenes, and toluene.

f. Subsequent investigation of the ground water in the vicinity of the Snyder and Swager pits demonstrated the presence of 1,1,1-trichloroethane, 1,1-dichloroethane, acetone, cis-1,2-dichloroethene, methylene chloride, 4-methyl-2-pentanone, trichloroethene, and tetrachloroethene. In addition, free product was encountered in saturated sand seam.

g. Holland-Binkley conducted additional subsurface and ground water investigations to further delineate the nature and extent of contamination as well as to determine the potential rate of recovery of free product discovered. The investigations, associated with areas located near the Snyder and Swager pits, demonstrated the presence of acetone, benzene, 2-butanone, cis-1,2-dichloroethene, trans-1,2-dichloroethene, tetrachloroethene, ethylbenzene, methylene chloride, toluene, vinyl chloride, and xylenes in soils and cis-1,2-dichloroethene, tetrachloroethene, and vinyl chloride above the maximum contaminant limit ("MCL").

h. Respondents are each a "person" as defined in ORC Section 3734.01(G).

i. Because of their quantity, concentration, or physical or chemical characteristics, the Director of the Ohio EPA has determined that vinyl chloride and other contaminants detected in the soil and ground water at the Site are "hazardous wastes" as defined in ORC Section 3734.01(J).

j. The Site is a hazardous waste facility, solid waste facility or other location where hazardous waste was treated, stored or disposed.

k. Conditions at the Site constitute a substantial threat to public health or safety or are causing or contributing or threatening to cause or contribute to air or water pollution or soil contamination.

l. Respondents are each a "person" as defined under ORC Section 6111.01(I).

m. Vinyl Chloride is an "industrial waste" or "other waste" as defined under ORC Section 6111.01.

n. The ground water and surface water at the Site are "waters of the state" as defined under ORC Section 6111.01(H).

o. The Work required by these Orders will contribute to the prohibition or abatement of the discharge of industrial wastes or other wastes into the waters of the state.

p. In issuing these Orders, the Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economical reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and their relation to benefits to the people of the state to be derived from such compliance.

V. GENERAL PROVISIONS

8. Objectives of the Parties

The objective of the Parties in entering into these Orders is to contribute to the protection of public health, safety, and welfare and the environment from the disposal, discharge, or release of Waste Material at or from the Site through implementation of a Source Control/ Ground Water Interim Action by Work Respondent.

9. Commitment of Work Respondent

Work Respondent shall perform the Work in accordance with these Orders, including but not limited to, the SOW, relevant guidance documents, and all standards, specifications, and schedules set forth in or developed pursuant to these Orders. Work Respondent shall also reimburse Ohio EPA for Response Costs as provided in these Orders.

10. Compliance With Law

a. All activities undertaken by Work Respondent pursuant to these Orders shall be performed in accordance with the requirements of all applicable federal and state laws and regulations.

b. Work Respondent shall perform the activities required pursuant to these Orders in a manner which is not inconsistent with the NCP. The Ohio EPA believes that activities conducted pursuant to these Orders, if approved by the Ohio EPA, shall be considered to be consistent with the NCP.

c. Where any portion of the Work requires a permit or approval, Work Respondent shall timely submit applications and take all other actions necessary to obtain such permits or approval. These Orders are not, and shall not be construed to be, a permit issued pursuant to any statute or regulation.

VI. PERFORMANCE OF WORK BY WORK RESPONDENT

11. Supervising Contractor

All Work performed pursuant to these Orders shall be under the direction and supervision of a contractor with expertise in hazardous waste site investigation and remediation. Prior to the initiation of the Work, Work Respondent shall notify Ohio EPA in writing of the name of the supervising contractor and any subcontractor to be used in carrying out the terms of these Orders.

12. Source Control / Ground Water Interim Action Work Plan

a. Within forty-five (45) days after the effective date of these Orders, Work Respondent shall submit to Ohio EPA the Work Plan for implementation of the Source Control / Ground Water Interim Action. The Work Plan shall provide for the determination of the nature and extent of the contamination of soils and ground water at the Site caused by the disposal, discharge, or release of Waste Material, and for the development, evaluation, design, and implementation of Interim Actions for the control of Source Areas.

b. The Work Plan shall be developed in conformance with the SOW (a generic example of which is attached and labeled as Appendix A) and the guidance documents listed in Appendix B to these Orders, attached hereto and incorporated herein. The SOW is not specific to this Site, and shall be used as an outline in developing Site-specific work plans. In the Work Plan, Work Respondent shall present the justification for the proposed omission of any of the tasks of the Statement of Work because of work that has already been performed or work that is not appropriate to the Site. Any omission proposed by Work Respondent is subject to the review and approval of the Ohio EPA. Work Respondent may rely upon existing data and/or information to the extent that Work Respondent can demonstrate that field and laboratory QA/QC procedures acceptable to Ohio EPA were followed in the generation of the data and/or information. Work Respondent shall include all supporting documentation in the Work Plan for existing data and/or information and clearly identify the intended use(s) and data quality objectives for such data and/or information. Ohio EPA will evaluate the adequacy of supporting QA/QC documentation and determine the acceptability of all existing data and/or information during review of the draft Work Plan.

c. If Ohio EPA determines that any additional or revised guidance documents affect the Work to be performed under these Orders, Ohio EPA will notify Work Respondent, and the Work Plan and other affected documents shall be modified accordingly.

d. Should Work Respondent identify any inconsistency between any of the laws and regulations and guidance documents which Work Respondent is required to follow by

these Orders, Work Respondent shall notify the Ohio EPA in writing of each inconsistency and the effect of the inconsistencies upon the Work to be performed. The Work Respondent shall also recommend, along with a supportable rationale justifying each recommendation, the requirement Work Respondent believes should be followed. Work Respondent shall implement the affected Work as directed by the Ohio EPA.

e. Ohio EPA will review the Work Plan pursuant to the procedures set forth in the Review of Submittals Section of these Orders. Upon approval of the Work Plan by Ohio EPA, Work Respondent shall implement the Work Plan. The Work Respondent shall submit all plans, reports, or other deliverables required under the approved Work Plan, in accordance with the approved schedule, for review and approval pursuant to the Review of Submittals Section of these Orders.

f. Within seven (7) days of the effective date of these Orders, unless otherwise mutually agreed to by the Parties, the Work Respondent shall meet with the Ohio EPA to discuss the requirements of the Work Plan.

VII. LAND USE AND CONVEYANCE OF TITLE

13. Environmental Covenant

Within thirty (30) days of the effective date of these Orders, Landowner Respondent shall record with the Allen County Recorder's Office an environmental covenant for the Property owned by the Landowner Respondent. The environmental covenant shall be consistent with the template attached as Appendix C and approved by Ohio EPA. The environmental covenant shall reference the existence of these Orders and the need to contact the Landowner Respondent before any construction or excavation is undertaken at the Property. A copy of the recorded environmental covenant shall be submitted to Ohio EPA within thirty (30) days of recording the environmental covenant. Thereafter, if Landowner Respondent conveys any interest in the Property, each deed, title, or other instrument shall contain a reference to the recorded environmental covenant, these Orders, and any monitoring, treatment, or containment systems present on the Property as a result of these Orders.

14. Land Use Self-Reporting Requirement

Landowner Respondent shall ensure that no portion of the Site will be used in any manner that would adversely affect the integrity of any containment, treatment, or monitoring systems at the Site. Landowner Respondent shall submit to Ohio EPA, on an annual basis, written documentation verifying that any containment, treatment, or monitoring systems are in place and operational.

15. Notice of Transfer of Property

Prior to each conveyance by Landowner Respondent of an interest in any portion of the Property, including but not limited to easements, deeds, leases and mortgages, Landowner Respondent shall notify the transferee of the existence of the containment, treatment, and monitoring systems, and use restrictions on the Property, and shall provide a copy of these Orders to the transferee. Landowner Respondent shall notify Ohio EPA at least thirty (30) days in advance of each conveyance of any interest in the Property or any portion thereof. Landowner Respondent's notice shall include the name and address of the transferee, a description of the Property or portion thereof to be transferred, and a description of the provisions made for the continued access to and maintenance of the containment, treatment, and/or monitoring systems, and maintenance of compliance with the use restrictions.

16. Confirmation of Conveyance

Within thirty (30) days after each conveyance of an interest in any portion of the Property, the Landowner Respondent shall submit to Ohio EPA, via certified mail, the following information:

- a. A copy of the deed or other documentation evidencing the conveyance;
- b. The name, address, and telephone number of the new property owner and the name, address, and telephone number of the contact person for the property owner;
- c. A legal description of the property, or the portion of the property, being transferred;
- d. A survey map of the property, or the portion of the property, being transferred;
- e. The closing date of the transfer of ownership of the property, or portion of the property.

