



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JUN 25 1998

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7/20/98
Signed
B...

REPLY TO THE ATTENTION OF
**Marina Cliffs/Northwestern
Barrel Site**

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Re: Marina Cliffs/Northwestern Barrel Site, South Milwaukee,
Milwaukee, Wisconsin

Dear Sir or Madam:

Enclosed please find a unilateral Administrative Order issued by the U.S. Environmental Protection Agency ("U.S. EPA") under Section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), 42 U.S.C. Section 9601, et seq.

Please note that the Order allows an opportunity for a conference if requested within 3 business days after issuance of the Order, or if no conference is requested, an opportunity to submit comments within 7 business days of issuance of the Order.

If you have any questions regarding the Order, feel free to contact Thomas Krueger, Assistant Regional Counsel, at (312) 886-0562 or Sam Borries, On-Scene Coordinator, at (312) 353-2886.

Sincerely yours,

William E. Muno, Director
Superfund Division

Enclosure

cc: State Agency Superfund Coordinator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 5

IN THE MATTER OF:) Docket No. **V-W-88-C-486**
MARINA CLIFFS/)
NORTHWESTERN BARREL SITE,) ADMINISTRATIVE ORDER
SOUTH MILWAUKEE, WISCONSIN) PURSUANT TO SECTION 106(a)
) OF THE COMPREHENSIVE
Respondents:) ENVIRONMENTAL RESPONSE,
) COMPENSATION, AND
PARTIES LISTED ON) LIABILITY ACT OF 1980,
ATTACHMENT A) AS AMENDED, 42 U.S.C.
) SECTION 9606(a)
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I. JURISDICTION AND GENERAL PROVISIONS

This Order is issued pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9606(a), and delegated to the Administrator of the United States Environmental Protection Agency ("U.S. EPA") by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, and further delegated to the Regional Administrators by U.S. EPA Delegation Nos. 14-14-A and 14-14-B, and to the Director, Superfund Division, Region 5, by Regional Delegation Nos. 14-14-A and 14-14-B.

This Order pertains to the Marina Cliffs/Northwest Barrel Site, consisting of approximately 18 acres located at the shoreline bluffs of Lake Michigan in the City of South Milwaukee, Milwaukee County, Wisconsin (42° 53' 92"N, 87° 50' 85"W). The site is bordered on the west by 5th Avenue and on the east by Lake Michigan. The southern boundary is a roadway that ends in a lakeside dock and the northern boundary is the City of South Milwaukee Waste Water Treatment Plant property. This Order requires the Respondents to conduct removal activities described herein to abate an imminent and substantial endangerment to the public health, welfare or the environment that may be presented by the actual or threatened release of hazardous substances at or from the Site.

U.S. EPA has notified the State of Wisconsin of this action pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

II. PARTIES BOUND

This Order applies to and is binding upon Respondents and Respondents' receivers, trustees, successors and assigns. Any change in ownership or corporate status of Respondents including, but not limited to, any transfer of assets or real or personal property shall not alter such Respondents' responsibilities under this Order. Respondents are jointly and severally liable for carrying out all activities required by this Order. Compliance or noncompliance by one or more Respondents with any provision of this Order shall not excuse or justify noncompliance by any other Respondent.

Respondents shall ensure that their contractors, subcontractors, and representatives comply with this Order. Respondents shall be responsible for any noncompliance.

III. FINDINGS OF FACT

Based upon available information, including the Administrative Record in this matter, U.S. EPA finds that:

- A. The Marina Cliffs Site is a former barrel reconditioning facility located on an 18-acre parcel of land on the shoreline bluffs of Lake Michigan in the City of South Milwaukee, Milwaukee County, Wisconsin (42° 53" 92'N, 87° 50" 85'W). The bluffs rise approximately 50 to 60 feet above the sand beach of Lake Michigan. The site is bordered on the west by 5th Avenue and on the east by Lake Michigan. The southern boundary is a roadway that ends in a lakeside dock. The north boundary is bordered by the City of South Milwaukee Waste Water Treatment Plant.
- B. The heavily wooded ravine and lake bluff areas contain 55-gallon barrels/drums or other various sized containers that appear to be either filled/partially filled or empty of potentially hazardous materials. In addition to the containers, waste piles/disposal areas of debris, cinders, and suspected waste paint materials are evident along the slopes of the ravine. Containers are exposed or partially exposed along the lake bluff and slopes of the ravine. Most of the visible containers on the lake bluff can be seen along the toe of the slope. However, visible containers can be found one-half to three-quarters of the way up the lake bluff. The lake bluff and ravine appear to be subject to ongoing erosion and slumping of slope soils.
- C. The area around the site is primarily residential. It

is bordered on the south and west sides by apartments and condominiums. Lake Michigan is located to the east and the South Milwaukee Waste Water Treatment Plant to the north.

- D. In 1941, the Northwestern Barrel Company acquired title to the Site from the Pfister & Vogel Leather Company, and commenced barrel recycling and reconditioning activities at that time. Prior to 1941, the Site had been used as a leather treatment/tanning facility. The Northwestern Barrel Company operated on the Site from approximately 1941 to the mid 1960s. Its operations included the on-site handling, washing, and refurbishing of steel drums and wood barrels.
- E. The Northwestern Barrel Company was owned by Theodore Verden. Mr. Verden sold the property on which the barrel operation was located to Daniel Drobac and Donald Margolis in June 1965 and the Northwestern Barrel Company to Lester Trilla of Trilla Cooperage, Inc. in Chicago. Margolis quit-claimed his interest in the site to Daniel Drobac in September 1965. Drobac then conveyed the site to U.S. Equities on November 12, 1965. Drobac family members were officers of U.S. Equities. The property was subdivided on May 13, 1966, with part going to Store Equipment, Inc. through the Marina Cliffs Joint Venture (a venture for which the interests were held by the Drobac, Levy and Demos families), part going to the Drobac Investment Co., Inc. and part staying with U.S. Equities. Eventually, all the parcels were held by the Estate of Nicholas Demos, with no other intervening owners. Northern Trust was a co-executor of the Demos Estate and it conveyed, by executor's deed, the estate's interest in the property to Unicare Development Corp. in 1972. Unicare Development transferred title to the current owner, Towne Realty, in 1982.
- F. The Northwestern Barrel Company operated in nearby Oak Creek, Wisconsin, as a Division of Trilla Cooperage, Inc. until 1970 when it became part of the Northwestern Drum Company. The assets of Northwestern Drum were purchased by Mid-America Steel Drum in 1975 which continues the barrel reconditioning operation at the Oak Creek location.
- G. In 1988, the U.S. Environmental Protection Agency (EPA) Field Investigation Team (FIT) conducted a Site Inspection ("SI") giving the Site a high priority designation. Elevated concentrations of PCBs, chromium, and lead were present in soil samples taken at certain locations. Low levels of chlorinated

hydrocarbons and heavy metals were quantified in certain surface water samples.

- H. In 1990 and 1991, Towne Realty's contractor, Chemical Waste Management, Inc., ENRAC Division, performed a partial removal action. It excavated a pit area (Pit 01) and disposed of the contents in one hundred five (105) 55-gallon drums at the Chemical Waste Management Landfill in Emelle, Alabama. An additional one hundred forty seven (147) 30-gallon burnable barrels were removed from the Site and sent to that landfill. Twenty-four (24) cubic yards of crushed empty drums were sent to the Parkview Landfill in Menominee Falls, Wisconsin.
- I. On December 7, 1994, the Region 5 Technical Assistance Team (TAT), the On-Scene Coordinator (OSC), the Site Assessment Manager (SAM), and a representative of WDNR met at the Site to collect samples and to document Site conditions. Approximately fifty (50) rusted 55-gallon barrels, or portions thereof, could be observed. The drums were located on top of the bluff and at the base of the ravine. Some of the drums were empty and some contained residual materials. The history of the drums is unknown. In some areas there was an orange and/or green substance covering the soil.
- J. Storm water runoff travels through the bottom of the ravine bordering the Site on the north and empties into Lake Michigan. Two pits were observed in December 1994. Both pits were fenced and contained a dark, oily sludge-like material. The TAT collected two sludge samples from the pits, two oil samples (one adjacent to the pits and one on the bluffs), one drum sample, and two background samples. One pit sample contained PCB (Aroclor 1254) in concentrations of 197 ppm.
- K. A time-critical response action was conducted as an Enforcement Action funded by parties complying with an October 3, 1995, UAO, Docket No. V-W-'95-C-313. The UAO directed the respondents to conduct removal actions in two stages: time-critical and non-time-critical actions. The time-critical action was conducted to address two pit areas and a depressed area located at the southeast corner of the Site. The remainder of the Site and any additional work to be conducted at the pits and depressed area are to be identified and addressed through non-time-critical actions under the EE/CA. Sample collection and analysis revealed levels of lead and PCBs above U.S. EPA removal action criteria in soils and waste materials within the Ravine and Lake Bluff areas.

