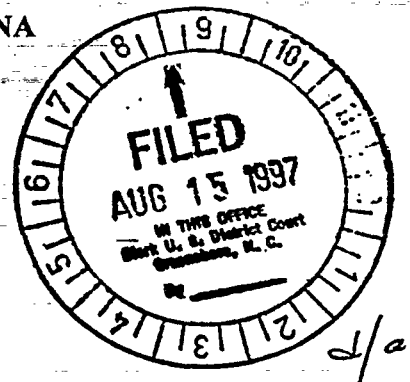


17

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 AT&T CORP. )  
 ACKERMAN METALS, INC. )  
 AEROQUIP CORPORATION )  
 ARROW STEEL PRODUCTS, INC. )  
 BERRY IRON & METAL )  
 BILTMORE IRON & METAL CO. )  
 BISCOE SALVAGE CO. )  
 BISH ENTERPRISES, INC. )  
 BRENNER IRON & METAL CO. )  
 BRUCE'S IRON & METAL, INC. )  
 C & C SCRAP IRON & METAL, INC. )  
 CAMDEN STEEL & METAL CO. )  
 CAROLINA BATTERY CO., INC. )  
 CAROLINA FREIGHT CARRIERS CORP. )  
 CAROLINA SCRAP PROCESSORS, INC. )  
 COHEN & GREEN SALVAGE CO., INC. )  
 COLUMBIA STEEL & METAL CO., INC. )  
 THE CONCORD TELEPHONE CO. )  
 CRANFORD IRON & METAL CO., INC. )  
 CROOK MOTOR CO., INC. )  
 D.H. GRIFFIN WRECKING CO., INC. )  
 DOUGLAS BATTERY MANUFACTURING CO. )  
 DUKE POWER COMPANY )  
 E-Z-GO DIVISION OF TEXTRON, INC. )  
 ELIZABETHTON HERB & METAL CO., INC. )  
 EXIDE CORP./GENERAL BATTERY CORP. )  
 FARMVILLE IRON & METAL CO. )  
 GNB BATTERY TECHNOLOGIES, INC. )  
 f/k/a GNB INC./CHLORIDE METALS )  
 GRAHAM BATTERY CO., INC. )  
 GEORGE W. GRANT )  
 GREAT ATLANTIC & PACIFIC TEA CO., INC. )  
 GREER RECYCLING CO. )  
 H. LUREY & SON CO., INC. )  
 HAYES IRON & METAL INC. )