VIII. ADDITIONAL WORK

17. Ohio EPA or Work Respondent may determine that in addition to the tasks defined in the SCIA Work Plan, additional Work may be necessary to accomplish the Objective of the Parties as provided in the General Provisions Section of these Orders.

18. Within thirty (30) days of receipt of written notice from Ohio EPA that additional Work is necessary, unless otherwise specified in writing by Ohio EPA, Work

Respondent shall submit a Work Plan and schedule for the performance of the additional Work ("Additional Work Work Plan"). In addition, Work Respondent shall submit revisions to any other schedules impacted by the additional Work. To the extent the Work Respondent disputes that additional Work is necessary, Work Respondent shall initiate the procedures for dispute resolution set forth in the Dispute Resolution Section of these Orders within fourteen (14) days after receipt of Ohio EPA's notification of the need for additional Work. The Additional Work Work Plan shall conform to the standards and requirements set forth in the documents attached to these Orders as Appendices A and B [SOW and list of relevant guidance documents]. Upon approval of the Additional Work Work Plan and schedule by Ohio EPA pursuant to the Review of Submittals Section of these Orders, Work Respondent shall implement the approved Additional Work Work Plan in accordance with the revised schedules contained therein.

19. In the event that Work Respondent determines that additional Work is necessary, Work Respondent shall submit an initial letter to Ohio EPA to explain why the additional Work is necessary, what the additional Work is, and what impact, if any, the additional Work will have on the overall Work schedule. If Ohio EPA concurs with the request for additional Work, Work Respondent shall submit an Additional Work Work Plan and schedule for the performance of additional Work. The Additional Work Work Plan shall conform to the standards and requirements set forth in the documents attached to these Orders as Appendices A and B. Upon approval of the Additional Work Work Plan and schedule by Ohio EPA pursuant to the Review of Submittals Section of these Orders, Work Respondent shall implement the approved Additional Work Work Plan in accordance with the schedules contained therein.

IX. SAMPLING AND DATA AVAILABILITY

20. Work Respondent shall notify Ohio EPA not less than fifteen (15) days in advance of all sample collection activity. Upon request, Work Respondent shall allow split and/or duplicate samples to be taken by Ohio EPA. Ohio EPA shall also have the right to take any additional samples it deems necessary. Upon request, Ohio EPA shall allow Work Respondent to take split and/or duplicate samples of any samples Ohio EPA takes as part of its oversight of Work Respondent's implementation of the Work.

21. Within seven (7) days of a request by Ohio EPA, Work Respondent shall submit to Ohio EPA copies of the results of all sampling and/or tests or other data, including raw data and original laboratory reports, generated by or on behalf of Work Respondent with respect to the Site and/or the implementation of these Orders. Work Respondent may submit to Ohio EPA any interpretive reports and written explanations concerning the raw data and original laboratory reports. Such interpretive reports and written explanations shall not be submitted in lieu of original laboratory reports and raw data. Should Work Respondent subsequently discover an error in any report or raw data,

Work Respondent shall promptly notify Ohio EPA of such discovery and provide the correct information.

X. ACCESS

22. Ohio EPA shall have access at all times to the Site and any other property to which access is required for the implementation of these Orders, to the extent access to the property is controlled by the Respondents. Access under these Orders shall be for the purposes of conducting any activity related to these Orders including, but not limited to the following:

- a. Monitoring the Work;
- b. Conducting sampling;
- c. Inspecting and copying records, operating logs, contracts, and/or other documents related to the implementation of these Orders;
- d. Conducting investigations and tests related to the implementation of these Orders; and
- e. Verifying any data and/or other information submitted to Ohio EPA.

23. To the extent that the Site or any other property to which access is required for the implementation of these Orders is owned or controlled by persons other than the Respondents, the Respondents shall use their best efforts to secure from such persons access for the Respondents and the Ohio EPA as necessary to effectuate these Orders. Copies of all access agreements obtained by the Respondents shall be provided promptly to Ohio EPA. If any access required to effectuate these Orders is not obtained within thirty (30) days of the effective date of these Orders, or within thirty (30) days of the date Ohio EPA notifies the Respondents in writing that additional access beyond that previously secured is necessary, the Respondents shall promptly notify the Ohio EPA in writing of the steps the Respondents have taken to attempt to obtain access. Ohio EPA may, as it deems appropriate, assist the Respondents in obtaining access.

24. Notwithstanding any provision of these Orders, the State of Ohio retains all of its access rights and authorities, including enforcement authorities related thereto, under any applicable statute or regulation.

XI. DESIGNATED SITE COORDINATORS

25. Within five (5) days of the effective date of these Orders, Work Respondent shall notify Ohio EPA, in writing, of the name, address and telephone number of its designated Site Coordinator and Alternate Site Coordinator. If a designated Site Coordinator or Alternate Site Coordinator is changed, the identity of the successor will be given to the other Party at least five (5) days before the change occurs, unless impracticable, but in no event later than the actual day the change is made.

26. To the maximum extent practicable, except as specifically provided in these Orders, communications between the Work Respondent and Ohio EPA concerning the implementation of these Orders shall be made between the Site Coordinators. The Work Respondent's Site Coordinator shall be available for communication with Ohio EPA regarding the implementation of these Orders for the duration of these Orders. Each Site Coordinator shall be responsible for ensuring that all communications from the other Party are appropriately disseminated and processed. The Work Respondent's Site Coordinator or alternate shall be present on the Site or on call during all hours of work at the Site.

27. Without limitation of any authority conferred on Ohio EPA by statute or regulation, the Ohio EPA Site Coordinator's authority includes, but is not limited to the following:

- a. Taking samples and directing the type, quantity and location of samples to be taken by Work Respondent pursuant to an approved work plan;
- b. Observing, taking photographs, or otherwise recording information related to the implementation of these Orders, including the use of any mechanical or photographic device;
- c. Directing that the Work stop whenever the Site Coordinator for Ohio EPA determines that the activities at the Site may create or exacerbate a threat to public health or safety, or threaten to cause or contribute to air or water pollution or soil contamination;
- d. Conducting investigations and tests related to the implementation of these Orders;
- e. Inspecting and copying records, operating logs, contracts and/or other documents related to the implementation of these Orders; and
- f. Assessing Work Respondent's compliance with these Orders.

XII. PROGRESS REPORTS AND NOTICE

28. Unless otherwise directed by Ohio EPA, Work Respondent shall submit a written progress report to the Ohio EPA by the tenth (10th) day of every month. At a minimum, the progress reports shall:

- a. Describe the status of the Work and actions taken toward achieving compliance with the Orders during the reporting period;
- b. Describe difficulties encountered during the reporting period and actions taken to rectify any difficulties;
- c. Describe activities planned for the next month;
- d. Identify changes in key personnel;
- e. List target and actual completion dates for each element of activity, including project completion;
- f. Provide an explanation for any deviation from any applicable schedules; and
- g. Indicate how much contaminated soil was removed and how much contaminated ground water was pumped and indicate where such contaminated media were disposed of. If the approved Interim Actions involve in-situ or on-site treatment processes, indicate the volume of media treated as appropriate, the pounds of contaminant removed from the contaminated media, and where the contaminants were disposed of.

29. Progress reports and all other documents required to be submitted pursuant to these Orders shall be sent by certified mail return receipt requested, or equivalent, to the following addresses:

Ohio Environmental Protection Agency
50 West Town Street
P.O. Box 1049
Columbus, Ohio 43216-0149
ATTN: DERR Records Room

Ohio EPA
Northwest District Office
Division of Emergency and Remedial Response

Director's Final Findings and Orders
SAF Holland USA, Inc., Delphos, Ohio

347 N. Dunbridge Road
Bowling Green, Ohio 43402
ATTN: SAF Holland Site Coordinator

All correspondence to Work Respondent shall be directed to the following address:

Daniel Herrema, P.E.
Senior Project Engineer
Limno-Tech, Inc.
501 Avis Drive
Ann Arbor, Michigan 48108
Phone: (734) 332-1200
Fax: (734) 332-1212
dherrema@limno.com

XIII. REVIEW OF SUBMITTALS

30. Ohio EPA shall review any work plan, report, or other item required to be submitted pursuant to these Orders. Upon review, Ohio EPA may in its sole discretion: (a) approve the submission in whole or in part; (b) approve the submission upon specified conditions; (c) modify the submission; (d) disapprove the submission in whole or in part, notifying Work Respondent of deficiencies; or (e) any combination of the above.

31. In the event of approval, approval upon condition, or modification of any submission by the Ohio EPA, Work Respondent shall proceed to take any action required by the submission as approved, conditionally approved, or modified by Ohio EPA.

