UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

IN THE MATTER OF:	U.S. EPA DOCKET NO. 95-27-C
City Industries Superfund Site, Orange County, Florida	
Storage Technology Corporation	Administrative Order on Consent De Minimis Settlement
Respondent	
Proceeding under Section 122 (g)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9622 (g)(4)	

I. JURISDICTION

This Administrative Order on Consent (Consent Order) is issued pursuant to the authority vested in the President of the United States of America by Section 122(g)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments, and Reauthorization Act of 1986 (CERCLA), Pub. L. No. 99-499, 42 U.S.C. § 9622(g)(4), to reach settlements in actions under Sections 106 or 107 (a) of CERCLA, 42 U.S.C. §§ 9606 or 9607(a). The authority vested in the President has been delegated to the Administrator of the United States Environmental Protection Agency (EPA) by Executive Order No. 2580, 52 Federal Register 2923 (Jan. 29, 1987) and delegated to the Regional Administrator and further re-delegated to the Director, Waste Management

Division.

This Administrative Order on Consent is issued to Storage Technology Corporation (Respondent). Respondent agrees to undertake all actions required by the terms and conditions of this Consent Order. Respondent further consents to and will not contest EPA's jurisdiction to issue this Consent Order or to implement or enforce its terms.

II. STATEMENT OF PURPOSE

In entering this Consent Order, the mutual objectives of the parties are:

A. To reach a final settlement with a de minimis party in this case which allows it to pay an equitable amount for its present estimated liability and a premium for future potential liability which amount is to be no less than that paid by other "Qualified" Defendants pursuant to a Consent Decree entered in U.S. v. ABB Power Distribution, Inc., et al., CIV No. 91-597-CIV-ORL-3A20, (United States v. ABB Power) thereby avoiding difficult, prolonged and complicated litigation among EPA, the Respondent, and other PRPs; and

B. To raise revenues from settlement with the Respondent to be applied to EPA's uncollected past response costs.

III. DEFINITIONS

Whenever the following terms are used in this Administrative Order the following definitions specified in this Section shall apply:

"Bankruptcy Case" shall mean each and every one of the

following cases collectively; In re: Storage Technology Corporation, Storage Technology Finance Corporation, et al., Civil Action No. 89-Z-1322, Case No. 84-B-5377-J, (Joint Administration Case Nos. 84-B-5377-J through 84-B-5280-J inclusive and 84-B-5512-J); and In re: Storage Technology Leasing Corporation, et al., Chapter 11, Case No. 86-B-4222-J (Joint Administration Case Nos. 86-B-04222-J through 86-B-04234-J) in the United States Bankruptcy Court for the District of Colorado.

"Bankruptcy Court" shall mean the United States Bankruptcy Court for the District of Colorado exercising jurisdiction in the bankruptcy case, or such other court as may competently exercise jurisdiction over this matter, including the United States District Court for the District of Colorado and/or the United States District Court for the Middle District of Florida, Orlando Division.

"CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), 42 U.S.C. § 9601 et seq.

"Confirmation Order" shall mean the Order Confirming Plan and Fixing Deadline for Filing Administrative Claims, dated June 18, 1987, in the Bankruptcy Case.

"EPA" means the United States Environmental Protection Agency.

"Facility" means the "facility" as that term is defined at Section 101(9) of CERCLA, 42 U.S.C. § 9601(9), where disposal of

hazardous substances occurred at the City Industries Superfund Site, Orange County, Florida.

"Hazardous Substance" shall have the meaning provided in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

"National Contingency Plan" shall be used as that term is used in Section 105 of CERCLA, 42 U.S.C. § 9605.

"Parties" mean the United States Environmental Protection Agency, and Storage Technology Corporation.

"Past Costs" shall mean all costs including, but not limited to, direct and indirect costs and interest, that the United States has incurred with regard to the City Industries Superfund Site prior to the effective date of this Consent Agreement.

"Plan" shall meant the Debtors' Joint Plan of Reorganization, dated October 3, 1986, in the Bankruptcy Case.