- L. On November 4, 1996, certain of the potentially responsible parties, with U.S. EPA oversight, performed a time-critical removal action to excavate and stockpile pit materials for treatment and disposal and evaluate the remaining Site conditions. Approximately 5,000 yards of pit material were excavated and stockpiled for treatment and disposal between November 4 and December 17, 1996. Approximately 27,000 gallons of wastewater were shipped off-Site as part of this work phase. Additional work conducted at this time included test pit excavations along the beach, additional surface soil sampling in areas of potential concern, additional subsurface soil sampling in areas of potential concern, surface water sampling, and collection of soil samples from the northern pit area.
- M. On July 24, 1997, a perimeter fence was constructed to restrict access to the working and highly contaminated areas. On August 27, 1997, warning signs were posted approximately every 50 feet along the perimeter fence and approximately every 100 feet along the Lake Michigan beachfront.
- N. On-Site solidification/stabilization and off-Site disposal of waste materials was initiated in early June and completed on October 21, 1997. Waste materials treated and/or disposed of off-Site during completion of tasks associated with the original action memo totaled approximately 55,000 gallons of wastewater, 7,500 tons of stabilized waste materials, and 750 tons of untreated waste materials which were sent off-Site to a treatment and disposal facility.
- O. While conducting oversight of disposal activities during October 14-17, 1997, the U.S. EPA OSC, a Wisconsin Department of Natural Resources (WDNR) representative, and a Superfund Technical Assessment and Response Team (START) member performed a removal site assessment of the lake bluff and ravine areas. A Preliminary Ecological Assessment, which consisted of reviewing existing data, was conducted by a United States Fish and Wildlife Service biologist. The ravine and lake bluff areas were further evaluated for removal activities because of the eroding nature of side slopes and the actual and potential release of Site contaminants. Contaminants at varying levels were discovered to be present in the ravine and lake bluff areas as part of the October 17, 1997, site assessment.
- P. A visual survey of the ravine and lake bluff area revealed a heavily wooded/overgrown ravine and lake

bluff containing 55-gallon barrels/drums or other various sized containers that are filled/partially filled or empty of potentially hazardous materials. In addition to the containers, waste piles/disposal areas of debris, cinders, and suspected waste materials are evident along the slopes of the ravine.

- Q. Waste materials appear to be intermixed among outcroppings of building debris and waste along the south bank of the ravine. The building debris is presumed to have resulted from the demolition of Site buildings which debris was filled into the ravine. The building debris is mostly located along the western half of the ravine. Other areas of the ravine have waste materials and drum outcroppings along the upper and lower portions of the ravine slope which are highly susceptible to erosion.
- R. The area along the lake bluff revealed a length of approximately 225 feet which has visible drum carcasses, containers, and other materials exposed or partially exposed on the bluff slope.
- S. The ravine area has approximately 600 running feet which has visible materials of potential concern. As mentioned above, the western half of the ravine has a great deal of apparent building debris intermixed with containers and waste materials. This material outcrops in the creek up to approximately 20-25 feet. The eastern half of the ravine has less building debris but more containers and waste material. The material observed in this half of the ravine ranges from 6-8 inches thick on the side of the slope to outcroppings of waste materials between 5-7 feet thick or more in localized areas.
- T. Various site documents report samples for lead and other compounds to be present in concentrations ranging from non-detect to the elevated concentrations stated below. Many of the samples were collected for analysis from discrete visually contaminated or suspected contaminated areas and are not indicative of the levels of contamination of the Site as a whole. The PRP contractor's results indicate total lead concentrations of 5,000 mg/kg, 112,000 mg/kg, and 46,300 mg/kg in samples SS-R-04, SS-R-05, and SS-R-13 respectively. The DHFS samples collected from bluff outcroppings reveal total lead concentrations of 37,100 mg/kg, 49,800 mg/kg, 90,600 mg/kg, 114,000 mg/kg, 370,000 mg/kg in samples SM-SS-10, SM-SS-11, SM-SS-28, SM-SS-29, and SM-SS-30, respectively.

- U. During the U.S. EPA Site assessment, nine samples were collected from the lake bluff and ravine areas and analyzed for PCBs, total metals and TCLP metals as appropriate. Sampling locations were selected from soils surrounding containers, waste materials (i.e., cinders, debris, discolored soils, etc.) and drums or containers. The highest concentration sample results indicate total chromium at 2,300 mg/kg in lake bluff sample EPA-03 and 1,300 mg/kg in ravine sample EPA-03, 21,000 mg/kg in ravine sample EPA-06. Similarly, the highest lead samples showed concentrations of 11,000 mg/kg in lake bluff sample EPA-03, 21,000 mg/kg in ravine sample EPA-05, 17,000 mg/kg in ravine sample EPA-06, 1,800 mg/kg in ravine sample EPA-07, and 1,100 mg/kg in ravine sample EPA-09. Toxicity Characteristic Leaching Procedure (TCLP) results revealed 65.5 mg/L and 9.8 mg/L lead in samples EPA-05 and EPA-06, respectively. PCBs were detected at levels above EPA cleanup standards in one sample from the ravine--63 mg/kg in ravine sample EPA-06.

IV. CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the Findings of Fact set forth above, and the Administrative Record supporting these removal actions, U.S. EPA has determined that:

1. The Marina Cliffs/Northwestern Barrel Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).
2. The substances described above are "hazardous substances" as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).
3. Each Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).
4. Respondents are either persons who at the time of disposal of any hazardous substances owned or operated the Marina Cliffs/Northwestern Barrel Site, or who arranged for disposal or transport for disposal of hazardous substances at the Marina Cliffs/Northwestern Barrel Site. Respondents are therefore liable persons under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).
5. The conditions described in the Findings of Fact above constitute an actual or threatened "release" into the "environment" as defined by Sections 101(8) and (22) of CERCLA, 42 U.S.C. §§ 9601(8) and (22).
6. The conditions present at the Site constitute a threat to

public health, welfare, or the environment based upon the factors set forth in Section 300.415(b)(2) of the National Oil and Hazardous Substances Pollution Contingency Plan, as amended ("NCP"), 40 CFR Part 300. These factors include, but are not limited to, the following:

a. Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances, pollutants or contaminants; this factor is present at the Site due to the unsecured status of exposed and partially exposed waste materials, drums and containers containing hazardous substances (primarily lead and PCBs) in or on the lake bluff and ravine areas. Despite fencing, some potential remains for access from Lake Michigan to the bluff and ravine areas for trespassers, vandals or scavengers to come into direct or indirect contact with hazardous substances. The environment may be threatened by continued erosion of exposed or partially exposed waste materials located in the ravine and bluff area.

b. Hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release; this factor is present at the Site because some of the drums and containers are corroded, deteriorated, and open to the environment. Samples from open drums during the site assessment indicate some localized levels of lead and PCBs above U.S. EPA removal action criteria. The presence of a number of partially exposed drums also suggests that additional buried drums may exist in certain areas.

c. High levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface, that may migrate; this factor is present at the Site because analytical results have shown the presence of elevated levels of lead and PCBs in soils and waste materials within the ravine and lake bluff areas. Surface water flows over these areas could carry contaminants into the creek and Lake Michigan.

d. Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released; this factor is present at the Site due to the existence of wind, rain, snow and direct sunlight which may cause drums to degrade, causing further releases of hazardous substances into the environment. Surface water runoff from storm events may further contribute to migration of contaminants.

e. The unavailability of other appropriate federal or state response mechanisms to respond to the release; this factor supports the actions required by this Order at the Site because state and local authorities do not have adequate

funding to conduct a removal action at the Site.

7. The actual or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the public health, welfare, or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

8. The removal actions required by this Order are necessary to protect the public health, welfare, or the environment, and are not inconsistent with the NCP and CERCLA.

V. ORDER

Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the Administrative Record for this Site, U.S. EPA hereby orders that Respondents perform the following actions:

1. Notice of Intent to Comply

Respondents shall notify U.S. EPA in writing within 3 business days after the effective date of this Order of Respondents' irrevocable intent to comply with this Order. Failure of each Respondent to provide such notification within this time period shall be a violation of this Order.