CIVIL NO. 2:94CV00438

ORDER AMENDING  
CONSENT DECREE

04-95-0012

04-93-1315

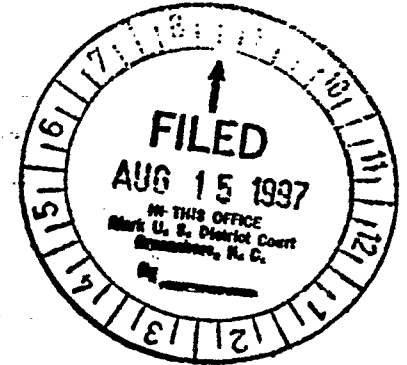
NEO 044440303

Bypass 601

HERCULES INCORPORATED )  
 HICKORY SCRAP IRON & METAL CO., INC. )  
 HOLLMET RECYCLING CORP. )  
 f/k/a HOLLAND METAL & PARTS CO. - )  
 HOLMES IRON & METAL CO., INC. )  
 HUFF'S IRON & METAL CO., INC. )  
 INDUSTRIAL BATTERY & CHARGER, INC. )  
 INDUSTRIAL METAL PROCESSING, INC. - )  
 JORDAN SCRAP METAL OF FLORENCE )  
 K & L SCRAP SERVICE, INC. )  
 K & W RECYCLING, INC. )  
 L. GORDON IRON & METAL CO. )  
 LEE IRON & METAL CO., INC. )  
 LEVIN BROTHERS, INC. )  
 MAIN AUTO PARTS CO., INC. )  
 MARSH AUTO PARTS, INC. )  
 OLIVER & CARRIE MARTIN )  
 MARTINSVILLE IRON & STEEL CO., INC. )  
 JERRY MORRIS )  
 MT AIRY IRON & METAL CO. )  
 MYERS BROS, INC. )  
 NORTH CAROLINA DEPARTMENT )  
 OF ADMINISTRATION )  
 NORTH CAROLINA DEPARTMENT )  
 OF TRANSPORTATION )  
 NORTH CAROLINA SALVAGE CO. )  
 OLD DOMINION RECYCLING, INC. )  
 ORANGEBURG METAL CO., INC. )  
 A & P RECYCLING CO. )  
 f/k/a/ PRESCOTT METAL CO., INC. )  
 RAEFORD SALVAGE CO., INC. )  
 RAYMOND GOLDMAN & CO., INC. )  
 REPUBLIC ALLOYS, INC. )  
 ROCKY MOUNT RECYCLERS )  
 ROY BLACKS JUNK & METAL CO., INC. )  
 RUSSELL'S INVESTMENT CORP. )  
 SCHULHOFER'S, INC. )  
 SEARS, ROEBUCK AND CO. )  
 SHULIMSON BROTHERS CO., INC. )  
 SMITH IRON & METAL CO., INC. )  
 SOUTHERN METALS RECYCLING INC. )  
 SOUTHERN METALS COMPANY, INC. )  
 SPARTAN IRON & METAL CORP. )  
 SPRINGS INDUSTRIES, INC. )

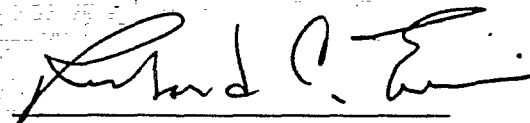
T.H. SNIPES & SONS, INC. )  
UNITED SCRAP, INC. )  
VINTON SCRAP & METAL CO., INC. )  
VIRGINIA BEACH SALVAGE )  
EXCHANGE, INC. )  
WEBB METALS, LTD. )  
WESTERN AUTO SUPPLY CO. )  
WHITEY'S RADIATOR SHOP )  
WILCOX DRUG CO., INC. )  
JIM WOODS, )

Defendants. )



**ORDER**

The Court, having considered the Joint Motion To Amend the Consent Decree filed by the parties to this matter, hereby orders that the Consent Decree entered on January 25, 1995, be, and hereby is, amended to substitute revised pages 44 and 74 and revised Appendix F, copies of which are attached hereto, and to incorporate by reference into this Consent Decree the Amendment to the Record of Decision executed by the Environmental Protection Agency on April 18, 1997, a copy of which is attached hereto.

  
Honorable Richard C. Erwin  
Senior United States District Court Judge

DATE: 15 August 1997

**ATTACHMENT A**

Attachment A

ACKERMAN METALS, INC.  
AEROQUIP CORPORATION  
ARROW STEEL PRODUCTS, INC.  
BERRY IRON & METAL  
BILTMORE IRON & METAL CO.  
BISCOE SALVAGE CO.  
BISH ENTERPRISES, INC.  
BRENNER IRON & METAL CO.  
BRUCE'S IRON & METAL, INC.  
C & C SCRAP IRON & METAL, INC.  
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CAROLINA SCRAP PROCESSORS, INC.  
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DUKE POWER COMPANY  
E-Z-GO DIVISION OF TEXTRON, INC.  
ELIZABETHTON HERB & METAL CO., INC.  
EXIDE CORP./GENERAL BATTERY CORP.  
GNB BATTERY TECHNOLOGIES, INC.  
f/k/a GNB INC./CHLORIDE METALS  
GRAHAM BATTERY CO., INC.  
GREAT ATLANTIC & PACIFIC TEA CO., INC.  
GREER RECYCLING CO.  
H. LUREY & SON CO., INC.  
HAYES IRON & METAL INC.  
HERCULES INCORPORATED  
HICKORY SCRAP IRON & METAL CO., INC.  
HOLLMET RECYCLING CORP.  
f/k/a HOLLAND METAL & PARTS CO.  
HOLMES IRON & METAL CO., INC.  
INDUSTRIAL BATTERY & CHARGER, INC.  
INDUSTRIAL METAL PROCESSING, INC.  
JORDAN SCRAP METAL OF FLORENCE  
K & L SCRAP SERVICE, INC.  
K & W RECYCLING, INC.  
L. GORDON IRON & METAL CO.  
LEE IRON & METAL CO., INC.  
LEVIN BROTHERS, INC.  
LUCENT TECHNOLOGIES INC. (formerly AT&T Corp.)  
MAIN AUTO PARTS CO., INC.  
MARSH AUTO PARTS, INC.  
MARTINSVILLE IRON & STEEL CO., INC.