"Potentially Responsible Party" or "PRP" shall mean all persons, as that term is defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21), who are potentially liable to the United States or to other parties for payment of response costs or subject to injunctive relief under Sections 104, 106 and/or 107 of CERCLA, 42 U.S.C. §§ 9604, 9606, and/or 9607.

"Record of Decision" or "ROD" shall mean the Record of Decision signed by EPA for the City Industries Superfund Site on March 29, 1990.

"Respondent" or "StorageTek" means Storage Technology Corporation and includes every debtor, debtor-in-possession, and revested debtor in the bankruptcy case, and every subsidiary and

division thereof (including "Documation"), now existing or existing during or at the time of commencement of the bankruptcy case, and all past or present officers, directors, and employees thereof in such capacity.

IV. FINDINGS OF FACT

1. The City Industries Superfund Site (Site) is located at 3920 Forsyth Road, Winter Park, Florida. (While the mailing for the Site is Winter Park, it is actually located in the unincorporated township of Goldenrod.) The one (1) acre Site is situated in a light industrial area in the eastern section of Orange County, Florida, approximately 1.2 miles east of Winter Park and 2.2 miles northeast of Orlando.

2. Prior to 1971, the facility was owned and operated by Charles Blackburn as a bulk depot for home fuel oil. Arthur Greer purchased the facility, but not the property, in 1971 and continued to operate it as an oil depot until 1977.

3. From 1977 to 1983 Mr. Greer received, handled, stored, reclaimed and disposed of waste chemicals at the Site. General classes of wastes handled included chlorinated and nonchlorinated organic solvents, paint and varnish wastes, acid/alkaline plating wastes, and waste ink.

4. Due to inadequate practices and intentional dumping, soil and groundwater at the Site became contaminated. From 1981 through 1983, EPA and Orange County found the company to be out of compliance with safety and Resource Conservation and Recovery Act (RCRA) requirements, and ordered the business to be closed in

July 1983.

5. In August 1983, the Site was abandoned by the owner, leaving approximately 1,200 drums of hazardous wastes and thousands of gallons of sludge in a number of large holding tanks on the Site. A removal of these wastes, funded by the Florida Department of Environmental Regulation (FDER), was conducted during August and September 1983.

6. In early 1984, EPA issued an Administrative Order under CERCLA requiring City Industries to clean sludge from holding tanks, remove contaminated soils, and treat contaminated groundwater. The company did not comply with the EPA Order.

7. Beginning in February 1984, the remaining sludge and storage tanks were removed by EPA. In May 1984, the EPA removed 1,670 tons of contaminated soil, heat treated it, and returned it to the Site. Additionally, 180 cubic yards of highly contaminated soil were removed and transported to a hazardous waste landfill.

8. In October 1989, pursuant to Section 105 of CERCLA 42 U.S.C. § 9605, EPA placed the City Industries Site on the National Priorities List (NPL), set forth at 40 C.F.R. Part 300, Appendix B.

9. Respondent arranged, by contract or agreement, or otherwise, for the disposal or treatment, or arranged with a transporter for transport for disposal or treatment of hazardous substances to the City Industries Site.

10. In 1984, the Florida Department of Regulation (FDER)

contracted with Environmental Science and Engineering (ESE) to conduct a Contaminant Assessment (CA) Study and Remedial Investigation (RI) of the Site. ESE completed a multi-phase Contaminant Assessment in May 1986. The final CA concluded that a contaminant plume in the surficial aquifer has migrated to the east, approximately 600 feet.

11. Several of the PRPs identified by EPA formed a Steering Committee and entered into a consent Agreement with FDER to perform the Feasibility Study (FS).

12. In March 1989, the lead management role for the Site was transferred from FDER to EPA. Revised FS reports were submitted to EPA by the PRPs in June and December 1989. The RI/FS confirmed the presence of hazardous substances in the surficial aquifer on Site. The chemicals of concern are acetone, benzene, 1,1-dichloroethane, 1,2-dichloroethane, 1,1-dichloroethene, ethylbenzene, methylene chloride, methyl ethyl ketone (MEK), methyl isobutyl ketone (MIKB), tetrachloroethene, toluene, 1,1,1-trichloroethane and trichloroethene. Major pathways of potential exposure to these constituents were identified as:

- contact with, and ingestion of, small quantities of surficial soil;
- contact with, and ingestion of, drainage-ditch waters; and
- contact with, and/or ingestion of, groundwater pumped for bathing, hypothetical drinking-water usage, landscape irrigation and/or other non-potable usages.