2. Designation of Contractor, Project Coordinator, and On-Scene Coordinator

Respondents shall perform the removal actions themselves or retain (a) contractor(s) to implement the removal actions. Respondents shall notify U.S. EPA of Respondents' qualifications or the name and qualifications of such contractor(s), whichever is applicable, within 5 business days of the effective date of this Order. Respondents shall also notify U.S. EPA of the name and qualifications of any other contractors or subcontractors retained to perform work under this Order at least 5 business days prior to commencement of such work. U.S. EPA retains the right to disapprove of the Respondents or any of the contractors and/or subcontractors retained by the Respondents. If U.S. EPA disapproves a selected contractor, Respondents shall retain a different contractor within 5 business days following U.S. EPA's disapproval and shall notify U.S. EPA of that contractor's name and qualifications within 6 business days of U.S. EPA's disapproval.

Within 5 business days after the effective date of this Order, the Respondents shall designate a Project Coordinator who shall be responsible for administration of all the Respondents' actions required by the Order and submit the designated coordinator's name, address, telephone number, and qualifications to U.S. EPA.

To the greatest extent possible, the Project Coordinator shall be present on-site or readily available during site work. U.S. EPA retains the right to disapprove of any Project Coordinator named by the Respondents. If U.S. EPA disapproves a selected Project Coordinator, Respondents shall retain a different Project Coordinator within 3 business days following U.S. EPA's disapproval and shall notify U.S. EPA of that person's name and qualifications within 4 business days of U.S. EPA's disapproval. Receipt by Respondents' Project Coordinator of any notice or communication from U.S. EPA relating to this Order shall constitute receipt by all Respondents.

The U.S. EPA has designated Sam Borries of the Emergency Response Branch, Region 5, as its On-Scene Coordinator ("OSC") respondents shall direct all submissions required by this Order to the OSC at 77 West Jackson Boulevard, SE-5J, Chicago, Illinois, 60604-3590, by certified or express mail. Respondents shall also send a copy of all submissions to Thomas Krueger, Assistant Regional Counsel, 77 West Jackson Boulevard, C-14J, Chicago, Illinois, 60604-3590. All Respondents are encouraged to make their submissions to U.S. EPA on recycled paper (which includes significant postconsumer waste paper content where possible) and using two-sided copies.

3. Work to Be Performed

Respondents shall perform, at a minimum, the response activities described in the Work Plan which is appended as Attachment B.

3.1 Work Plan Implementation

The Work Plan, the schedule, and any subsequent modifications shall be fully enforceable under this Order. Respondents shall notify U.S. EPA at least 48 hours prior to performing any on-site work pursuant to the U.S. EPA approved Work Plan.

Respondents shall not commence or undertake any removal actions at the Site without prior U.S. EPA approval.

3.2 Health and Safety Plan

Within 10 business days after the effective date of this Order, the Respondents shall submit a plan for U.S. EPA review and comment that ensures the protection of the public health and safety during performance of on-site work under this Order. This plan shall comply with applicable Occupational Safety and Health Administration ("OSHA") regulations found at 29 CFR Part 1910. If U.S. EPA determines it is appropriate, the plan shall also include contingency planning. Respondents shall incorporate all changes to the plan recommended by U.S. EPA, and implement the plan during the pendency of the removal action.

3.3 Quality Assurance and Sampling

All sampling and analyses performed pursuant to this Order shall conform to U.S. EPA direction, approval, and guidance regarding sampling, quality assurance/quality control ("QA/QC"), data validation, and chain of custody procedures. Respondents shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with U.S. EPA guidance. Upon request by U.S. EPA, Respondents shall have such a laboratory analyze samples submitted by U.S. EPA for quality assurance monitoring. Respondents shall provide to U.S. EPA the quality assurance/quality control procedures followed by all sampling teams and laboratories performing data collection and/or analysis. Respondents shall also ensure provision of analytical tracking information consistent with OSWER Directive No. 9240.0-2B, "Extending the Tracking of Analytical Services to PRP-Lead Superfund Sites."

Upon request by U.S. EPA, Respondents shall allow U.S. EPA or its authorized representatives to take split and/or duplicate samples of any samples collected by Respondents or their contractors or agents while performing work under this Order. Respondents shall notify U.S. EPA not less than 3 business days in advance of any sample collection activity. U.S. EPA shall have the right to take any additional samples that it deems necessary.

3.4 Reporting

Respondents shall submit a monthly written progress report to U.S. EPA concerning activities undertaken pursuant to this Order, beginning 30 calendar days after the effective date of this Order, until termination of this Order, unless otherwise directed by the OSC. These reports shall describe all significant developments during the preceding period, including the work performed and any problems encountered, analytical data received during the reporting period, and developments anticipated during the next reporting period, including a schedule of work to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

Any Respondent that owns any portion of the Site, and any successor in title shall, at least 30 days prior to the conveyance of any interest in real property at the Site, give written notice of this Order to the transferee and written notice of the proposed conveyance to U.S. EPA and the State. The notice to U.S. EPA and the State shall include the name and address of the transferee. The party conveying such an interest shall require that the transferee will provide access as described in Section V.4 (Access to Property and Information).

3.5 Final Report

Within 60 calendar days after completion of all removal actions required under this Order, the Respondents shall submit for U.S.

EPA review a final report summarizing the actions taken to comply with this Order. The final report shall conform to the requirements set forth in Sect on 300.165 of the NCP. The final report shall also include a good faith estimate of total costs incurred in complying with the Order, a listing of quantities and types of materials removed, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destinations of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (e.g., manifests, invoices, bills, contracts, and permits).

The final report shall also include the following certification signed by a person who supervised or directed the preparation of that report:

Under penalty of law, I certify that, to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of this report, the information submitted is true, accurate, and complete.

4. Access to Property and Information

Respondents shall provide or obtain access as necessary to the Site and all appropriate off-site areas, and shall provide access to all records and documentation related to the conditions at the Site and the activities conducted pursuant to this Order. Such access shall be provided to U.S. EPA employees, contractors, agents, consultants, designees, representatives, and State of Wisconsin representatives. These individuals shall be permitted to move freely at the Site and appropriate off-site areas in order to conduct activities which U.S. EPA determines to be necessary. Respondents shall submit to U.S. EPA, upon request, the results of all sampling or tests and all other data generated by Respondents or their contractor(s), or on the Respondents' behalf during implementation of this Order.

Where work under this Order is to be performed in areas owned by or in possession of someone other than Respondents, Respondents shall obtain all necessary access agreements within 14 calendar days after the effective date of this Order, or as otherwise specified in writing by the OSC. Respondents shall immediately notify U.S. EPA if, after using their best efforts, they are unable to obtain such agreements. Respondents shall describe in writing their efforts to obtain access. U.S. EPA may then assist Respondents in gaining access, to the extent necessary to effectuate the response activities described herein, using such means as U.S. EPA deems appropriate.

5. Record Retention, Documentation, Availability of Information

Respondents shall preserve all documents and information, in their possession or the possession of their contractors, subcontractors or representatives, relating to work performed under this Order, or relating to the hazardous substances found on or released from the Site, for six years following completion of the removal actions required by this Order. At the end of this six year period and at least 60 days before any document or information is destroyed, Respondents shall notify U.S. EPA that such documents and information are available to U.S. EPA for inspection, and upon request, shall provide the originals or copies of such documents and information to U.S. EPA. In addition, Respondents shall provide documents and information retained under this Section at any time before expiration of the six year period at the written request of U.S. EPA. Any information that Respondents are required to provide or maintain pursuant to this Order is not subject to the Paperwork Reduction Act of 1995, 44 U.S.C. §3501 et seq.

6. Off-Site Shipments

All hazardous substances, pollutants or contaminants removed off-site pursuant to this Order for treatment, storage or disposal shall be treated, stored, or disposed of at a facility in compliance, as determined by U.S. EPA, with the U.S. EPA Off-Site Rule, 40 CFR § 300.440, 58 Federal Register 49215 (Sept. 22, 1993).

7. Compliance With Other Laws

All actions required pursuant to this Order shall be performed in accordance with all applicable local, state, and federal laws and regulations except as provided in CERCLA Section 121(e) and 40 CFR Section 300.415(j). In accordance with 40 CFR Section 300.415(j), all on-site actions required pursuant to this Order shall, to the extent practicable, as determined by U.S. EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements under federal environmental or state environmental or facility siting laws.

