

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

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

e. "EPA Hazardous Substance Superfund" shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. 9507.

f. "Interest" shall mean interest at the current rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a).<sup>1</sup>

g. "Paragraph" shall mean a portion of this Consent Order identified by an arabic numeral.

h. "Parties" shall mean EPA and the Respondents.

i. "Respondents" shall mean those persons, corporations, or other entities listed in Appendix A.

j. "Response costs" shall mean all costs of "response" as that term is defined by Section 101(25) of CERCLA, 42 U.S.C. 9601(25).

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

l. "Site" shall mean the \_\_\_\_\_ Superfund Site, encompassing approximately \_\_\_\_\_ acres, located [insert address or description of location] in [insert City, County, State] and [insert either "depicted more clearly on the map attached as Appendix B" or "designated by the following property description: \_\_\_\_\_"]

m. "United States" shall mean the United States of America, including its departments, agencies and instrumentalities.

#### IV. Statement of Facts

6. [In one or more paragraphs, insert site name, location, description, NPL status and brief statement of historical hazardous substance activity at the site.]

7. Hazardous substances have been or are threatened to be released at or from the Site.

[Note: Additional information about specific hazardous substances present on- or off-site may be included.]

8. As a result of the release or threatened release of hazardous

substances, EPA has undertaken response actions at or in connection with the Site under Section 104 of CERCLA, 42 U.S.C. 9604, and will undertake response actions in the future.

[Note: Insert brief description of response actions undertaken at the site to date by EPA or private parties, noting whether a removal, RI/FS or ROD(s) have been completed. Describe briefly any prior settlements for performance of work at the site. Note whether further response action is planned.]

9. In performing these response actions, EPA has incurred and will continue to incur response costs at or in connection with the Site.

[Note: The dollar amount of costs incurred as of a specific date should be included. Describe briefly any previous cost recovery settlements under which any of these costs have been reimbursed to EPA by site PRPs.]

10. [Identify each respondent and its relationship to the site. If respondents are numerous, state generally that "Each Respondent listed on Appendix A arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of a hazardous substance owned or possessed by such Respondent, by any other person or entity, at the Site, or accepted a hazardous substance for transport to the Site which was selected by such Respondent."]

11. [In one or more paragraphs, present in summary fashion the factual basis for EPA's determination in Section V below that the amount of hazardous substances contributed to the site by each respondent and the toxic or other hazardous effects of the substances contributed to the site by each respondent are minimal in comparison to other hazardous substances at the site. The language will vary depending upon the criteria established for the particular settlement. An example follows:

"The amount of hazardous substances contributed to the Site by each Respondent does not exceed [insert either "\_\_\_\_\_% of the hazardous substances at the Site," or "\_\_\_\_\_ pounds/gallons of materials containing hazardous substances,"] and the hazardous substances contributed by each Respondent to the Site are not significantly more toxic or of significantly greater hazardous effect than other hazardous substances at the Site."]

[Note: Where practicable, an attachment listing the volume and general nature of the hazardous substances contributed to the site by each respondent, to the extent available, may be included as an appendix. The total estimated volume of hazardous substances at

the site should be noted on the attachment, if one is used.]

12. EPA estimates that the total response costs incurred and to be incurred at or in connection with the Site by the EPA Hazardous Substance Superfund and by private parties is [insert either "\$\_\_\_\_\_" or "between \$\_\_\_\_\_ and \$\_\_\_\_\_"]. The payment required to be made by each Respondent pursuant to this Consent Order is a minor portion of this total amount.

[Note: The dollar figure inserted should include the total response costs incurred to date as well as the Agency's projection of the total response costs to be incurred during completion of the remedial action at the site. The response cost estimate should include United States and private party costs.]

#### V. Determinations

13. Based upon the Statement of Facts set forth above and on the administrative record for this Site, EPA has determined that:

a. The [insert site name] site is a "facility" as that term is defined in Section 101(9) of CERCLA, 42 U.S.C. 9601(9).

b. Each Respondent is a "person" as that term is defined in Section 101(21) of CERCLA, 42 U.S.C. 9601(21).

c. Each Respondent is a "potentially responsible party" within the meaning of Section 122(g)(1) of CERCLA, 42 U.S.C. 9622(g)(1).

d. There has been an actual or threatened "release" of a "hazardous substance" from the Site as those terms are defined in Section 101(22) and (14) of CERCLA, 42 U.S.C. 9601(22) and (14).

e. The actual or threatened "release" caused the incurrence of response costs.

f. Prompt settlement with each Respondent is practicable and in the public interest within the meaning of Section 122(g)(1) of CERCLA, 42 U.S.C. 9622(g)(1).

g. As to each Respondent, this Consent Order involves only a minor portion of the response costs at the Site within the meaning of Section 122(g)(1) of CERCLA, 42 U.S.C. 9622(g)(1).

h. The amount of hazardous substances contributed to the Site by each Respondent and the toxic or other hazardous effects of the hazardous substances contributed to the Site by each Respondent are minimal in comparison to other hazardous substances at the Site within the meaning of Section 122(g)(1)(A) of CERCLA, 42 U.S.C. 9622(g)(1)(A).

[Note: If Attorney General approval is not required for this settlement because total past and projected response costs of the United States at the site are not expected to exceed \$500,000, insert the following Paragraph 13(i).]

<sup>1</sup> The Superfund currently is invested in 52-week MK bills. The interest rate for these MK bills changes on October 1 of each year. To obtain the current rate, contact Vince Velez, Office of Administration and Resource Management, Financial Management Division, Superfund Accounting Branch, at (202) 260-6465.