13. Releases of hazardous substances, pollutants and contaminants have occurred at the Site and have contaminated

surface and subsurface soils at the Site and groundwater under the Site. Actual or threatened releases of hazardous substances, pollutants, and contaminants into the environment from the Site continue.

14. Pursuant to Section 117 of CERCLA, 42 U.S.C. § 9617, EPA published notice and a brief analysis of the Proposed Plan for remedial action on January 23 and January 31, 1990. This plan was made available to the public which was provided the opportunity to comment on the proposed remedial action.

15. The Record of Decision (ROD) was signed on March 29, 1990. The ROD was made available to the public by placement in the repositories at the EPA's office in Atlanta, Georgia, and at the Winter Park Public Library in Winter Park, Florida.

16. The remedy selected was pumping and treating contaminated groundwater on-site and then discharging the groundwater into a publicly owned treatment works (POTW). The ROD also selected a contingency alternative (in the event the POTW does not agree to accept the discharge) of on-site treatment of the groundwater and a surface water discharge into a nearby drainage canal.

17. A Consent Decree, United States v. City Industries, Inc., et al., Case No. 87-472-CIV-ORL-18 (United States v. City Industries) was negotiated with approximately 200 PRPs for their liability of Past Response Costs incurred by EPA through the date of entry of the Consent Decree. The Consent Decree was entered on February 22, 1989. Respondent was not a party to this Consent

Decree.

18. StorageTek is the revested debtor in the Bankruptcy Case and StorageTek is the parent company of the subsidiary "Documation."

19. StorageTek does not and did not own or have any interest whatsoever in the City Industries Site, including without limitations, an interest as owner, lessee or lien holder.

20. On approximately July 3, 1984, Respondent received a letter from the FDER advising Documation that City Industries had created an environmental hazard and that the FDER had already conducted a cleanup at that site. The letter identified Respondent as a generator at the Site and informed Respondent that generators of hazardous substances deposited at the City Industries Site were liable for the cost of removal or remedial action.

21. On October 31, 1984, StorageTek and Documation, one of StorageTek's wholly owned subsidiaries, filed for bankruptcy protection under Chapter 11 of the United States Bankruptcy Code. Eventually, a total of 18 StorageTek affiliated companies filed for Chapter 11 and the cases were jointly administered as part of the bankruptcy case. During the pendency of the StorageTek bankruptcy, the FDER again notified StorageTek of its liability for the cleanup of the Site. Thereafter, the EPA was included on StorageTek's mailing list for notices for its various bankruptcy filings including the notice which established a bar date for filing claims. The EPA filed no claim in the StorageTek

bankruptcy. On June 18, 1987, StorageTek's plan was confirmed and notice of the entry of confirmation was served on the EPA. Pursuant to the August 31, 1994, order of the Court in the Bankruptcy Case granting StorageTek's motion for approval of settlements, the bankruptcy judge approved StorageTek's settlement of claims arising out of the City Chemical Superfund Site and authorized StorageTek to take such additional actions as may be necessary to fully consummate such settlement.

22. On April 13, 1990, Documation received a general and special notice letter notifying it that it was identified as a PRP at the City Industries Site. Thereafter the EPA began negotiations with a group of PRPs based upon its final Record of Decision ("ROD") executed on March 29, 1990. In mid-1991, those negotiations came to a conclusion and a Consent Decree was filed for the Qualified Settling Defendants who wished to settle. StorageTek did not join the Consent Decree.

23. StorageTek and the United States dispute the scope of the confirmation order, and the extent to which the claims, if any, arising from the City Industries Site have been discharged by the confirmation order in the bankruptcy case.

24. Information currently known to EPA indicates StorageTek contributed 4,785 gallons of hazardous substances to the site, or 0.5853 percent of the total volume contributed, and that the amount of the hazardous substances contributed to the Site by

Respondent does not exceed 1% by volume of the hazardous substances at the Site, and that the toxic or other hazardous effects of the substances contributed by Respondent do not contribute disproportionately to the cumulative toxic or other hazardous effects of the hazardous substances at the Site.