8. Emergency Response and Notification of Releases

If any incident, or change in Site conditions, during the activities conducted pursuant to this Order causes or threatens to cause an additional release of hazardous substances from the Site or an endangerment to the public health, welfare, or the environment, the Respondents shall immediately take all appropriate action to prevent, abate or minimize such release, or endangerment caused or threatened by the release. Respondents shall also immediately notify the OSC or, in the event of his/her unavailability, shall notify the Regional Duty Officer, Emergency

Response Branch, Region 5 at (312) 353-2318, of the incident or Site conditions.

Respondents shall submit a written report to U.S. EPA within 7 business days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. Respondents shall also comply with any other notification requirements, including those in CERCLA Section 103, 42 U.S.C. § 9603, and Section 304 of the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. § 11004.

VI. AUTHORITY OF THE U.S. EPA ON-SCENE COORDINATOR

The OSC shall be responsible for overseeing the implementation of this Order. The OSC shall have the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any work required by this Order, or to direct any other response action undertaken by U.S. EPA or Respondents at the Site. Absence of the OSC from the Site shall not be cause for stoppage of work unless specifically directed by the OSC.

U.S. EPA and Respondents shall have the right to change their designated OSC or Project Coordinator. U.S. EPA shall notify the Respondents, and Respondents shall notify U.S. EPA, as early as possible before such a change is made, but in no case less than 24 hours before such a change. Notification may initially be made orally, but shall be followed promptly by written notice.

VII. PENALTIES FOR NONCOMPLIANCE

Violation of any provision of this Order may subject Respondents to civil penalties of up to \$27,500 per violation per day, as provided in Section 106(b)(1) of CERCLA, 42 U.S.C. § 9606(b)(1). Respondents may also be subject to punitive damages in an amount up to three times the amount of any cost incurred by the United States as a result of such violation, as provided in Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Should Respondents violate this Order or any portion hereof, U.S. EPA may carry out the required actions unilaterally, pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, and/or may seek judicial enforcement of this Order pursuant to Section 106 of CERCLA, 42 U.S.C. § 9606.

VIII. REIMBURSEMENT OF COSTS

Respondents shall reimburse U.S. EPA, upon written demand, for

all response costs incurred by the United States in overseeing Respondents' implementation of the requirements of this Order. U.S. EPA may submit to Respondents on a periodic basis a bill for all response costs incurred by the United States with respect to this Order. U.S. EPA's Itemized Cost Summary, or such other summary as certified by U.S. EPA, shall serve as the basis for payment.

Respondents shall, within 30 days of receipt of the bill, remit a cashier's or certified check for the amount of those costs made payable to the "Hazardous Substance Superfund," to the following address:

U.S. Environmental Protection Agency
Program Accounting & Analysis Section
P.O. Box 70753
Chicago, Illinois 60673

Respondents shall simultaneously transmit a copy of the check to the Director, Superfund Division, U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, Illinois, 60604-3590. Payments shall be designated as "Response Costs - Marina Cliffs Site" and shall reference the payers' names and addresses, the U.S. EPA site identification number (#PO), and the docket number of this Order.

Interest at a rate established by the Department of the Treasury pursuant to 31 U.S.C. § 3717 and 4 CFR § 102.13 shall begin to accrue on the unpaid balance from the day after the expiration of the 30 day period notwithstanding any dispute or an objection to any portion of the costs.

IX. RESERVATION OF RIGHTS

Nothing herein shall limit the power and authority of U.S. EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent U.S. EPA from seeking legal or equitable relief to enforce the terms of this Order. U.S. EPA also reserves the right to take any other legal or equitable action as it deems appropriate and necessary, or to require the Respondents in the future to perform additional activities pursuant to CERCLA or any other applicable law.

X. OTHER CLAIMS

By issuance of this Order, the United States and U.S. EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents. The United States or U.S. EPA shall not be a party or be held out as a party to any contract entered into by the Respondents or their

directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out activities pursuant to this Order.

This Order does not constitute a pre-authorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2).

Nothing in this Order constitutes a satisfaction of or release from any claim or cause of action against the Respondents or any person not a party to this Order, for any liability such person may have under CERCLA, other statutes, or the common law, including but not limited to any claims of the United States for costs, damages and interest under Sections 106(a) or 107(a) of CERCLA, 42 U.S.C. §§ 9606(a), 9607(a).

XI. MODIFICATIONS

Modifications to any plan or schedule may be made in writing by the OSC or at the OSC's oral direction. If the OSC makes an oral modification, it will be memorialized in writing within 7 business days; however, the effective date of the modification shall be the date of the OSC's oral direction. The rest of the Order, or any other portion of the Order, may only be modified in writing by signature of the Director, Superfund Division, Region 5.

If Respondents seek permission to deviate from any approved plan or schedule, Respondents' Project Coordinator shall submit a written request to U.S. EPA for approval outlining the proposed modification and its basis.

No informal advice, guidance, suggestion, or comment by U.S. EPA regarding reports, plans, specifications, schedules, or any other writing submitted by the Respondents shall relieve Respondents of their obligations to obtain such formal approval as may be required by this Order, and to comply with all requirements of this Order unless it is formally modified.

XII. NOTICE OF COMPLETION

After submission of the Final Report, Respondents may request that U.S. EPA provide a Notice of Completion of the work required by this Order. If U.S. EPA determines, after U.S. EPA's review of the Final Report, that all work has been fully performed in accordance with this Order, except for certain continuing obligations required by this Order (e.g., record retention), U.S. EPA will provide written notice to the Respondents. If U.S. EPA determines that any removal activities have not been completed in accordance with this Order, U.S. EPA will notify the Respondents,

provide a list of the deficiencies, and require that Respondents modify the Work Plan to correct such deficiencies. The Respondents shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the U.S. EPA notice. Failure to implement the approved modified Work Plan shall be a violation of this Order.

XIII. ACCESS TO ADMINISTRATIVE RECORD

The Administrative Record supporting these removal actions is available for review during normal business hours in the U.S. EPA Record Center, Region 5, 77 W. Jackson Blvd., Seventh Floor, Chicago, Illinois. Respondents may contact Thomas Krueger, Assistant Regional Counsel, at (312) 886-0562 to arrange to review the Administrative Record. An index of the Administrative Record is attached to this Order.

XIV. OPPORTUNITY TO CONFER

Within 3 business days after issuance of this Order, Respondents may request a conference with U.S. EPA. Any such conference shall be held within 5 business days from the date of the request, unless extended by agreement of the parties. At any conference held pursuant to the request, Respondents may appear in person or be represented by an attorney or other representative.

If a conference is held, Respondents may present any information, arguments or comments regarding this Order. Regardless of whether a conference is held, Respondents may submit any information, arguments or comments (including justifications for any assertions that the Order should be withdrawn against a Respondent), in writing to U.S. EPA within 2 business days following the conference, or within 7 business days of issuance of the Order if no conference is requested. This conference is not an evidentiary hearing, does not constitute a proceeding to challenge this Order, and does not give Respondents a right to seek review of this Order. Requests for a conference shall be directed to Thomas Krueger, Assistant Regional Counsel, at (312) 886-0562. Written submittals shall be directed as specified in Section V.2 of this Order.

XV. SEVERABILITY

If a court issues an order that invalidates any provision of this Order or finds that Respondents have sufficient cause not to comply with one or more provisions of this Order, Respondents

shall remain bound to comply with all provisions of this Order not invalidated by the court's order.

XVI. EFFECTIVE DATE

This Order shall be effective 10 business days following issuance unless a conference is requested as provided herein. If a conference is requested, this Order shall be effective 5 business days after the day of the conference.

IT IS SO ORDERED

BY: W. E. Muno
William E. Muno, Director
Superfund Division
United States
Environmental Protection Agency
Region 5

DATE: 7/20/98

ATTACHMENT A
RECIPIENTS OF UNILATERAL ORDER

Badger Paint and Hardware
c/o Household International
2700 Sanders Road
Prospect Heights, Illinois 60070

BASF Corporation
Attn: Doug Martin
3000 Continental Drive North
Mount Olive, New Jersey 07828-1234

Benjamin Moore & Co.
51 Chestnut Ridge Road
Montvale, New Jersey 07645
Attn: John T. Rafferty, Esq.