JERRY MORRIS  
MT AIRY IRON & METAL CO.  
MYERS BROS, INC.  
NORTH CAROLINA DEPARTMENT  
OF ADMINISTRATION  
NORTH CAROLINA DEPARTMENT  
OF TRANSPORTATION  
NORTH CAROLINA SALVAGE CO.  
OLD DOMINION RECYCLING, INC.  
ORANGEBURG METAL CO., INC.  
A & P RECYCLING CO.  
f/k/a PRESCOTT METAL CO., INC.  
RAEFORD SALVAGE CO., INC.  
REPUBLIC ALLOYS, INC.  
ROCKY MOUNT RECYCLERS  
ROY BLACKS JUNK & METAL CO., INC.  
RUSSELL'S INVESTMENT CORP.  
SCHULHOFER'S, INC.  
SEARS, ROEBUCK AND CO.  
SMITH IRON & METAL CO., INC.  
SOUTHERN METALS RECYCLING INC.  
SOUTHERN METALS COMPANY, INC.  
SPARTAN IRON & METAL CORP.  
T.H. SNIPES & SONS, INC.  
UNITED SCRAP, INC.  
VINTON SCRAP & METAL CO., INC.  
VIRGINIA BEACH SALVAGE  
EXCHANGE, INC.  
WEBB METALS, LTD.  
WESTERN AUTO SUPPLY CO.  
WILCOX DRUG CO., INC.  
JIM WOODS\*

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\* The undersigned counsel for Defendants represent all of the defendants listed in the case caption except: Farmville Iron & Metal Co.; George W. Grant; Huff's Iron & Metal Co., Inc.; Oliver & Carrie Martin; Raymond Goldman & Co., Inc.; Shulimson Brothers Co., Inc.; and Whitey's Radiator Shop. These eight defendants are no longer affiliated with the other named Defendants in connection with this matter either because they entered into a final "cash-out" settlement agreement with the other Defendants; they are deceased; or they were previously removed from the Defendants' Site Remediation Group due to their refusal or inability to contribute their fair share of the site remediation costs. The eight defendants noted above have been served with a copy of the parties' Joint Motion and supporting documentation at their (or their representatives') last known address.

**ATTACHMENT B**

Settling Defendants' failure to make timely payments under this Section.

XVIII. CLAIMS AGAINST THE SUPERFUND

53. a. Pursuant to Sections 111(a)(2), 112, and 122(b)(1) of CERCLA, 42 U.S.C. §§ 9611(a)(2), 9612, and 9622(b)(1), the Settling Defendants may submit a claim for reimbursement to the Hazardous Substance Superfund (the Fund) for up to thirty and eighty-four-one-hundredths percent (30.84%) of the necessary costs incurred in completing the Remedial Design and the Remedial Action in accordance with this Consent Decree and Appendix F (Preauthorization Decision Document). In no event shall Settling Defendants' total claim(s) against the Fund under this section exceed the sum of \$3,754,500. Reimbursement from the Fund shall be subject to the provisions of Section 112 of CERCLA, the regulations set forth in 40 C.F.R. Part 307, and the applicable claims and audits procedures specified in Appendix F, and shall be made in accordance with the procedures outlined in Appendix F. Settling Defendants' claim(s) against the Fund may cover only those costs incurred during the implementation of the Remedial Design and Remedial Action, and shall include only attorneys' fees for drawing necessary contract documents, for obtaining access, for establishing institutional controls, and for complying with relevant permitting requirements at the Site, and must otherwise meet the requirements of 40 C.F.R. Part 307. Settling Defendants shall be solely responsible for all Operation and Maintenance costs, Past Response Costs, Future Response Costs, and any other



compliance with its terms, or to resolve disputes in accordance with Section XXI (Dispute Resolution) hereof.