32. In the event that Ohio EPA initially disapproves a submission, in whole or in part, and notifies Work Respondent of the deficiencies, Work Respondent shall, within fourteen (14) days or such longer period of time as specified by Ohio EPA in writing, correct the deficiencies and resubmit the revised submission to Ohio EPA for approval. The revised submission shall incorporate all of the uncontested changes, additions, and/or deletions specified by Ohio EPA in its notice of deficiency. To the extent that Work Respondent contests any changes, additions, and/or deletions specified by the Ohio EPA, Work Respondent shall initiate the procedures for dispute resolution set forth in the Dispute Resolution Section of these Orders, within fourteen (14) days after receipt of Ohio EPA's notification of disapproval of a submission. Notwithstanding the notice of deficiency, Work Respondent shall proceed to take any action required by a non-deficient portion of the submission.

33. In the event that Ohio EPA disapproves a revised submission, in whole or in part, and notifies the Work Respondent in writing of the deficiencies, Work Respondent

shall within fourteen (14) days, or such longer period of time as specified by Ohio EPA in writing, either (a) correct the deficiencies and incorporate all changes, additions, and/or deletions, and submit the revised submission to Ohio EPA for approval or (b) initiate the dispute resolution process pursuant to the Dispute Resolution Section of these Orders. If Work Respondent fails to submit a revised submission incorporating all changes, additions, and/or deletions within fourteen (14) days, or such period of time as specified by Ohio EPA in writing, or alternatively, fails to initiate the dispute resolution process pursuant to the Dispute Resolution Section of these Orders, Work Respondent shall be considered in breach and/or violation of these Orders.

34. All work plans, reports, or other items required to be submitted to Ohio EPA under these Orders shall, upon approval by Ohio EPA, be deemed to be incorporated in and made an enforceable part of these Orders. In the event that Ohio EPA approves a portion of a work plan, report, or other item, the approved portion shall be deemed to be incorporated in and made an enforceable part of these Orders.

XIV. DISPUTE RESOLUTION

35. The Site Coordinators shall, whenever possible, operate by consensus. In the event that there is a dispute about the adequacy of any work plan, report, or other item required to be submitted pursuant to the Additional Work or Review of Submittals Sections of these Orders, the Work Respondent shall have fourteen (14) days from the date the dispute arises to invoke the dispute resolution procedures of this Section by notifying Ohio EPA in writing of the dispute. The Parties shall have fourteen (14) days for informal negotiations with respect to the dispute. This informal dispute resolution period may be extended by agreement of Ohio EPA for up to a maximum of thirty (30) additional days. At the end of the informal dispute resolution period, the Work Respondent shall have fourteen (14) days to institute the formal dispute resolution procedures of this Section by notifying Ohio EPA's Site Coordinator in writing.

36. The Work Respondent's written notification instituting the formal dispute resolution procedures shall include the technical rationale supporting the Work Respondent's position. If Work Respondent's written notice and technical rationale in support of its position are not received by Ohio EPA within fourteen (14) days from the end of the informal dispute resolution period, the formal dispute resolution procedures may not be invoked for the disputed issue(s) and the dispute shall be considered resolved. Ohio EPA shall have thirty (30) days from the date the Work Respondent's formal written dispute position is received to reduce Ohio EPA's position to writing. Ohio EPA's writing shall include the technical rationale supporting Ohio EPA's position. Following the exchange of written positions, the Site Coordinators shall have an additional fourteen (14) days to resolve the formal dispute. If Ohio EPA concurs with the position of the Work Respondent, then the work plan, report, or other items required to be submitted pursuant to these

Orders shall be modified accordingly.

37. If Ohio EPA does not concur with the position of Work Respondent, Ohio EPA's Site Coordinator shall notify the Work Respondent in writing. Upon receipt of such written notice, the Work Respondent shall have fourteen (14) days to forward a written statement of the dispute to the Division of Emergency and Remedial Response ("DERR") Manager and request a review of the decision regarding the dispute. If Ohio EPA does not receive such written statement and request from the Work Respondent within fourteen (14) days of Work Respondent's receipt of Ohio EPA's written notification of non-concurrence, Ohio EPA will adopt the written position of its Site Coordinator and the work plan, report or other item required to be submitted pursuant to these Orders, or any other item subject to the dispute resolution procedures of this Section, shall be modified accordingly. If Ohio EPA receives such written statement and request from the Work Respondent within fourteen (14) days of Work Respondent's receipt of Ohio EPA's written notification of non-concurrence, a DERR Manager will resolve the dispute based upon and consistent with these Orders, the SOW, the SCIA Work Plan, and other applicable federal and state laws and regulations.

38. The pendency of a dispute under this Section shall extend only the time period for completion of the tasks related to the matters in dispute, except that upon mutual agreement of the Parties, any time period may be extended as is deemed appropriate under the circumstances. Elements of the Work not affected by the dispute shall be completed in accordance with applicable schedules and time frames. The opportunity to invoke dispute resolution under the Dispute Resolution Section of these Orders shall not be available to Work Respondent unless expressly provided in these Orders.

XV. UNAVOIDABLE DELAYS

39. Work Respondent shall cause all Work to be performed in accordance with applicable schedules and timeframes unless any such performance is prevented or delayed by an event which constitutes an unavoidable delay. For purposes of these Orders, an "unavoidable delay" shall mean an event beyond the control of Work Respondent which prevents or delays performance of any obligation required by these Orders and which could not be overcome by due diligence on the part of the Work Respondent. Increased cost of compliance shall not be considered an event beyond the control of the Work Respondent.

40. Work Respondent shall notify Ohio EPA in writing within five (5) days after the occurrence of an event which Work Respondent contends is an unavoidable delay. Such written notification shall describe the anticipated length of the delay, the cause or causes of the delay, the measures taken and to be taken by Work Respondent to minimize the delay, and the timetable under which these measures will be implemented. Work

Respondent shall have the burden of demonstrating that the event constitutes an unavoidable delay.

41. If Ohio EPA does not agree that the delay has been caused by an unavoidable delay, Ohio EPA will notify Work Respondent in writing. If Ohio EPA agrees that the delay is attributable to an unavoidable delay, Ohio EPA will notify Work Respondent in writing of the length of the extension for the performance of the obligations affected by the unavoidable delay.

XVI. REIMBURSEMENT OF COSTS

42. Ohio EPA has incurred and continues to incur Response Costs in connection with the Site. Work Respondent shall reimburse Ohio EPA for all Response Costs incurred both prior to and after the effective date of these Orders.

43. Within thirty (30) days of receipt of an accounting of Response Costs incurred prior to the effective date of these Orders, Work Respondent shall remit a check to the Ohio EPA for the full amount claimed.

44. With respect to Response Costs incurred after the effective date of these Orders, Ohio EPA will submit to Work Respondent an itemized statement of its Response Costs for the previous year. Within thirty (30) days of receipt of such itemized statement, Work Respondent shall remit payment for all of Ohio EPA's Response Costs for the previous year.

45. Work Respondent shall remit payments to Ohio EPA pursuant to this Section as follows:

a. Payment shall be made by certified check payable to "Treasurer, State of Ohio" and shall be forwarded to Fiscal Officer, Ohio EPA, P.O. Box 1049, 50 West Town Street, Columbus, Ohio 43216-0149.

b. A copy of the transmittal letter and check shall be sent to the Fiscal Officer, DERR, Ohio EPA, P.O. Box 1049, 50 West Town Street, Columbus, Ohio 43216-0149, ATTN: Terri McCloskey, or her successor, and to the Site Coordinator, Ohio EPA, Northwest District Office, Division of Emergency and Remedial Response, 347 N. Dunbridge Road, Bowling Green, Ohio 43402.

XVII. ACCESS TO INFORMATION

46. Work Respondent shall provide to Ohio EPA, upon request, copies of all documents and information within its possession or control or that of its contractors or agents relating to events or conditions at the Site including, but not limited to manifests, reports, correspondence, or other documents or information related to the Work.

47. Work Respondent may assert a claim that documents or other information submitted to the Ohio EPA pursuant to these Orders are confidential under the provisions of OAC 3745-50-30(A) or ORC Section 6111.05(A). If no such claim of confidentiality accompanies the documents or other information when it is submitted to the Ohio EPA, it may be made available to the public without notice to the Work Respondent.

48. Work Respondent may assert that certain documents or other information are privileged under the attorney-client or any other privilege recognized by state law. If Work Respondent makes such an assertion, Work Respondent shall provide the Ohio EPA with the following: (1) the title of the document or information; (2) the date of the document or information; (3) the name and title of the author of the document or information; (4) the name and title of each addressee and recipient; (5) a general description of the contents of the document or information; and (6) the privilege being asserted by Work Respondent.

49. No claim of confidentiality shall be made with respect to any data, including but not limited to, all sampling, analytical monitoring, or laboratory or interpretive reports.

50. Work Respondent shall preserve for the duration of these Orders and for a minimum of ten (10) years after the Orders' termination, all documents and other information within its possession or control, or within the possession or control of its contractors or agents, which in any way relate to the Work, notwithstanding any document retention policy to the contrary. Work Respondent may preserve such documents by microfiche, or other electronic or photographic device. At the conclusion of this document retention period, Work Respondent shall notify Ohio EPA at least sixty (60) days prior to the destruction of these documents or other information and, upon request, shall deliver such documents and other information to Ohio EPA.