Chrysler Corporation
Attn: James Bloom
Office of Legal Counsel
2301 Featherstone Road
Auburn Hills, Michigan 48326-2808

General Motors Corporation
Attn: Linda Bentley, Legal Assistant
Mail Code 482 112 149
3044 W. Grand Blvd.
Detroit, Michigan 48170

The Glidden Company
Attn: Robert R. Kovalak, Manager, Environmental Affairs
925 Euclid Avenue, Suite 900
Cleveland, Ohio 44115

Harnischfeger Corporation
P.O. Box 554
Milwaukee, Wisconsin 53201-0554
Attn: Kevin J. Domack
Director of Environmental Affairs

Hercules Incorporated
Hercules Plaza - 8th Floor
1313 North Market Street
Wilmington, Delaware 19894
Attn: Amy S. Cohen

S.C. Johnson & Son, Inc.
1525 Howe Street
Racine, Wisconsin 53403-5011
Attn: Gary A. Krieger

Kearney & Trecker Corporation
c/o Giddings & Lewis, Inc.
142 Doty Street
P.O. Box 590
Fond du Lac, Wisconsin 54936-0590

Kimberly-Clark Corporation
1400 Holcomb Bridge Road
Roswell, Georgia 30076
Attn: Marcia Cowan

Mautz Paint Company
939 East Washington Avenue
P.O. Box 7068
Madison, Wisconsin 53703

Menasha Printing Ink Co.
c/o Sequa Corporation
Three University Plaza
Hackensack, New Jersey 07601

Minnesota Mining & Manufacturing Company
3M Center Building
P.O. Box 33428
St. Paul, Minnesota 33428
Attn: Brian Davis, OGC

Outboard Marine Corporation
(Evinrude Motors)
100 Sea Horse Drive
Waukegan, Illinois 60085
Attn: Joseph Moran

Pfister & Vogel Leather Co.
c/o Martel J. Bundy
Daniel G. Jarlenski
McGrath, North, Mullin & Kratz, P.C.
222 South 15th Street
1400 One Central Park Plaza
Omaha, Nebraska 68102

PPG Industries, Inc.
One PPG Place
Pittsburgh, Pennsylvania 15272
Attn: Joseph Karas

Reichhold Chemicals, Inc.
c/o Martel J. Bundy, Esq.
Daniel G. Jarlenski, Esq.
McGrath, North, Mullin & Kratz, P.C.
222 South 15th Street
1400 One Central Park Plaza
Omaha, Nebraska 68102

Scott Paper Company
c/o Kimberly-Clark Corporation
Attn: Marcia K. Cowan, Esq.
1400 Holcomb Bridge Road
Roswell, Georgia 30076

The Sherwin-Williams Company
101 Prospect Avenue, N.W.
Cleveland, Ohio 44115-1075

Speed Queen Corporation
P.O. Box 990
Ripon, Wisconsin 54971

Speed Queen Corporation
c/o Raytheon Company
141 Spring Street
Lexington, Massachusetts 02173
Attn: Jeffrey B. Axelrod

Tousey Varnish Company
c/o Sequa Corporation
Three University Plaza
Hackensack, New Jersey 07601

Towne Realty
Attn: James B. Young, General Counsel
710 N. Plankinton Avenue
Milwaukee, Wisconsin 53203

The Valspar Corporation
Attn: Ronda P. Bayer, Senior Counsel
1101 Third Street South
Minneapolis, MN 55415

Wisconsin Solvents and Chemicals
c/o Chem Central Corporation
2400 S. 170th Street
New Berlin, Wisconsin 53151

ZPC Industrial Coatings
1439 N. 25th Street
Sheboygan, Wisconsin 53081

ZPC Industrial Coatings
c/o BR Industries, Inc.
Attn: Paul Shemanske, Senior VP
P.O. Box 20770
Milwaukee, Wisconsin 53220-0770

ZPC Industrial Coatings
c/o Sheboygan Paint
P.O. 417
Sheboygan, Wisconsin 53082-0417



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3580

E.S
5/21/98

MAY 21 1998

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

SE-5J

Darrell Hofland
Village Administrator
Village of Grafton
1971 Washington Street
P.O. Box 125
Grafton, Wisconsin 53024

Re: Township of Grafton
Residential Well Contamination Site
Town of Grafton, Wisconsin

Dear Mr. Hofland:

Enclosed please find a Unilateral Administrative Order prepared by the U.S. Environmental Protection Agency ("U.S. EPA") under Section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), 42 U.S.C. Section 9601, et seq.

Please note that the Order allows an opportunity for a conference if requested within 3 business days after issuance of the Order, or if no conference is requested, an opportunity to submit comments within 7 business days of issuance of the Order.

If you have any questions regarding the Order, feel free to contact Thomas Nash, Assistant Regional Counsel, at (312) 886-0556 or Kenneth M. Theisen, On-Scene Coordinator, at (312) 886-1959.

Sincerely yours,

William E. Muno, Director
Superfund Division

Enclosures

cc: State Agency Superfund Coordinator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

SR-5J

Lester A. Bartel, Jr.
Chairman, Town of Grafton
P.O. Box 143
1230-11th Ave.
Grafton, Wisconsin 53024

Re: Township of Grafton
Residential Well Contamination Site
Town of Grafton, Wisconsin

Dear Mr. Bartel:

Enclosed please find a Unilateral Administrative Order prepared by the U.S. Environmental Protection Agency ("U.S. EPA") under Section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), 42 U.S.C. Section 9601, et seq.

Please note that the Order allows an opportunity for a conference if requested within 3 business days after issuance of the Order, or if no conference is requested, an opportunity to submit comments within 7 business days of issuance of the Order.

If you have any questions regarding the Order, feel free to contact Thomas Nash, Assistant Regional Counsel, at (312) 886-0556 or Kenneth M. Theisen, On-Scene Coordinator, at (312) 886-1959.

Sincerely yours,

William E. Muno, Director
Superfund Division

Enclosures

cc: State Agency Superfund Coordinator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 5

IN THE MATTER OF:) Docket No. **W-98-C-469**
)
Township of Grafton)
Residential Well) ADMINISTRATIVE ORDER
Contamination Site) PURSUANT TO SECTION 106(a)
) OF THE COMPREHENSIVE
Respondents:) ENVIRONMENTAL RESPONSE,
) COMPENSATION, AND
) LIABILITY ACT OF 1980,
Town of Grafton) AS AMENDED, 42 U.S.C.
Village of Grafton) SECTION 9606(a)

I. JURISDICTION AND GENERAL PROVISIONS

This Order is issued pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9606(a), and delegated to the Administrator of the United States Environmental Protection Agency ("U.S. EPA") by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, and further delegated to the Regional Administrators by U.S. EPA Delegation Nos. 14-14-A and 14-14-B, and to the Director, Superfund Division, Region 5, by Regional Delegation Nos. 14-14-A and 14-14-B.

This Order pertains to property located near the Village of Saukville and the Village of Grafton, in unincorporated Ozaukee County, Town of Grafton, Wisconsin (the Township of Grafton Residential Well Contamination Site or the "Site"). The Order requires the Respondents to conduct removal activities described herein to abate an imminent and substantial endangerment to the public health, welfare or the environment that may be presented by the actual or threatened release of hazardous substances at or from the Site.

U.S. EPA has notified the State of Wisconsin of this action pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

II. PARTIES BOUND

This Order applies to and is binding upon Respondents and Respondents' receivers, trustees, successors and assigns. Any change in ownership or corporate status of any Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter such Respondent's responsibilities under this Order. Respondents are jointly and

severally liable for carrying out all activities required by this Order. Compliance or noncompliance by one or more Respondents with any provision of this Order shall not excuse or justify noncompliance by any other Respondent.

Respondents shall ensure that their contractors, subcontractors, and representatives comply with this Order and shall be responsible for any noncompliance.

III. FINDINGS OF FACT

Based on available information, including the Administrative Record in this matter, U.S. EPA hereby finds that:

1. The Site is located in a rural area, near the Village of Saukville and the Village of Grafton, in unincorporated Ozaukee County, Town of Grafton, Wisconsin. The affected residences are located on or adjacent to Edgewood Drive, on the southeast corner of Cedar Sauk and Maple Roads in the northwestern portion of the township. It is a residential area of larger houses. Approximately 1,600 people live within a one mile radius of the Site. The Milwaukee River flows southeast of Site.

2. The source of contamination is suspected to be the nearby Denow Landfill ("Landfill") located in the Town of Grafton. Residences within the well-contaminated area are located down gradient of the Landfill. It is likely that the Landfill may be leaking and contaminating the groundwater and is affecting residential wells in that area.

3. The Landfill began operation in 1971 and was closed in 1989. The property owner at the time of licensing was Charles Denow and ownership was transferred to his son James Denow in the 1980's. The Town of Grafton leased the property from Mr. Denow; the Town of Grafton and the Village of Grafton operated and used the Landfill.