#### XXXI. APPENDICES

103. The following appendices are attached to and incorporated into this Consent Decree: "Appendix A" is the ROD. "Appendix B" is the SOW. "Appendix C" is the description and/or map of the Site. "Appendix D" is the complete list of the Non-Owner Settling Defendants. "Appendix E" is the complete list of the Settling Defendants. "Appendix F" is the Preauthorization Decision Document. "Appendix G" is the ROD Amendment. Notwithstanding any other provision of the Consent Decree, the Settling Defendants shall implement the SOW in accordance with the ROD Amendment ("Appendix G").

#### XXXII. COMMUNITY RELATIONS

104. Settling Defendants shall propose to EPA their participation in the Community Relations Plan developed by EPA. EPA will determine the appropriate role for the Settling Defendants under the Plan. Settling Defendants shall also cooperate with EPA in providing information regarding the Work to the public. As requested by EPA, Settling Defendants shall participate in the preparation of such information for dissemination to the public and in public meetings which may be held or sponsored by EPA to explain activities at or relating to the Site.

#### XXXIII. MODIFICATION

105. Schedules specified in this Consent Decree for completion of the Work may be modified by agreement of EPA and the

**ATTACHMENT C**

Re: Bypass 601 Site  
Ref: CERCLA 94-001

DECISION DOCUMENT  
PREAUTHORIZATION OF A CERCLA SECTION 111(a) CLAIM

BYPASS 601 GROUNDWATER CONTAMINATION SUPERFUND SITE  
CONCORD, NORTH CAROLINA

I. STATEMENT OF AUTHORITY

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. § 9611, authorizes the reimbursement of response costs incurred in carrying out the National Contingency Plan, 40 C.F.R. Part 300 (as amended) (NCP). Section 112 of CERCLA, 42 U.S.C. § 9612 directs the President to establish the forms and procedures for filing claims against the Hazardous Substance Superfund (Superfund or Fund). Executive Order 12580 (52 Fed. Reg. 2923, January 29, 1987) delegates to the Administrator of the Environmental Protection Agency (EPA) the responsibility for CERCLA claims and for establishing forms and procedures for such claims. The forms and procedures can be found in the Response Claims Procedures for the Hazardous Substance Superfund, 40 C.F.R. Part 307, 58 Fed. Reg. 5460 (January 21, 1993). Executive Order 12580 also delegates to the EPA Administrator the authority to reach settlements pursuant to Section 122(b) of CERCLA, 42 U.S.C. § 9622(b). The Director of the Office of Emergency and Remedial Response (OERR) is delegated authority to evaluate and make determinations regarding claims (EPA Delegation 14-9, September 13, 1987 and EPA Redelegation 14-9 "Claims Asserted Against the Fund," May 25, 1988).

II. BACKGROUND ON THE SITE

On April 20, 1993, Patrick M. Tobin, Acting EPA Regional Administrator for Region IV, signed the Record of Decision (ROD) for the Bypass 601 Groundwater Contamination Superfund Site (hereinafter referred to as the Site or Bypass 601 Site). The overall objectives of the remedy were to mitigate the continued release of hazardous substances to the groundwater, surface water bodies and soil; eliminate the risks to human health associated with direct contact with or inhalation of hazardous substances contained at the Site; and eliminate further migration of hazardous substances through the groundwater, surface water, or soil.

The ROD contained both a source control and groundwater remedy for the Site. The source control remediation addressed the contaminated soils and materials at the Site, whereby these soils and materials would be excavated and treated using a solidification/stabilization technology. Stabilization will immobilize, insolubilize, or otherwise render the waste components less hazardous. The purpose of solidification is to transform hazardous contaminants into a physical form more suitable for storage and reduce the water permeability into the waste matrix.

The groundwater remediation included extraction of contaminated groundwater; treatment, consisting of precipitation of metals and suspended solids as well as air stripping to remove organics; and final discharge to the Publicly Owned Treatment Works. The groundwater system would operate 24 hours per day for up to 30 years and would include periodic testing of all existing wells for the life of the system.