XIII. MODIFICATIONS

51. These Orders may be modified by agreement of the Parties. Modifications shall be in writing, signed by the authorized representative of each of the Respondents and by the Director, and shall be effective on the date entered in the Journal of the Director of Ohio EPA.

XIX. INDEMNITY

52. Work Respondent agrees to indemnify, save, and hold harmless Ohio EPA from any and all claims or causes of action arising from, or related to, the implementation of these Orders or to events or conditions at the Site, including any acts or omissions of Work Respondent, its officers, employees, receivers, trustees, agents, or assigns. Said indemnification shall not apply to acts or omissions of the State of Ohio, its employees, agents or assigns at, on, upon, or related to the Site if said acts are negligent, performed outside the scope of employment or official responsibilities, or performed with malicious purpose, in bad faith, or in a wanton or reckless manner. Ohio EPA shall not be considered a party to and shall not be held liable under any contract entered into by Work Respondent in carrying out the activities pursuant to these Orders. Ohio EPA agrees to provide notice to Work Respondent within thirty (30) days after receipt of any claim that may be the subject of indemnity as provided in this Section, and to cooperate with Work Respondent in the defense of any such claim or action against Ohio EPA.

XX. OTHER CLAIMS

53. Nothing in these orders shall constitute or be construed as a release from any claim, cause of action, or demand in law or equity against any person, firm, partnership, or corporation, not subject to these Orders, for any liability arising from, or related to, events or conditions at the Site.

XXI. RESERVATION OF RIGHTS

54. Ohio EPA reserves the right to seek legal and/or equitable relief to enforce the terms and conditions of these Orders, including penalties against Work Respondent for noncompliance with these Orders. Except as provided herein, Work Respondent reserves any rights it may have to raise any legal or equitable defense in any action brought by or on behalf of Ohio EPA to enforce the terms and conditions of these Orders.

55. Ohio EPA reserves the right to terminate these Orders and/or perform all or any portion of the Work or any other measures in the event that the requirements of these Orders are not wholly complied with within the time frames required by these Orders.

56. Ohio EPA reserves the right to take any action under applicable law against Work Respondent if conditions at the Site, previously unknown to the State, are discovered after the effective date of these Orders, or information is received, after the effective date of these Orders and these previously unknown conditions or this previously unknown information shows that the source control / ground water interim action for the Site is not protective of public health or safety or the environment.

57. Subject to the Agreement Not To Refer Section of these Orders, Ohio EPA reserves the right to take any action under applicable law, including but not limited to any enforcement action, or action to recover costs, or action to recover damages to natural resources, pursuant to ORC Chapters 3734, 3745, or 6111, or any available legal authority as a result of past, present, or future violations of state or federal laws or regulations or the common law, and/or as a result of events or conditions arising from, or related to, the Site.

58. Work Respondent reserves all rights, claims, demands and causes of action it may have against any and all persons and entities who are not parties to these Orders, including rights of contribution against any other parties who may be liable for actual or threatened releases of contaminants at the Site.

XXII. AGREEMENT NOT TO REFER

59. During the implementation of these Orders, and provided Work Respondent is in compliance with these Orders, Ohio EPA agrees not to refer to the Ohio Attorney General's Office for enforcement or to take administrative enforcement action against Work Respondent or its present or future agents, successors, subsidiaries or assigns for Work required under these Orders. Upon termination of these Orders pursuant to the Termination Section of these Orders, Ohio EPA agrees to not refer Work Respondent to the Ohio Attorney General's Office for enforcement or to take administrative enforcement action against Work Respondent or its present or future agents, successors, subsidiaries or assigns for Work required under these Orders.

XXIII. TERMINATION

60. Work Respondent's obligations under these Orders shall terminate upon approval in writing of Work Respondent's written certification to Ohio EPA that all Work required to be performed under these Orders including the payment of Response Costs has been completed. The Work Respondent's certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate, and complete." This certification shall be submitted by Work Respondent to Ohio EPA and shall be signed by a responsible official of the Work Respondent. The termination of Work Respondent's obligations under these Orders shall not terminate the Work Respondent's obligations under the Reservation of Rights, Access to Information, Indemnity, Other Claims, and Land Use and Conveyance of Title Sections of these Orders.

XXIV. WAIVER AND AGREEMENT

61. In order to resolve disputed claims, without admission of fact, violation, or

liability, Respondents agree that these Findings and Orders are lawful and reasonable, and agree to perform all actions required of them by these Orders.

62. The Respondents hereby waive the right to appeal the issuance, terms and conditions, and service of these Orders and hereby waive any and all rights that they may have to seek administrative or judicial review of the issuance, terms and conditions, and service of these Orders either in law or equity.

63. Notwithstanding the limitations herein on the Respondents' right to appeal or seek administrative or judicial review, the Ohio EPA and the Respondents agree that in the event that these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, the Respondents retain the right to intervene and participate in such appeal. In such event, Respondents shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XXV. EFFECTIVE DATE

64. The effective date of these Orders shall be the date these Orders are entered in the Journal of the Director of Ohio EPA.

XXVI. SIGNATORY AUTHORITY

65. Each undersigned representative of a Party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such Party to these Orders.

IT IS SO AGREED:

SAF Holland USA, Inc. (Work Respondent)



12/13/10
Date _____

President

Title

Director's Final Findings and Orders
SAF Holland USA, Inc., Delphos, Ohio

Langhals Enterprises LLC (Landowner Respondent)

Ken Langhals

12-30-2010
Date

Managing Member
Title

OHIO ENVIRONMENTAL PROTECTION AGENCY

Jane Powell
Director

1-7-11
Date

APPENDIX A

IA SOW

APPENDIX B

List of Relevant Guidance Documents

APPENDIX C

Environmental Covenant Template

APPENDIX A

STATEMENT OF WORK (SOW) FOR CONDUCTING SOURCE CONTROL

INTERIM ACTION(S) AT THE RESPONDENT(S) SITE

PURPOSE:

The purpose of conducting the work described herein is to control the source(s) of ground-water contamination and pathways of contaminant migration which have resulted from the disposal of industrial wastes, pollutants, other wastes, and/or hazardous wastes, constituents, and substances (contaminants) at the Respondent(s) site (the Site). Respondent(s) shall conduct a Focused Site Characterization (FSC) to characterize the source(s) of contaminant release and any pathways of contaminant migration at or from the Site, determine Site physical characteristics, develop remediation goals, and obtain all other data necessary to design and implement the source control interim action(s) (SCIA(s)). Concurrent with the FSC, Respondent(s) shall evaluate potential SCIA(s), propose appropriate SCIA(s) for the Site, and prepare a conceptual design of the proposed SCIA(s). Following Ohio EPA approval of the FSC and the conceptual design for the proposed SCIA(s), Respondent(s) shall design and implement the approved SCIA(s), and operate, maintain and monitor the constructed system(s). Successful completion of the required work will result in the elimination of identified sources of contaminant releases and control of identified pathways of contaminant migration, to the extent that such pathways remain once source areas have been eliminated. For the purpose of this SOW, source areas are defined as any contaminated media which, after applying the procedures identified in this SOW, demonstrate the potential to elevate ground-water contaminant concentrations above risk-based levels. Elimination of source areas shall be demonstrated through ground-water monitoring downgradient of identified source areas. The FSC and conceptual design of the proposed SCIA(s) are interactive and are to be conducted concurrently so that the data collected during the FSC influences the evaluation of and the conceptual design of the proposed SCIA(s).

Respondent(s) shall conduct all required activities and provide all required deliverables in accordance with the Director's Final Findings and Orders (Orders) and this SOW. Respondent(s) shall furnish all necessary personnel, materials, and services needed, or incidental to, performing the activities described in this statement of work.

Respondent(s) shall obtain all site access agreements required to perform the work outlined in this SOW. Site access shall extend for the duration of the project and shall include allowances for all operation, maintenance, and monitoring considerations.

At the completion of the FSC, the Ohio EPA will approve or modify as appropriate Respondent(s) proposed SCIA(s). To obtain Ohio EPA approval, proposed SCIA(s) must at a minimum protect human health and the environment with respect to identified sources and pathways of contaminant migration, comply with all applicable requirements of federal,

state and local laws and regulations, minimize cross-media transfer of contaminants and utilize permanent solutions to the maximum extent practicable.

TASKS:

1. Develop Workplan;
2. Conduct field investigations to characterize contaminant source(s) and pathways of contaminant migration, and obtain all data necessary to evaluate, select and design SCIA(s).
3. Design, implement, and monitor SCIA(s).