During this period, residents and industries within the Village of Grafton and the Town of Grafton disposed of waste material in the Landfill.

4. The Wisconsin Department of Natural Resources (WDNR) records show that the Landfill was licensed to accept only solid waste (e.g., brush and old concrete), not chemical or hazardous waste. However, during the period of the Landfill's operation, the Solid Waste Division of the WDNR conducted several inspections of the Landfill and documented with photographs and inspection reports that drums of chemical wastes were dumped there.

6. In January 1998, the Site was discovered by the Wisconsin Department of Natural Resources Investigation Team which developed a plan for monitoring private wells near un-monitored landfills in Ozaukee County. The Team collected samples from private wells near the Denow Landfill in the Town of Grafton. A total of eight residential wells were found to be contaminated with vinyl chloride (VC). The concentrations of vinyl chloride in the affected wells range from 0.5 to 33 ppb.

7. Vinyl chloride is a known human carcinogen and has been classified as a Class A carcinogen by EPA. Of the eight (8) contaminated wells, six (6) were found to contain VC above Removal Action Level (RAL) of 1.8 ppb. The WDNR provided bottled water to residents of the six (6) residences, as part of an emergency response action.

8. On February 3, 1998, EPA Region 5 received a written request for assistance from the Chairman of the Town of Grafton to provide filtration systems for the contaminated residential wells.

9. On February 3, 1998, EPA mobilized to the Site and in cooperation with the WDNR, conducted a confirmation sampling of two contaminated residential wells in which the WDNR sample results indicated an exceedance of the RAL for vinyl chloride. In addition, six additional samples were collected from adjacent homes in order to delineate the contaminant plume and the potential to impact additional wells above the RAL. The two confirmatory samples did duplicate the WDNR results.

10. On February 6, 1998, EPA's contractor was tasked to install air stripping system in the affected (six) homes. The installation of the air stripping systems was completed by the end of the month, and has provided an immediate and effective method to protect domestic water supply of the affected residents until a permanent remedy can be investigated and installed.

IV. CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the Findings of Fact set forth above, and the Administrative Record supporting these removal actions, U.S. EPA determines that:

1. The Township of Grafton Residential Well Contamination Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

2. Vinyl Chloride is "hazardous substance" as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

3. Respondents are "persons" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

4. Respondents were "operators" or arranged for disposal or transport for disposal of hazardous substances or generated and arranged for disposal or transport for disposal at the Denow Landfill portion of the Site, as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20). Respondents are therefore liable under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

5. The conditions described in the Findings of Fact above constitute an actual "release" into the "environment" as defined by Sections 101(8) and (22) of CERCLA, 42 U.S.C. §§ 9601(8) and (22).

6. The conditions present at the Site constitute a threat to public health, welfare, or the environment based upon the factors set forth in Section 300.415(b)(2) of the National Oil and Hazardous Substances Pollution Contingency Plan, as amended ("NCP"), 40 CFR Part 300. These factors include, but are not limited to, the following:

a. Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances, pollutants or contaminants; this factor is present at the Site due to the existence of vinyl chloride.

b. Actual or potential contamination of drinking water supplies or sensitive ecosystems; this factor is present at the Site due to the presence of vinyl chloride in the groundwater and in drinking water wells.

c. Other situations or factors that may pose threats to public health or welfare or the environment; this factor is present at the Site due to the presence of vinyl chloride.

7. The actual or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the public health, welfare, or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

8. The removal actions required by this Order are necessary to protect the public health, welfare, or the environment, and are not inconsistent with the NCP and CERCLA.

V. ORDER

Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the Administrative Record for this Site, U.S. EPA hereby orders that Respondents perform the following actions:

1. Notice of Intent to Comply

Respondents shall notify U.S. EPA in writing within 3 business days after the effective date of this Order of Respondents' irrevocable intent to comply with this Order. Failure of Respondents to provide such notification within this time period shall be a violation of this Order.

2. Designation of Contractor, Project Coordinator, and On-Scene Coordinator

Respondents shall perform the removal actions themselves or retain contractor(s) to implement the removal actions. Respondents shall notify U.S. EPA of Respondents' qualifications or the name and qualifications of such contractor(s), whichever is applicable, within 5 business days of the effective date of this Order. Respondents shall also notify U.S. EPA of the name and qualifications of any other contractors or subcontractors retained to perform work under this Order at least 5 business days prior to commencement of such work. U.S. EPA retains the right to disapprove of the Respondents or any of the contractors and/or subcontractors retained by the Respondents. If U.S. EPA disapproves a selected contractor, Respondents shall retain a different contractor within 2 business days following U.S. EPA's disapproval and shall notify U.S. EPA of that contractor's name and qualifications within 3 business days of U.S. EPA's disapproval.

Within 5 business days after the effective date of this Order, the Respondents shall designate a Project Coordinator who shall be responsible for administration of all the Respondent's actions required by the Order and submit the designated coordinator's name, address, telephone number, and qualifications to U.S. EPA. To the greatest extent possible, the Project Coordinator shall be present on-site or readily available during site work. U.S. EPA retains the right to disapprove of any Project Coordinator named by the Respondents. If U.S. EPA disapproves a selected Project Coordinator, Respondents shall retain a different Project Coordinator within 3 business days following U.S. EPA's disapproval and shall notify U.S. EPA of that person's name and qualifications within 4 business days of U.S. EPA's disapproval. Receipt by Respondents' Project Coordinator of any notice or communication from U.S. EPA relating to this Order shall constitute receipt by Respondents.

The U.S. EPA has designated Kenneth M. Theisen of the Emergency Response Branch, Region 5, as its On-Scene Coordinator ("OSC"). Respondents shall direct all submissions required by this Order to the OSC at 77 West Jackson Boulevard, SE-5J, Chicago, Illinois 60604, by certified or express mail. Respondents shall also send a copy of all submissions to Thomas Nash, Assistant Regional Counsel, 77 West Jackson Boulevard, C-14J, Chicago, Illinois, 60604-3590. Respondents are encouraged to make their submissions to U.S. EPA on recycled paper (which includes significant postconsumer waste paper content where possible) and using two-sided copies.

3. Work to Be Performed

Respondents shall perform, at a minimum, the following response activities:

a. Respondents shall be responsible for the engineering and construction of a water main extension project. The project will bring municipal water to the individual households in the area affected by contamination with VC, hereinafter referred to as the "affected area," as determined by EPA. The individuals who reside in the affected area are hereinafter referred to as the "affected residents." The actual cost of the connection to the municipal water supply shall be borne solely by Respondents and shall not be passed on to those residents in the affected area. Any monthly water bills will be considered a legitimate charge that can be passed on to residents in the affected area.

If the Respondents elect to establish their own water utility, the creation of this district will follow all the WDNR licensing and permitting requirements.

b. Respondents shall be responsible for the abandonment of the primary private wells for those residents who agree to be connected to municipal water. This work will be as per the WDNR specifications.

c. Respondents shall be responsible for monitoring the movement of the plume of contamination. The number of samples, frequency of each sampling episode, and the time this sampling shall continue for, shall be negotiated with the WDNR to the mutual satisfaction of both parties.

d. Respondents shall prepare a Draft Work Plan which includes the following:

1. Who will be responsible for the project oversight and how that oversight will be carried out.

2. A time line indicating dates of: public information meetings, drawing submittals, bidding process, contractor selection, pre-construction meeting, project start date, and anticipated substantial completion dates. For purposes of this Order, EPA will require substantial completion on or before December 1, 1998.

The U.S. EPA has defined substantial completion as: all homes in the affected area are connected to a municipal water supply by December 1, 1998.

3. A set of preliminary drawings of the affected area including whatever detail is included in typical good engineering practices.

f. Respondents shall submit a final set of drawings with all changes, additions and deletions identified by EPA's review of the preliminary drawings.

3.1 Work Plan and Implementation

Within 30 business days after the effective date of this Order, the Respondents shall submit to U.S. EPA for approval a draft Work Plan for performing the removal activities set forth above. The draft Work Plan shall provide a description of, and an expeditious schedule for, the activities required by this Order.

U.S. EPA may approve, disapprove, require revisions to, or modify the draft Work Plan. If U.S. EPA requires revisions, Respondents shall submit a revised draft Work Plan within 7 business days of notification. Respondents shall implement the Work Plan as finally approved in writing by U.S. EPA in accordance with the schedule approved by U.S. EPA. Once approved, or approved with modifications, the Work Plan, the schedule, and any subsequent modifications shall be fully enforceable under this Order. Respondents shall notify U.S. EPA at least 48 hours prior to performing any on-site work pursuant to the U.S. EPA approved Work Plan.