On August 4, 1993, EPA, pursuant to Section 122 of CERCLA, 42 U.S.C. § 9622, issued general notice letters to Martin Scrap Recycling, as well as approximately 450 other potentially responsible parties (PRPs), including PRPs who subsequently joined the Martin Scrap Recycling PRP Steering Committee (hereinafter referred to as the MSR Steering Committee, the Committee, or the Settling Defendants). The MSR Steering Committee submitted a Good Faith Offer to perform the Remedial Design and Remedial Action at the Site on October 12, 1993.

On December 14, 1993, the MSR Steering Committee submitted a formal application for preauthorization as required by Section 300.700(d) of the NCP and 40 C.F.R. Section 307.22. A Consent Decree between EPA and the MSR Steering Committee was executed simultaneously with the original Decision Document (hereinafter referred to as the Preauthorization Decision Document or PDD).

On April 18, 1997, EPA amended the original Record of Decision for the Site to cap contaminated soils and materials on several of the source areas. Additionally, alternate concentration limits (ACLs) for groundwater would be established, and provisions were included for long-term groundwater monitoring. As a result of this amendment, the original Consent Decree and PDD have been modified to reflect the updated remedy and the reduction in associated costs and reimbursements.

### III. FINDINGS

Preauthorization (i.e., EPA's prior approval to submit a claim against the Superfund for reasonable and necessary response costs incurred as a result of carrying out the NCP) represents the Agency's commitment to reimburse a claimant from the Superfund, subject to any maximum amount of money set forth in this PDD, if the response action is conducted in accordance with the preauthorization and costs are reasonable and necessary. Preauthorization is a discretionary action by the Agency taken on the basis of certain determinations.

EPA has determined, based on its evaluation of relevant documents and the MSR Steering Committee's Application for Preauthorization (Application) pursuant to 40 C.F.R. Section 300.700(d) that:

- (A) A release or potential release of hazardous substances warranting a response under Section 300.435 of the NCP exists at the Bypass 601 Site;
- (B) The MSR Steering Committee has agreed to implement the cost-effective remedy selected by the EPA to address the threat posed by the release at the Site;

- (C) The MSR Steering Committee has demonstrated engineering expertise and a knowledge of the NCP and attendant guidance;
- (D) The activities proposed by the MSR Steering Committee, when supplemented by the terms and conditions contained herein, are consistent with the NCP; and
- (E) The MSR Steering Committee has demonstrated efforts to obtain the cooperation of the State of North Carolina.

EPA has determined, consistent with 40 C.F.R. Section 307.23, that the Application submitted by the MSR Steering Committee demonstrates a knowledge of relevant NCP provisions, 40 C.F.R. Part 307, and EPA guidance sufficient for the conduct of a Remedial Action at the Site.

The PRP Steering Committee is generally obligated to comply with all provisions and representations in the Application for Preauthorization, and to notify EPA of any changed circumstances which alter those provisions. If circumstances change between the time the Application is submitted, and the time of remedy implementation, it is in EPA's discretion to determine which Application provisions are still valid and which provisions no longer apply. The Consent Decree, including the terms and conditions of the PDD, the ROD, and the Statement of Work (SOW) shall govern the conduct of response activities at the Site. In the event of any ambiguity or inconsistency between the Application for Preauthorization and this PDD, with regard to claims against the Fund, the PDD and the Consent Decree shall govern. In the event of any inconsistency between the PDD and the Consent Decree, the Consent Decree shall govern.

#### IV. PREAUTHORIZATION DECISION

I preauthorize the MSR Steering Committee to submit a claim for reimbursement against the Superfund for up to thirty and eighty-four-one-hundredths percent (30.84%) of reasonable and necessary eligible costs for Remedial Design and Remedial Action incurred pursuant to the ROD and Consent Decree (Exhibits 1 and 2). In no event shall the claim(s) against the Fund exceed three-million-seven-hundred-fifty-four-thousand-five hundred (\$3,754,500). This preauthorization is subject to compliance with the Consent Decree and the provisions of this PDD.