DELIVERABLES:

1. Workplan
2. Focused Site Characterization and Conceptual Design Report
3. Detailed Plans and Specifications
4. Operation, Maintenance and Monitoring Plans
5. Construction Certification Report
6. Monthly Progress Reports

1.0 DEVELOP WORK PLANS

Respondent(s) shall submit a FSC Workplan (Workplan), a sampling and analysis plan (SAP) consisting of a field sampling plan (FSP) and a quality assurance project plan (QAPP), and a Site health and safety plan (HSP). The Workplan and supporting documents must be approved by Ohio EPA prior to the initiation of field activities.

1.1 FSC Workplan

The Workplan shall be developed in conjunction with the SAP and the HSP although each plan may be submitted under separate cover. The Workplan shall include the supporting rationale for performing each task in the manner described. The Workplan shall describe in detail all tasks necessary to perform the work required by this SOW, including materials and procedures required for each task, and work products to be submitted to the Ohio EPA. This includes deliverables as required by the Orders and this SOW, and meetings with Ohio EPA. The Workplan shall provide fixed date schedules for accomplishing the required work.

The Workplan shall clearly state the objectives of the FSC and identify and qualitatively assess actual or potential threats to human health and the environment posed by the Site. The Workplan shall include soil and ground-water remediation goals for all contaminants previously identified at the Site. Soil remediation goals are developed in order to define the extent of the source areas which the proposed SCIA(s) must address and serve as an aid in SCIA design. They also guide the location of ground-water compliance monitoring point(s). Soil remediation goals are not compliance levels which must be met. Ground-water remediation goals are developed to establish compliance levels which are then measured in ground water downgradient of the identified source area(s). They are the ultimate measure of success with respect to the work required by this SOW. The Workplan shall recognize that the development of soil and ground-water remediation goals is an iterative process which is repeated throughout the investigation if contaminants are detected which are not known to be present at the time of Workplan preparation. Soil and ground-water remediation goals shall be developed following the procedures identified below:

- A. Identify contaminants of concern (COC). COCs are those contaminants detected in ground water and soil at the Site and their associated degradation products.. Low relative concentration and infrequent occurrence are insufficient reasons to eliminate contaminants from the COC list.
- B. For each COC, identify the corresponding maximum contaminant level (MCL) if one exists, and calculate the residential water carcinogenic effects remediation goal and the residential water noncarcinogenic effects remediation goal using equations 1' and 2' on pages 21 and 22 of RAGS Part B (see Attachment C).
- C. For each COC, select the lowest concentration from among the MCL, the carcinogenic risk-based remediation goal, and the noncarcinogenic risk-based remediation goal.
- D. For each COC, compare the value obtained in item C above with the practical quantitation limit (PQL) for the contaminant when analyzed using U. S. EPA method 8260 with a 25 ml. purge (or equivalent method). The value obtained in item C becomes the ground-water compliance level unless the PQL is higher in which case the PQL becomes the ground-water compliance level.
- E. For each COC, use the value obtained in item C above to calculate soil remediation goals for design purposes using the VLEACH procedure described in exhibit 2.

Based on review of existing information, Respondent(s) shall include in the Workplan a summary of the Site background including geographic location, and describe Site physiography, hydrogeology, and history with regard to the use, storage and disposal of contaminants. The Workplan shall describe any previous response actions conducted by local, state, federal, or private parties; provide a summary of existing data in terms of physical and chemical characteristics of identified contaminants, describe their distribution among the environmental media; and demonstrate compliance with federal, state and local

laws and regulations which apply to the work to be performed.

The Workplan shall identify potential SCIA(s) which address each media of interest, identifying treatment, excavation, pumping, or other actions, either singly or in combination, to satisfy the objectives of this SOW. Primary consideration shall be given to potential SCIA(s) which actively control the source through removal or treatment. Data collection activities necessary to define source areas, identify pathways of contaminant migration, and evaluate potential SCIA(s) shall be identified. Following Ohio EPA approval of the Workplan and supporting documents, Respondent(s) shall implement the work in accordance with the schedules described therein.

In performing the work required by this SOW, Respondent(s) may rely upon data and/or information gathered from other sources to the extent that Respondent(s) can demonstrate that field and laboratory QA/QC procedures acceptable to Ohio EPA were followed in the generation and presentation of the data and/or information. Respondent(s) shall include all supporting documentation in the Workplan for data and/or information gathered from other sources and clearly identify the intended use(s) and data quality objectives for such data and/or information. Ohio EPA will evaluate the adequacy of supporting QA/QC documentation and determine the acceptability of all data and/or information gathered from other sources during review of the draft Workplan.

If the need for additional work is identified at any time during the performance of the work required by this SOW, Respondent(s) shall submit a Workplan amendment with schedule documenting the need for the additional work and describing in detail the tasks to be performed. Respondent(s) shall be responsible for completing any additional work approved or required by the Ohio EPA in a manner consistent with the purpose and objectives of this SOW.

1.2 Sampling and Analysis Plan

Respondent(s) shall prepare a SAP consisting of the following:

A. *Field Sampling Plan*

The FSP shall specify and detail all activities necessary to obtain Site data and provide detailed standard operating procedures (SOPs) for those activities. It shall explain what additional data are required to adequately characterize the Site and support the evaluation of potential SCIA(s). The FSP shall describe sampling objectives; equipment and procedures; sample types, locations, and frequencies; and parameters of interest; and shall be tied to the schedules contained in the Workplan.

B. *Quality Assurance Project Plan*

The QAPP shall address all investigations to be conducted at the Site and shall include the following:

1. A project description;
2. Analytical methods and laboratory procedures;
3. Data quality objectives tied to the intended use(s) for all data proposed for collection;
4. Quality assurance objectives for data such as the required precision, accuracy, completeness, representativeness, and comparability of data;
5. Chain of custody procedures during sample collection and in the laboratory;
6. The type and frequency of calibration procedures during sample collection and in the laboratory;
7. Preventative maintenance procedures and schedule and corrective action procedures for field and laboratory instruments;
8. Specific procedures to assess data precision, representativeness, comparability, accuracy, and completeness of specific measurement parameters; and
9. Data documentation and tracking procedures.

C. *Health and Safety Plan*

Respondent(s) shall submit an HSP which shall comply with the requirements of applicable federal, state, and local laws. The HSP shall be consistent with:

1. NIOSH Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities (1985);
2. Section 111(c)(6) of CERCLA;
3. U.S. EPA Order 1440.3 -- Respiratory Protection;
4. U.S. EPA Occupational Health and Safety Manual;
5. U.S. EPA Interim Standard Operating Safety Procedures and other U.S. EPA guidance as developed;
6. OSHA regulations, particularly in 29 CFR 1910 and 1926;
7. State and local regulations; and
8. Site or facility conditions.

The HSP shall identify problems or hazards that may be encountered and their solution. Safety procedures to be followed to protect third parties, such as visitors or the surrounding community, including monitoring, shall also be provided. While Ohio EPA may review and provide comment on the HSP, the document is not subject to formal agency approval.

2.0 SITE INVESTIGATION AND CONCEPTUAL DESIGN

Respondent(s) shall collect data on the physical and chemical characteristics of the Site to the extent necessary to define potential source areas and pathways of contaminant migration and provide sufficient engineering data for screening and selecting proposed SCIA(s). Respondent(s) shall screen the potential SCIA(s) identified in the Workplan concurrent with the Site characterization tasks.

2.1 Hydrogeology

Respondent(s) shall perform a Site-wide hydrogeologic study to evaluate the subsurface geology and water bearing formations, and to characterize ground-water contamination and pathways of contaminant migration. The study shall determine the location of water bearing formations, confining layers, bedrock, and other subsurface geologic features, and shall support the determination of the vertical and horizontal extent of source areas and distribution of source contaminants. Efforts shall begin with a survey of previous hydrogeologic studies and other existing data.

A detailed technical description of all methods to be used in gathering data for this task shall be included in the Workplan. This shall include a diagrammatic representation of proposed field survey, monitoring well, and piezometer locations, monitoring well and piezometer design and construction details, drilling techniques, and well development methods."

The hydrogeologic investigation shall provide the following information for the Site:

- A. A representative and accurate classification and description of the hydrogeologic units which may be part of the contaminant source areas or pathways of contaminant migration (i.e., the aquifers and any intervening saturated and unsaturated units) including but not limited to:
 - 1. Hydraulic conductivity (vertical and horizontal) and porosity (total and effective);
 - 2. Storativity and transmissivity;
 - 3. Lithology, grain size, sorting, and degree of cementation;
 - 4. A determination of hydraulic interconnections between saturated zones; and
 - 5. The retardation capacity and mechanisms of the natural earth materials (e.g.,

organic carbon content, clay content, clay mineralogy, etc.).