Respondents shall not commence or undertake any removal actions at the Site without prior U.S. EPA approval.

3.2 Health and Safety Plan

Within 10 business days after the effective date of the this Order, the Respondents shall submit a plan for U.S. EPA review and comment that ensures the protection of the public health and safety during performance of on-site work under this Order. This plan shall comply with Applicable Occupational Safety and Health Administration ("OSHA") regulations found at 29 CFR Part 1910.

If U.S. EPA determines it is appropriate, the plan shall also include contingency planning. Respondents shall incorporate all changes to the plan recommended by U.S. EPA, and implement the plan during the pendency of the removal action.

3.3 Quality Assurance and Sampling

All sampling and analyses performed pursuant to this Order shall conform to U.S. EPA direction, approval, and guidance regarding sampling, quality assurance/quality control ("QA/QC"), data validation, and chain of custody procedures. Respondents shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with U.S. EPA guidance. Upon request by U.S. EPA, Respondents shall have such a laboratory analyze samples submitted by U.S. EPA for quality assurance monitoring. Respondents shall provide to U.S. EPA the quality assurance/quality control procedures followed by all sampling teams and laboratories performing data collection and/or analysis. Respondents shall also ensure provision of analytical tracking information consistent with OSWER Directive No. 9240.0-2B, "Extending the Tracking of Analytical Services to PRP-Lead Superfund Sites."

Upon request by U.S. EPA, Respondents shall allow U.S. EPA or its authorized representatives to take split and/or duplicate samples of any samples collected by Respondents or their contractors or agents while performing work under this Order. Respondents shall notify U.S. EPA not less than 3 business days in advance of any sample collection activity. U.S. EPA shall have the right to take any additional samples that it deems necessary.

3.4 Reporting

Respondents shall submit a monthly written progress report to U.S. EPA concerning activities undertaken pursuant to this Order, beginning 30 calendar days after the date of U.S. EPA's approval of the Work Plan, until termination of this Order, unless otherwise directed by the OSC. These reports shall describe all significant developments during the preceding period, including the work performed and any problems encountered, analytical data received during the reporting period, and developments anticipated during the next reporting period, including a schedule of work to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

Any Respondent that owns any portion of the Site, and any successor in title shall, at least 30 days prior to the conveyance of any interest in real property at the Site, give written notice of this Order to the transferee and written notice of the proposed conveyance to U.S. EPA and the State. The notice to U.S. EPA and the State shall include the name and address of the transferee. The party conveying such an interest shall

require that the transferee will provide access as described in Section V.4 (Access to Property and Information).

3.5 Final Report

Within 60 calendar days after completion of all removal actions required under this Order, the Respondents shall submit for U.S. EPA review a final report summarizing the actions taken to comply with this Order. The final report shall conform to the requirements set forth in Section 300.165 of the NCP. The final report shall also include a good faith estimate of total costs incurred in complying with the Order, a listing of quantities and types of materials removed, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destinations of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (e.g., manifests, invoices, bills, contracts, and permits).

The final report shall also include the following certification signed by a person who supervised or directed the preparation of that report:

Under penalty of law, I certify that, to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of this report, the information submitted is true, accurate, and complete.

4. Access to Property and Information

Respondents shall provide or obtain access as necessary to the Site and all appropriate off-site areas, and shall provide access to all records and documentation related to the conditions at the Site and the activities conducted pursuant to this Order. Such access shall be provided to U.S. EPA employees, contractors, agents, consultants, designees, representatives, and State of Wisconsin representatives. These individuals shall be permitted to move freely at the Site and appropriate off-site areas in order to conduct activities which U.S. EPA determines to be necessary. Respondents shall submit to U.S. EPA, upon request, the results of all sampling or tests and all other data generated by Respondents or their contractor(s), or on the Respondents' behalf during implementation of this Order.

Where work under this Order is to be performed in areas owned by or in possession of someone other than Respondents, Respondents shall obtain all necessary access agreements within 14 calendar days after the effective date of this Order, or as otherwise specified in writing by the OSC. Respondents shall immediately notify U.S. EPA if, after using their best efforts, it is unable

to obtain such agreements. Respondents shall describe in writing their efforts to obtain access. U.S. EPA may then assist Respondents in gaining access, to the extent necessary to effectuate the response activities described herein, using such means as U.S. EPA deems appropriate.

5. Record Retention, Documentation, Availability of Information

Respondents shall preserve all documents and information, in their possession or the possession of their contractors, subcontractors or representatives, relating to work performed under this Order, or relating to the hazardous substances found on or released from the Site, for six years following completion of the removal actions required by this Order. At the end of this six year period and at least 60 days before any document or information is destroyed, Respondents shall notify U.S. EPA that such documents and information are available to U.S. EPA for inspection, and upon request, shall provide the originals or copies of such documents and information to U.S. EPA. In addition, Respondents shall provide documents and information retained under this Section at any time before expiration of the six year period at the written request of U.S. EPA. Any information that Respondents are required to provide or maintain pursuant to this Order is not subject to the Paperwork Reduction Act of 1995, 44 U.S.C. §3501 et seq.

6. Off-Site Shipments

All hazardous substances, pollutants or contaminants removed off-site pursuant to this Order for treatment, storage or disposal shall be treated, stored, or disposed of at a facility in compliance, as determined by U.S. EPA, with the U.S. EPA Off-Site Rule, 40 CFR § 300.440, 58 Federal Register 49215 (Sept. 22, 1993).

7. Compliance With Other Laws

All actions required pursuant to this Order shall be performed in accordance with all applicable local, state, and federal laws and regulations except as provided in CERCLA Section 121(e) and 40 CFR Section 300.415(j). In accordance with 40 CFR Section 300.415(j), all on-site actions required pursuant to this Order shall, to the extent practicable, as determined by U.S. EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements under federal environmental or state environmental or facility siting laws.

8. Emergency Response and Notification of Releases

If any incident, or change in Site conditions, during the activities conducted pursuant to this Order causes or threatens to cause an additional release of hazardous substances from the

Site or an endangerment to the public health, welfare, or the environment, the Respondents shall immediately take all appropriate action to prevent, abate or minimize such release, or endangerment caused or threatened by the release. Respondents shall also immediately notify the OSC or, in the event of his/her unavailability, shall notify the Regional Duty Officer, Emergency Response Branch, Region 5 at (312) 353-2318, of the incident or Site conditions.

Respondents shall submit a written report to U.S. EPA within 7 business days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. Respondents shall also comply with any other notification requirements, including those in CERCLA Section 103, 42 U.S.C. § 9603, and Section 304 of the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. § 11004.

VI. AUTHORITY OF THE U.S. EPA ON-SITE COORDINATOR

The OSC shall be responsible for overseeing the implementation of this Order. The OSC shall have the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any work required by this Order, or to direct any other response action undertaken by U.S. EPA or Respondents at the Site. Absence of the OSC from the Site shall not be cause for stoppage of work unless specifically directed by the OSC.

U.S. EPA and Respondents shall have the right to change their designated OSC or Project Coordinator. U.S. EPA shall notify the Respondents, and Respondents shall notify U.S. EPA, as early as possible before such a change is made, but in no case less than 24 hours before such a change. Notification may initially be made orally, but shall be followed promptly by written notice.

VII. PENALTIES FOR NONCOMPLIANCE

Violation of any provision of this Order may subject Respondents to civil penalties of up to \$27,500 per violation per day, as provided in Section 106(b)(1) of CERCLA, 42 U.S.C. § 9606(b)(1). Respondents may also be subject to punitive damages in an amount up to three times the amount of any cost incurred by the United States as a result of such violation, as provided in Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Should Respondents violate this Order or any portion hereof, U.S. EPA may carry out

the required actions unilaterally, pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, and/or may seek judicial enforcement of this Order pursuant to Section 106 of CERCLA, 42 U.S.C. § 9606.

VIII. REIMBURSEMENT OF COSTS

Respondents shall reimburse U.S. EPA, upon written demand, for all response costs incurred by the United States in overseeing Respondents' implementation of the requirements of this Order. U.S. EPA may submit to Respondents on a periodic basis a bill for all response costs incurred by the United States with respect to this Order. U.S. EPA's Itemized Cost Summary, or such other summary as certified by U.S. EPA, shall serve as the basis for payment.