#### V. AUDIT PROCEDURES

The MSR Steering Committee shall develop and implement audit procedures which will ensure their ability to obtain and implement all agreements to perform preauthorized response actions in accordance with sound business judgment and good administrative practice as required by 40 C.F.R. Section 307.32(e). Those requirements shall include but not necessarily be limited to the following procedures.

A. The MSR Steering Committee will develop and implement procedures which provide adequate public notice of solicitations for offers or bids on contracts. Solicitations must include evaluation methods and criteria for contractor selection. The MSR Steering Committee shall notify EPA of the qualifications of all contractors and principal subcontractors hired to perform preauthorized response actions. Consent Decree, Section VI (Performance of the Work By Settling Defendants). EPA shall have the right to disapprove the selection of any contractor or subcontractor selected by the Settling Defendants. EPA shall provide written notice to the Settling Defendants of the reasons for any such disapproval.

B. The MSR Steering Committee will develop and implement procedures for procurement transactions which provide maximum open and free competition; do not unduly restrict or eliminate competition; and provide for the award of construction contracts to the lowest, responsive, responsible bidder, where the selection can be made principally on the basis of price. 40 C.F.R. Section 307.21(e). The Settling Defendants and their contractors shall use free and open competition for all supplies, services and construction with respect to the Work performed at the Site. There are a number of ways that the Committee can meet these requirements including but not limited to the following:

1. For example, if the MSR Steering Committee awards a fixed price contract to a prime contractor, the Committee has satisfied the requirement of open and free competition with regard to any subcontracts awarded within the scope of the prime contract.

2. The MSR Steering Committee is not required to comply with the Federal procurement requirements found at 40 CFR Part 33 or EPA's Guidance on State Procurement Under Remedial Cooperative Agreements (OSWER Directive 9375.1-11, June 1988), in meeting these requirements. However, the MSR Steering Committee shall be guided by these documents in developing procurement procedures for small purchases, formal advertising, competitive negotiations and noncompetitive negotiations as each may be appropriate to remedying the release or threat of release at the Site.

3. With reference to small purchase procedures, EPA defines small purchase procedures as those relatively simple, informal procurement methods for securing services, supplies and other property from an adequate number of qualified sources in instances in which the services, supplies and other property being purchased constitute a discrete procurement transaction and do not cost more than a certain amount in the aggregate (Example: \$25,000). The Committee can meet the requirements of maximum free and open competition through small purchase procedures. The MSR Steering Committee shall be guided by 40 CFR Part 33 or EPA's Guidance on State Procurement Under Remedial Cooperative Agreements (OSWER Directive 9375.1-11, June 1988) in developing such small purchase procedures. However, the Committee shall in no event divide procurement transactions into smaller parts to circumvent other requirements of open and free competition.

C. The MSR Steering Committee may use a list or lists of prequalified persons, firms, or products to acquire goods and services. The PRPs shall make each pre-qualification using evaluation methods and criteria which are consistent with the selection and evaluation criteria developed pursuant to Section V.A. above, and as deemed appropriate. Such list(s) must be current and include enough qualified sources to ensure maximum open and free competition. The Committee shall not preclude potential offerors not on the prequalified list from qualifying during the solicitation period.

D. The MSR Steering Committee shall develop and implement procedures to:

1. Settle and satisfactorily resolve all contractual and administrative matters arising out of agreements to perform preauthorized response actions, in accordance with sound business judgment and good administrative practice as required by 40 C.F.R. Section 307.32(e); and

2. Issue invitations for bids or requests for proposals, select contractors, approve subcontractors and administer subcontracts in accordance with all terms, conditions and specifications of contracts, manage change orders and contractor claims in a manner to minimize such actions, and resolve protests, claims, and other procurement related disputes.

E. The MSR Steering Committee shall develop and implement a change order management policy and procedure generally in accordance with EPA's guidance on State Procurement Under Remedial Cooperative Agreements (OSWER Directive 9375.1-11, June 1988).

F. The MSR Steering Committee shall develop and implement a financial management system that consistently applies generally accepted accounting principles and practices and includes an accurate, current, and complete accounting of all financial transactions for the project, complete with supporting documents, and a systematic method to resolve audit findings and recommendations.