- B. Hydrogeologic cross-sections showing the extent (depth, thickness, lateral extent) of hydrogeologic units which may be part of the contaminant source areas or pathways of contaminant migration, identifying:
1. Sand, gravel, and other unconsolidated deposits;
 2. Zones of higher or lower permeability that might direct or restrict the flow of contaminants;
 3. Aquifers: geologic formations, groups of formations, or parts of formations capable of yielding usable amounts of ground water to wells or springs; and
 4. Water-bearing zones that may serve as a pathway for contaminant migration including perched zones of saturation.
- C. A representative description of water level or fluid pressure monitoring including:
1. Potentiometric surface maps;
 2. Hydrogeologic cross sections showing vertical gradients and interconnection between water bearing strata; and
 3. Temporal changes in hydraulic gradients and flow directions.
- D. A description of man-made influences that may affect the hydrogeology of the Site or act as pathways of contaminant migration identifying:
1. Active and inactive local water supply and production wells with an approximate schedule of pumping; and
 2. Man-made hydraulic structures (pipe-lines, french drains, ditches, unlined ponds, septic tanks, wastewater outfalls, retention areas, utility lines, etc.).

Respondent(s) shall document the procedures used in making the above determinations.

2.2 Soil and Sediments Investigations

Respondent(s) shall conduct a program to characterize the soil and unconsolidated deposits in the vicinity of the contaminant release(s). This process may overlap with certain aspects of the hydrogeologic study (e.g., characteristics of soil strata are relevant to both the transport of contaminants by ground water and to the locations of contaminants in the vadose zone). A survey of existing data on soils and sediments may be useful. The characterization shall include as appropriate the following information:

- A. Soil classification using the Unified Soil Classification System;

- B. Surface soil distribution;
- C. Soil profile, including ASTM classification of soils;
- D. Transects of soil stratigraphy;
- E. Hydraulic conductivity;
- F. Relative permeability;
- G. Bulk density;
- H. Porosity;
- I. Soil sorptive capacity;
- J. Soil organic content;
- K. Particle size distribution;
- L. Depth to water table and any perched zones;
- M. Moisture content;
- N. Effect of stratification on unsaturated flow;
- O. Infiltration rate;
- P. Storage capacity; and
- Q. Clay mineralogy.

Respondent(s) shall document the procedures used in making the above determinations.

2.3 Contamination Characterization

Respondent(s) shall identify and characterize contamination of Site ground water and soils to the extent necessary to define contaminant source areas and pathways of contaminant migration, and complete the determination of soil and ground-water remediation goals. Data collected shall be sufficient to define the magnitude, origin, direction, and rate of contaminant migration.

A. Ground-water Contamination

Respondent(s) shall conduct an investigation to characterize ground-water contamination which shall at a minimum provide the following information:

1. A characterization of any immiscible or dissolved phase contaminant plume(s) originating from the Site including non-aqueous phase liquids (NAPL);
2. The velocity of contaminant movement;
3. The horizontal and vertical concentration profiles of contaminants in identified plumes;
4. An evaluation of factors influencing contaminant movement; and
5. Background contaminant concentrations in areas upgradient of and unaffected by Site-related contaminant source(s).

Respondent(s) shall follow the guidance identified in the Orders for well design, construction, development, purging, sampling, geophysics, modeling, etc. and shall document the procedures used in making the above determinations.

B. Soil Contamination

Respondent(s) shall conduct an investigation to characterize surface and subsurface soil contamination at the Site. The investigation shall be designed to collect the following information:

1. The vertical and horizontal concentration profiles of contaminants in Site vadose and phreatic soils;
2. A description of soil chemical properties which might affect contaminant migration and transformation;
3. Identification of contaminants present;
4. Background soil contaminant concentrations in areas unaffected by Site-related contaminant source(s).

2.4 Focused Site Characterization Report

Respondent(s) shall summarize all investigations and their results to ensure that the investigation data are sufficient in quality and quantity to describe the nature and extent of identified source(s) of contamination, define contaminant migration pathways, and support the selection and design of proposed SCIA(s). Any data gaps shall be identified and their impact upon the work shall be fully described. The analysis and summary shall be presented in a written report which shall at a minimum include the following:

- A. Data on Site physical characteristics (soils, geology, hydrogeology, etc.)

- B. Data on source characteristics describing:
 - 1. The source location(s);
 - 2. The type and integrity of any existing waste containment; and
 - 3. A description and diagrammatic representation (planar and cross section) of the vertical and horizontal extent of contamination in the source area(s) (quantity of contaminated source media) based on the identified soil remediation goals.
- C. A description and diagrammatic representation of actual and potential contaminant migration pathways.
- D. Soil and ground-water remediation goals and supporting calculations.

2.5 Conceptual Design Report

Using data generated during the FSC, Respondent(s) shall evaluate the potential SCIA(s) identified in the FSC Workplan for applicability to Site conditions and recommend a proposed SCIA(s) for implementation at the Site. Respondent(s) shall include a technical description of each component of the proposed SCIA(s) outlining the waste management strategy involved and identifying all applicable regulatory requirements.

Factors considered by Ohio EPA in approval of proposed SCIA(s) include but are not limited to the following:

- A. Time required for implementation;
- B. Time required to achieve protection of human health and the environment;
- C. Compliance with federal, state and local laws and regulations;
- D. Performance efficiencies;
- E. Use of treatment technologies which significantly reduce toxicity, mobility, and volume of contaminants;
- F. Ability to minimize or eliminate cross-media transfer of contaminants;
- G. Ability to verify SCIA(s) effectiveness;
- H. Frequency of routine maintenance and component replacement;
- I. Degree of permanence; and
- J. Degree of contribution to the efficient performance of any anticipated long-term

remedial action(s).

The Conceptual Design Report shall be included as part of or submitted concurrently with the Focused Site Characterization Report. The Conceptual Design Report shall include but not be limited to the following:

- A. A comparative evaluation of potential SCIA(s) considering the factors identified above;
- B. A narrative description of the proposed SCIA(s);
- C. Schematic drawings of treatment processes;
- D. A description of how treatment, storage, and disposal of contaminated media will comply with sound engineering practices and all applicable regulatory requirements;
- E. Supporting data and documentation defining the functional aspects of the SCIA(s);
- F. Design calculations including removal and destruction efficiencies for all SCIA components (treatment works, extraction wells, vadose gases extraction networks, etc.);
- G. A Site map and cross sections showing the location of all SCIA components and significant Site features;
- H. A schedule for submittal of detailed plans and specifications including any required permit applications, initiation and completion of construction, attainment of operational level; and initiation of operation, maintenance, and monitoring; and
- I. Identification and assessment of all applicable regulatory requirements pertaining to the proposed SCIA(s) including:
 - 1. Identification of permitting authorities,
 - 2. Required construction/operation permits,
 - 3. Time required by permitting authorities to process applications,
 - 4. Monitoring and/or compliance testing requirements, and
 - 5. Reporting requirements.
- J. Monitoring requirements to verify system effectiveness.

3.0 DESIGN/IMPLEMENTATION (D/I)

The purpose of D/I is to design and implement the approved SCIA(s) in order to protect human health and the environment.

3.1 Detailed Plans and Specifications

The Detailed Plans and Specifications (DPS) for the approved SCIA(s) shall be submitted in accordance with the timetable contained in the Ohio EPA-approved Conceptual Design. The DPS shall include but not be limited to final construction drawings, specifications, plans, and design analyses with supporting calculations. Applications for any required permits shall be submitted simultaneously with the DPS. Following Ohio EPA approval of the DPS and receipt of any necessary construction permits, Respondent(s) shall initiate construction of the approved SCIA(s) in accordance with the schedule contained in the Conceptual Design.

3.2 Operation and Maintenance (O&M) Plan

An O&M plan shall be submitted to Ohio EPA prior to the completion of construction. Appropriate elements are listed in Exhibit 1. Plan elements listed in Exhibit 1 are for illustrative purposes and should not limit the content of the O&M plan.

3.3 Design Changes During Construction

During construction, unforeseen Site conditions, changes in estimated quantities, and other problems associated with the project may require either major or minor changes to the approved design. Design changes require prior approval of Ohio EPA and may require modification of permit(s) to install to ensure that the intent and scope of the approved SCIA(s) is maintained. Changes to the SCIA(s) design which require Ohio EPA approval prior to implementation include:

- A. Those which involve the deletion or addition of a major component of the approved SCIA(s) (e.g. changing one treatment system for another, changing from in-situ to ex-situ remediation);
- B. Those which result in a less effective treatment for wastes associated with the Site;
- C. Any changes which may result in an increased exposure to Site contaminants and/or risk to human health or the environment;
- D. Those which result in a significant delay in the completion of the SCIA(s); and
- E. Any other changes which alter the scope or objectives of the approved SCIA(s).

3.4 Construction Completion

As the construction of the SCIA(s) nears completion, the following activities shall be completed by Respondent(s) to ensure proper construction completion and transition to the O&M phase.