Respondents shall, within 30 days of receipt of the bill, remit a cashier's or certified check for the amount of those costs made payable to the "Hazardous Substance Superfund," to the following address:

U.S. Environmental Protection Agency
Program Accounting & Analysis Section
P.O. Box 70753
Chicago, Illinois 60673

Respondents shall simultaneously transmit a copy of the check to the Director, Superfund Division, U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, Illinois, 60604-3590. Payments shall be designated as "Response Costs - Township of Grafton Residential Well Contamination Site" and shall reference the payer's name and address, the U.S. EPA site identification number (B540), and the docket number of this Order.

Interest at a rate established by the Department of the Treasury pursuant to 31 U.S.C. § 3717 and 4 CFR § 102.13 shall begin to accrue on the unpaid balance from the day after the expiration of the 30 day period notwithstanding any dispute or an objection to any portion of the costs.

IX. RESERVATION OF RIGHTS

Nothing herein shall limit the power and authority of U.S. EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent U.S. EPA from seeking legal or equitable relief to enforce the terms of this Order. U.S. EPA also reserves the right to take any other legal or equitable action as it deems

appropriate and necessary, or to require the Respondents in the future to perform additional activities pursuant to CERCLA or any other applicable law.

X. OTHER CLAIMS

By issuance of this Order, the United States and U.S. EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents. The United States or U.S. EPA shall not be a party or be held out as a party to any contract entered into by the Respondents or their directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out activities pursuant to this Order.

This Order does not constitute a pre-authorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2).

Nothing in this Order constitutes a satisfaction of or release from any claim or cause of action against the Respondents or any person not a party to this Order, for any liability such person may have under CERCLA, other statutes, or the common law, including but not limited to any claims of the United States for costs, damages and interest under Sections 106(a) or 107(a) of CERCLA, 42 U.S.C. §§ 9606(a), 9607(a).

XI. MODIFICATIONS

Modifications to any plan or schedule may be made in writing by the OSC or at the OSC's oral direction. If the OSC makes an oral modification, it will be memorialized in writing within 7 business days; however, the effective date of the modification shall be the date of the OSC's oral direction. The rest of the Order, or any other portion of the Order, may only be modified in writing by signature of the Director, Superfund Division, Region 5.

If Respondents seek permission to deviate from any approved plan or schedule, Respondents' Project Coordinator shall submit a written request to U.S. EPA for approval outlining the proposed modification and its basis.

No informal advice, guidance, suggestion, or comment by U.S. EPA regarding reports, plans, specifications, schedules, or any other writing submitted by the Respondents shall relieve Respondents of their obligations to obtain such formal approval as may be required by this Order, and to comply with all requirements of this Order unless it is formally modified.

XIII. NOTICE OF COMPLETION

After submission of the Final Report, Respondents may request that U.S. EPA provide a Notice of Completion of the work required by this Order. If U.S. EPA determines, after U.S. EPA's review of the Final Report, that all work has been fully performed in accordance with this Order, except for certain continuing obligations required by this Order (e.g., record retention), U.S. EPA will provide written notice to the Respondents. If U.S. EPA determines that any removal activities have not been completed in accordance with this Order, U.S. EPA will notify the Respondents, provide a list of the deficiencies, and require that Respondents modify the Work Plan to correct such deficiencies. The Respondents shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the U.S. EPA notice. Failure to implement the approved modified Work Plan shall be a violation of this Order.

XIV. ACCESS TO ADMINISTRATIVE RECORD

The Administrative Record supporting these removal actions is available for review during normal business hours in the U.S. EPA Record Center, Region 5, 77 W. Jackson Blvd., Seventh Floor, Chicago, Illinois. Respondents may contact Thomas Nash, Assistant Regional Counsel, at (312) 886-0556 to arrange to review the Administrative Record. An index of the Administrative Record is attached to this Order.

XV. OPPORTUNITY TO CONFER

Within 3 business days after issuance of this Order, Respondents may request a conference with U.S. EPA. Any such conference shall be held within 5 business days from the date of the request, unless extended by agreement of the parties. At any conference held pursuant to the request, Respondents may appear in person or be represented by an attorney or other representative.

If a conference is held, Respondents may present any information, arguments or comments regarding this Order. Regardless of whether a conference is held, Respondent may submit any information, arguments or comments (including justifications for any assertions that the Order should be withdrawn against a Respondent), in writing to U.S. EPA within 2 business days following the conference, or within 7 business days of issuance of the Order if no conference is requested. This conference is not an evidentiary hearing, does not constitute a proceeding to challenge this Order, and does not give Respondents a right to

seek review of this Order. Requests for a conference shall be directed to Thomas Nash, Assistant Regional Counsel, at (312)886-0556. Written submittals shall be directed as specified in Section V.2 of this Order.

XV. SEVERABILITY

If a court issues an order that invalidates any provision of this Order or finds that Respondents have sufficient cause not to comply with one or more provisions of this Order, Respondents shall remain bound to comply with all provisions of this Order not invalidated by the court's order.

XVI. EFFECTIVE DATE

This Order shall be effective 10 business days following issuance unless a conference is requested as provided herein. If a conference is requested, this Order shall be effective 5 business days after the day of the conference.

IT IS SO ORDERED

BY: 
William E. Muno, Director
Superfund Division
United States
Environmental Protection Agency
Region 5

DATE: 5/21/97

STATE SUPERFUND COORDINATORS:

Wisconsin

Mark Giesfeldt, Director
Wisconsin Department of
Natural Resources
P.O. Box 7921
101 South Webster Street
Madison, Wisconsin 53707

LIST OF PER# RECEIVING UNILATERAL ADMINISTRATIVE ORDER

1. Lester A. Bartel, Jr.
Chairman, Town of Grafton
P.O. Box 143
1230-11th Ave.
Grafton, Wisconsin 53024

2. Darrell Hofland
Village Administrator
Village of Grafton
1971 Washington Street
P.O. Box 125
Grafton, WI 53024

U.S. ENVIRONMENTAL PROTECTION AGENCY
REMOVAL ACTION

ATTACHMENT A

ADMINISTRATIVE RECORD
FOR
TOWNSHIP OF GRAFTON RESIDENTIAL WELL CONTAMINATION SITE
TOWN OF GRAFTON, OZAUKEE COUNTY, WISCONSIN

May 20, 1998

NO.	DATE	AUTHOR	RECIPIENT	TITLE/DESCRIPTION	PAGES
1.	02/03/98	Bartel, L., Chairman, Town of Grafton	Rollins, F., U.S. EPA	Letter re: Official Notifi- cation from the town of Grafton Requesting EPA to Respond Well Contamination Issue	1
2.	02/03/98	START	U.S. EPA	Residential Sampling Results Letter Report (03/17/1998)	
3.	03/17/98	Theisen, K. U.S. EPA	Karl, R. U.S. EPA	Action Memorandum: Request for a Time-Critical Removal Action at the Township of Grafton residential Well Contamination Site	24
4.	04/10/98	Karl, R. U.S. EPA	Hofland, D. Village of Grafton	General Notice of Liability	3
5.	04/10/98	Karl, R. U.S. EPA	Bartel, L. Town of Grafton	General Notice of Liability	3
6.	04/10/98	Karl, R. U.S. EPA	Denow, J. Saukville, Wisconsin	General Notice of Liability	3
7.	04/22/98	Carlton, M. Town of Grafton	Khanna, K. U.S. EPA	Letter Ref: General Notice of Liability	1
8.	04/23/98	Khanna, K. U.S. EPA	Hofland, D. Village of Grafton	Draft Administrative Order by Consent	21
9.	04/23/98	Khanna, K. U.S. EPA	Bartel, L., Town of Grafton	Draft Administrative Order by Consent	21
10.	05/18/98	Karl, R. U.S. EPA	President, Remord Corp.	General Notice of Liability	4
11.	05/18/98	Karl, R. U.S. EPA	President, Tecumseh Products, Co.	General Notice of Liability	4
12.	05/18/98	Karl, R. U.S. EPA	President, Brunswick Corp.	General Notice of Liability	4

U.S. ENVIRONMENTAL PROTECTION AGENCY
REMOVAL ACTION

ATTACHMENT B

Liability File Index

FOR

TOWNSHIP OF GRAFTON RESIDENTIAL WELL CONTAMINATION SITE
TOWN OF GRAFTON, OZAUKEE COUNTY, WISCONSIN

May 20, 1998

1. Town\Village Grafton Landfill File
2. Grafton Sanitary Landfill
Grafton Township, Ozaukee County, Wisconsin
PRP INVESTIGATION FILE
(Complied by Joe Malek, Civil Investigator)