G. As required in Task III.A.2 of the Statement of Work, the MSR Steering Committee shall develop and submit to EPA a Project Delivery Strategy to address the management approach for implementing the Remedial Action, including but not limited to procurement methods and contracting strategy.

H. As required in Task III.A.3 of the Statement of Work, the MSR Steering Committee shall develop and submit to EPA a Construction Management Plan addressing how the construction activities are to be implemented and coordinated with EPA. This Plan shall include an identification of key project management personnel, complete with roles, responsibilities and lines of authority (financial and decisional), and an organizational chart.

I. Modification of Remedial Design elements or performance requirements contained in the Consent Decree or Statement of Work or the final Remedial Design shall require approval by the EPA Regional Administrator or his/her designee. Such modifications, when approved by the Regional Administrator in accordance with Agency procedures, shall modify this PDD.

## VI. CLAIMS PROCEDURES

A. Pursuant to section 111(a)(2) of CERCLA, EPA may reimburse necessary response costs incurred as a result of carrying out the NCP that satisfy the requirements of 40 C.F.R. Section 307.21, subject to the following limitations:

1. Costs may be reimbursed only if incurred after the date of the original preauthorization as amended;
2. Costs incurred for long-term operation and maintenance are not eligible for reimbursement from the Superfund. Also ineligible is the cost of operation of the groundwater treatment system after construction or installation and commencement of operations; and
3. Task IV of the Statement of Work requires that the Settling Defendants develop and submit an Operation and Maintenance (O&M) Plan to EPA. The costs associated with developing this Plan, as well as, activities included within the Plan and costs associated with O&M activities are ineligible for reimbursement from the Fund.

B. In submitting claims to the Superfund, the MSR Steering Committee shall:

1. Document that response activities were preauthorized by EPA;
2. Substantiate all claimed costs through an adequate financial management system that consistently applies generally accepted accounting principles and practices and includes an accurate, current and complete accounting of all financial transactions for the project, complete with supporting documents, and a systematic method to resolve audit findings and recommendations; and
3. Document that all claimed costs were eligible for reimbursement, consistent with applicable requirements of 40 C.F.R. Part 307.

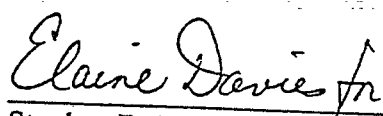
C. Claims may be submitted against the Fund by the Settling Defendants only while the Settling Defendants are in compliance with the terms of the Consent Decree and no more frequently than upon:



1. The date of execution of this amended Preauthorization Decision Document, including all work performed to date (including the recently-completed Interim Removal Action) up through and including the selection of the final Remedial Action contractor,
2. Completion of Site preparation for the placement of the proposed cap; and
3. Attainment of the maximum amount eligible for reimbursement or completion of all other eligible site remediation activities.

VII. OTHER CONSIDERATIONS

- A. The original PDD is deemed to be effective until the date of amendment specified herein.
- B. This PDD is intended to benefit only the Settling Defendants and EPA. It extends no benefit to nor creates any right in any third party.
- C. If any material statement or representation made in the Application for Preauthorization is false, misleading, misrepresented, or misstated and EPA relied upon such statement in making its decision, the preauthorization by EPA may be withdrawn following written notice to the Settling Defendants. Disputes arising out of EPA's determination to withdraw its preauthorization shall be governed by Section XVIII. (Claims Against the Superfund) of the Consent Decree. Criminal and other penalties may apply as specified in 40 C.F.R. Section 307.15.
- D. The Fund's obligation in the event of failure of the Remedial Action shall be governed by 40 C.F.R. Section 307.42. EPA may require the Settling Defendants to submit any additional appropriate information needed to determine whether the actions taken were in conformance with the Consent Decree and the Statement of Work, and were reasonable and necessary.
- E. This preauthorization shall be effective as of the date of entry of the Consent Decree by the Court.

  
Stephen D. Luftig, Director  
Office of Emergency & Remedial  
Response

6/24/97  
Date

EXHIBITS

1. EPA Record of Decision for the Bypass 601 Site (Previously filed with Court)
2. Consent Decree (Previously filed with Court)