A. *SCIA(s) Construction Certification Report*

A SCIA(s) Construction Certification Report (CCR) shall be prepared and submitted by Respondent(s) within 30 days of completion of construction and in accordance with the schedule contained in the Conceptual Design. The CCR report shall include the following:

1. A synopsis of the construction work defined in the detailed plans and specifications and certification that this work was performed;
2. An explanation of any modifications to the work defined in the detailed plans and specifications and why they were necessary for the project; and
3. Certification that the constructed SCIA(s) is operational and functional and constructed according to the approved plans and specifications.

EXHIBIT 1

Basic Elements of an Operation and Maintenance (O&M) Plan

- A. Normal O&M
 - 1. Description of tasks for operation
 - 2. Description of tasks for maintenance
 - 3. Description of prescribed treatment or operating conditions
 - 4. Schedules showing the frequency of each O&M task

- B. Potential Operating Problems
 - 1. Description and analysis of potential operating problems
 - 2. Sources of information regarding potential operating problems
 - 3. Description of means of detecting problems in the operating systems
 - 4. Common remedies for operating problems

- C. Routine Monitoring and Laboratory Testing
 - 1. Description of monitoring tasks
 - 2. Description of required laboratory tests and interpretation of test results
 - 3. Required QA/QC procedures
 - 4. Monitoring schedule

- D. Alternative O&M
 - 1. Description of alternate procedures to prevent undue hazard, should systems fail
 - 2. Vulnerability analysis and additional resources requirements should a failure occur

- E. Safety Plan
 - 1. Description of safety procedures, necessary equipment, etc. for site personnel
 - 2. Description of safety tasks required in the event of systems failure

- F. Equipment
 - 1. Description of equipment necessary to the O&M Plan
 - 2. Description of installation of monitoring components
 - 3. Description of maintenance of site equipment
 - 4. Replacement schedule for equipment and installed components

G. Records and Reporting Mechanisms Required

1. Daily operating logs
2. Laboratory records
3. Mechanism for reporting emergencies
4. Personnel and maintenance records
5. Monthly reports to Ohio EPA

EXHIBIT 2

METHOD TO EVALUATE THE IMPACT OF VOLATILE ORGANIC COMPOUND CONTAMINATED SOILS ON GROUND-WATER RESOURCES

This document describes a method for evaluating the impact of volatile organic compound contaminated soils on ground-water resources at hazardous waste sites. The method calculates the maximum mass of contaminant that can be transported from the vadose zone to ground water without ground-water contaminant levels exceeding ground-water remediation goals and evaluates how different contaminant concentrations impact the rate at which contaminants are transported from the vadose zone to ground water. The impact of contaminants leaching from the vadose zone to ground water can be evaluated for each contaminant of concern.

The method consists of two steps. In step 1, the maximum mass flux for the contaminant of concern is calculated by setting the contaminant concentration in the top 10 feet of the aquifer beneath the contaminated portion of the site to the ground-water remediation goal, estimating the vertical and horizontal components of ground-water flow, and determining by mass balance calculations the maximum contaminant mass which can be transported via liquid advection and gaseous diffusion to ground water beneath the site without exceeding the ground-water remediation goal.

In step 2, VLEACH, a one-dimensional finite difference vadose zone leaching model, is used to evaluate the impact of soil contaminant concentrations on the transport of contaminants from the vadose zone to ground water.

Step 1. Calculate maximum mass flux for each contaminant.

A simple ground-water flow model is constructed for the site. The model assumes that Darcy's Law as expressed below is valid.

$$Q = -KA \frac{dh}{dl}$$

where Q = discharge (volume of water per unit time) K = hydraulic conductivity A = cross-sectional area dh/dl = hydraulic gradient

The model is constructed as follows.

1. Measure the surface area of the contaminated portion of the site.
2. Measure the cross-sectional width of the contaminated area perpendicular to the direction of ground-water flow.
3. Using Darcy's Law, calculate the lateral ground-water flow in the top ten feet of the aquifer beneath the contaminated portion of the site.
4. Calculate the maximum mass of contaminant that can leave the site (ground-water remediation goal times yearly flux).
5. Calculate the infiltration rate through the contaminated portion of the site using the

U.S.EPA Help Model.

6. Assuming the upgradient ground water contaminant concentration = 0, calculate the maximum contaminant mass flux rate for contaminants moving from the vadose zone to ground water passing beneath the site such that the ground-water contaminant level will not exceed the ground-water remediation goal.

Step 2. Evaluate the impact of soil contaminant concentrations on contaminant mass flux.

VLEACH is a computer code for estimating the impact due to the mobilization and migration of a sorbed organic contaminant located in the vadose zone on the underlying ground-water. The code was developed by CH2M Hill for the United States Environmental Protection Agency (USEPA). Version 2.0 can be obtained from USEPA's Center for Subsurface Modeling Support in Ada, Oklahoma.

VLEACH describes the movement of an organic contaminant within and between three different phases: (1) as a solute dissolved in water, (2) as a gas in the vapor phase, and (3) as an adsorbed compound in the solid phase. In particular, VLEACH simulates vertical transport by advection in the liquid phase and by gaseous diffusion in the vapor phase.

These processes are conceptualized as occurring in a number of distinct, user-defined polygons that are vertically divided into a series of cells. Variables such as soil properties, recharge rate, contaminant concentration, and depth to water table are specified for each polygon. Within each polygon homogeneous conditions are assumed except for contaminant concentration, which can vary between layered cells.

VLEACH calculates the mass of contaminant transported to ground water per the user-defined time period. Through an iterative "back calculation" procedure, one can evaluate the ground-water impact of differing vertical arrays of contaminant concentrations until one or more vertical arrays are found which do not result in the exceedance of the ground-water remediation goals.

APPENDIX B

GUIDANCE DOCUMENTS FOR THE DEVELOPMENT OF THE WORKPLAN

- a) *Technical Guidance Manual for Hydrogeologic Investigations and Ground Water Monitoring Programs*, Ohio EPA, June, 1993, Draft.
- b) *Guidelines and Specifications for Preparing Quality Assurance Project Plans*, Ohio EPA, Division of Emergency and Remedial Response, Policy No. DERR-00-RR-008.
- c) *Preparation Aids for the Development of Category 1 Quality Assurance Project Plans*, EPA/600/8-91/003, February, 1991.
- d) *Data Quality Objectives for Remedial Response Activities: Development Process*, EPA/540/G-87/003, March, 1987.
- e) *Risk Assessment Guidance for Superfund: Volume I - Human Health Evaluation Manual (Part B, Development of Risk-based Preliminary Remediation Goals)*, EPA/540/R-92/003, December, 1991, Interim.
- f) *VLEACH: A One-Dimensional Finite Difference Vadose Zone Leaching Model*, Version 2.0, USEPA, Hazardous Sites Control Division, Contract No. 68-01-251, 1990.

APPENDIX C

To be recorded with Deed
Records - ORC § 317.08

ENVIRONMENTAL COVENANT

This Environmental Covenant is entered into by _____ (“Owner”) [name all Owners of the Property and add other “Holders,” if any] and the Ohio Environmental Protection Agency (“Ohio EPA”) pursuant to Ohio Revised Code (“ORC”) §§ 5301.80 to 5301.92 for the purpose of subjecting the Property to the activity and use limitations set forth herein.

[Insert appropriate background information here, using available program-specific guidance. Identify the “site” or “facility.” Describe the “environmental response project,” see ORC § 5301.80(E), and identify the name and location of the administrative record for the project. See ORC § 5301.82(A)(8). See also ORC § 5301.82(B)(2) re: description of contamination on or underlying the property and its remedy, including the contaminants of concern, the pathways of exposure, limits on exposure, and the location and extent of the contamination.]

Now therefore, Owner[s] [name all Owners of the Property and add other “Holders,” if any] and Ohio EPA agree to the following:

1. Environmental Covenant. This instrument is an environmental covenant developed and executed pursuant to ORC §§ 5301.80 to 5301.92.

2. Property. This Environmental Covenant concerns [an approximately acre tract of real property; OR real property parcels numbered _____] owned by _____, located at _____, in _____ County, Ohio, and more particularly described in Exhibit A attached hereto and hereby incorporated by reference herein (“Property”).

3. Owner[s]. _____ (“Owner[s]”) [who resides; OR which is located] at _____, _____, _____ is the owner of the Property.

4. Holder[s]. Owner[s], whose address is listed above, [and _____ {who resides; OR which is located} at _____, _____, _____] [is/are] the holder[s] of this Environmental Covenant.

5. Activity and Use Limitations. As part of the [closure of hazardous waste management units; corrective action at the Property; remedial action described in the Decision Document; voluntary action described in the NFA Letter; wetlands mitigation project; supplemental environmental project, etc.], Owner[s] hereby impose[s] and agree[s] to comply with the following activity and use limitations:

[Insert the limitations appropriate for the Property. Several limitations may be appropriate as part of a remedial action or closure plan where cleanup to an unrestricted land use is not feasible. Each type of limitation must be considered on a Property-specific basis to determine which limitation or combination of limitations is suitable for the particular circumstances of the Property, based on the applicable program standards or cleanup goals, the nature of contamination, the affected media and the potential exposures. The types of limitations include:

***land use** limitations (e.g., to limit duration and frequency of human exposure to surficial soils, surface water, or sediments.)*

***ground water** limitations (e.g., to prevent exposure to contaminated ground water by prohibiting extraction or use of ground water, except for investigation or remediation thereof.)*

***disturbance** limitations (e.g., to protect in-place remedial systems, to prevent exposures caused by any mixing of contaminated subsurface soils with "clean" surface soils, and to prevent contact with subsurface contamination during excavation.)*

***construction** limitations (e.g., to prevent exposure to volatile emissions to indoor air from soil or ground water.)*

***resource protection** limitations (e.g., to protect certain ecological features associated the Property . . .)]*

[add the following, if appropriate: If any event or action by or on behalf of a person who owns an interest in or holds an encumbrance on the Property, identified in paragraph 11 below, constitutes a breach of the activity and use limitations, Owner or Transferee shall notify Ohio EPA within [thirty (30)] days of becoming aware of the event or action, and shall remedy the breach of the activity and use limitations within [sixty (60)] days of becoming aware of the event or action, or such other time frame as may be agreed to by the Owner or Transferee and Ohio EPA.]

6. Running with the Land. This Environmental Covenant shall be binding upon the Owner[s] and all assigns and successors in interest, including any Transferee, and shall run with the land, pursuant to ORC § 5301.85, subject to amendment or termination as set forth herein. The term "Transferee," as used in this Environmental Covenant, shall mean any future owner of any interest in the Property or any portion

thereof, including, but not limited to, owners of an interest in fee simple, mortgagees, easement holders, and/or lessees.

7. Compliance Enforcement. Compliance with this Environmental Covenant may be enforced pursuant to ORC § 5301.91. Failure to timely enforce compliance with this Environmental Covenant or the activity and use limitations contained herein by any party shall not bar subsequent enforcement by such party and shall not be deemed a waiver of the party's right to take action to enforce any non-compliance. Nothing in this Environmental Covenant shall restrict the Director of Ohio EPA from exercising any authority under applicable law. *[VAP¹: Pursuant to ORC § 3746.05, if the Property or any portion thereof is put to a use that does not comply with this Environmental Covenant, the covenant not to sue issued for the Property by the Director of Ohio EPA under ORC § 3746.12 is void on and after the date of the commencement of the noncomplying use.]*

8. Rights of Access. Owner[s] hereby grant[s] to Ohio EPA, its agents, contractors, and employees *[and any "Holders;" the local government, etc.; see ORC §§ 5301.82(A)(6) and 5301.91(A)]* the right of access to the Property for implementation or enforcement of this Environmental Covenant.

9. Compliance Reporting. Owner[s] or any Transferee shall submit to Ohio EPA *[local government, "Holders" other than Owner]* on *[an annual]* basis written documentation verifying that the activity and use limitations remain in place and are being complied with.

10. Notice upon Conveyance. Each instrument hereafter conveying any interest in the Property or any portion of the Property shall contain a notice of the activity and use limitations set forth in this Environmental Covenant, and provide the recorded location of this Environmental Covenant. The notice shall be substantially in the following form:

THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL COVENANT, DATED _____, 200__, RECORDED IN THE DEED OR OFFICIAL RECORDS OF THE _____ COUNTY RECORDER ON _____, 200__, IN [DOCUMENT _____, or BOOK____, PAGE _____]. THE ENVIRONMENTAL COVENANT CONTAINS THE FOLLOWING ACTIVITY AND USE LIMITATIONS:

¹ *If the Property is the subject of a VAP no further action letter and request for a covenant not to sue, this language should be added to this paragraph of the Environmental Covenant.*

[Insert the language that describes the activity and use limitations exactly as it appears in the Environmental Covenant.]

Owner[s] shall notify Ohio EPA *[and any "Holders" other than the Owner]* within *[ten (10)]* days after each conveyance of an interest in any portion of the Property. Owner's[s] notice shall include the name, address, *and telephone number* of the Transferee, a copy of the deed or other documentation evidencing the conveyance, and a survey map that shows the boundaries of the property being transferred.

11. Representations and Warranties. Owner[s] hereby represent[s] and warrant[s] to the other signatories hereto:

- A. that the Owner[s] is *[are]* the sole owner[s] of the Property;
- B. that the Owner[s] hold[s] fee simple title to the Property which is *[use either of the following, as appropriate:] free, clear and unencumbered; [or] subject to the interests or encumbrances identified in Exhibit B attached hereto and incorporated by reference herein;*
- C. that the Owner[s] has *[have]* the power and authority to enter into this Environmental Covenant, to grant the rights and interests herein provided and to carry out all obligations hereunder;
- D. that the Owner[s] has *[have]* identified all other persons that own an interest in or hold an encumbrance on the Property and notified such persons of the Owner's[s] intention to enter into this Environmental Covenant;*[and]*
- E. that this Environmental Covenant will not materially violate or contravene or constitute a material default under any other agreement, document or instrument to which Owner[s] is *[are]* a party or by which Owner[s] may be bound or affected; *[and] [add the following, if appropriate:]*
- [F. to the extent that any other interests in or encumbrances on the Property conflict with the activity and use limitations set forth in this Environmental Covenant, the persons who own such interests or hold such encumbrances have agreed to subordinate such interests or encumbrances to the Environmental Covenant, pursuant to ORC §*

5301.86, and the subordination agreement(s) (attached hereto as Exhibit C; [or] recorded at _____).]

12. Amendment or Termination. This Environmental Covenant may be amended or terminated by consent of all of the following: the Owner[s] or a Transferee; [other "Holders," if any;] and the Ohio EPA,² pursuant to ORC § 5301.90 and other applicable law. The term, "Amendment," as used in this Environmental Covenant, shall mean any changes to the Environmental Covenant, including the activity and use limitations set forth herein, or the elimination of one or more activity and use limitations when there is at least one limitation remaining. The term, "Termination," as used in this Environmental Covenant, shall mean the elimination of all activity and use limitations set forth herein and all other obligations under this Environmental Covenant.

This Environmental Covenant may be amended or terminated only by a written instrument duly executed by the Director of Ohio EPA and the Owner[s] or Transferee [and other "Holders," if any] of the Property or portion thereof, as applicable. Within thirty (30) days of signature by all requisite parties on any amendment or termination of this Environmental Covenant, the Owner[s] or Transferee shall file such instrument for recording with the _____ County Recorder's Office, and shall provide a file- and date-stamped copy of the recorded instrument to Ohio EPA.

[alternative paragraph for resource protection limitations]

13. Severability. If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

14. Governing Law. This Environmental Covenant shall be governed by and interpreted in accordance with the laws of the State of Ohio.

15. Recordation. Within [thirty (30)] days after the date of the final required signature upon this Environmental Covenant, Owner[s] shall file this Environmental Covenant for recording, in the same manner as a deed to the Property, with the _____ County Recorder's Office.

² See ORC § 5301.82 (B) (3), which allow for "limitations on amendment or termination."

16. Effective Date. The effective date of this Environmental Covenant shall be the date upon which the fully executed Environmental Covenant has been recorded as a deed record for the Property with the _____ County Recorder.

17. Distribution of Environmental Covenant. The Owner[s] shall distribute a file- and date-stamped copy of the recorded Environmental Covenant to: Ohio EPA; the [City, County, Township, Village] of _____; [any "Holder," any lessee, each person who signed the Environmental Covenant, each person holding a recorded interest in the Property; and any other person designated by Ohio EPA; see ORC § 5301.83].

18. Notice. Unless otherwise notified in writing by or on behalf of the current owner of Ohio EPA, any document or communication required by this Environmental Covenant shall be submitted to:

[title or position]
Division of [_____]]
Ohio EPA
P.O. Box 1049
Columbus, Ohio 43216-1049

[title or position]
[address]

The undersigned [representative of] Owner[s] [and other "Holders," if any] represent[s] and certiff[y/ies] that [he/she/they] [is/are] authorized to execute this Environmental Covenant.

IT IS SO AGREED:

[NAME OF OWNER]

Signature of Owner[s]

Printed Name and Title

Date

[NAME OF HOLDER]

Signature of Holder

Printed Name and Title

Date

State of _____)

County of _____)

ss:

_____)

Before me, a notary public, in and for said county and state, personally appeared _____, a duly authorized representative of _____, who acknowledged to me that [he/she] did execute the foregoing instrument on behalf of _____.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this ____ day of _____, 20__.

Notary Public

This instrument prepared by:

[name, address]