25. In evaluating the settlement embodied in this Consent Order, EPA has considered the potential costs of remediating contamination at or in connection with the Site, taking into account possible cost overruns in completing the remedial action consistent with the Record of Decision for this Site, and possible future costs if the remedial action is not protective of public health or the environment.

26. EPA has entered into Consent Decrees (United States v. City Industries and United States v. ABB Power) with PRPs who arranged for disposal or treatment, or arranged with a transporter for disposal or treatment, of a hazardous substance owned or possessed by such person at the Site, or who accepted a hazardous substance for transport to the Site. EPA has considered the nature of its settlement with these parties in evaluating the settlement embodied in this Consent Order.

V. DETERMINATIONS

Based upon the Findings of Fact set forth above and on the administrative record for this Site, EPA has determined that:

1. The City Industries Superfund Site is a "facility" as that term is defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

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

3. Respondent is a potentially responsible party within the meaning of Section 107(a) and 122(g)(1) of CERCLA, 42 U.S.C. §§ 9607(a) and 9622(g)(1).

4. The past, present or future migration of hazardous substances from the Site constitutes an actual or threatened "release" as that term is defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

5. Prompt settlement with the 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).

6. This Consent Order involves only a minor portion of the response costs at the Site with respect to the Respondent pursuant to Section 122(g)(1) of CERCLA, 42 U.S.C. § 9622(g)(1).

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

VI. ORDER

Based upon the administrative record for this Site and the Findings of Fact and Determinations set forth above, and in consideration of the promises and covenants set forth herein, it is hereby AGREED TO AND ORDERED:

A. PAYMENT

1. Within thirty (30) days after the effective date of this Order, Respondent shall distribute to the EPA Hazardous Substance Superfund a Class 3C claim in an amount of $75,000, consisting of $61,003.57 in cash and 1,815 shares of common stock of Storage Technology.

2. All cash payments made by Respondent hereunder shall be made by certified or cashier's check made payable to "EPA Hazardous Substance Superfund." The check shall reference the City Chemical Superfund Site, the name and address of the Respondent, EPA docket number, and shall be sent by certified mail to:

United States Environmental Protection Agency
Region 4
Superfund Accounting
P.O. Box 100142
Atlanta, Georgia 30384
Attention: Regional Financial Management Officer

3. All stock payments shall be sent by certified mail to Ms. Debra Bennett, with a cover letter referencing the City Chemical Superfund Site, the name and address of the Respondent, and enclose a copy of this Administrative Order of Consent. The payment shall be sent to:

Ms. Debra Bennett
United States Environmental Protection Agency
401 M Street, S.W.
Room Number 3407
Washington, D.C. 20460

Respondent shall simultaneously send a copy of the check and stock certificates to:

Kim-Thu Dao Vu
Cost Recovery Section
United States Environmental Protection Agency
345 Courtland Street, N.E.
Atlanta, Georgia 30365

and

Frank S. Ney
Associate Regional Counsel
United States Environmental Protection Agency
345 Courtland Street, N.E.
Atlanta, Georgia 30365

4. The Parties acknowledge that due to the procedures of the Bankruptcy Court, payment to EPA of a Class 3C claim under the Plan will exceed the de minimis payment required by the formula set out in Paragraph 5 below. The Respondent expressly agrees that it does not object to any payment to the EPA that exceeds the de minimis formula.

5. The de minimis payment in this case was calculated using the following information and formula:

(a) INFORMATION

Percentage of Respondent's volumetric share:	.5853
Total Past Costs:	$ 3,797,135.04
Total Future Costs:	$ 1,597,601.08
Late Settlor Premium:	300%

(b) FORMULA

1. Payment for Past Costs $ 3,797,135.04 x .5853% =	$ 22,224.63
2. Payment of Future Costs $ 1,597,601.08 x .5853% x 400% =	$ 37,403.04
3. Total Cashout Figure	$ 59,627.67

6. Except as specifically provided otherwise in this agreement, nothing in this agreement shall diminish, reduce, or

alter the discharge StorageTek received in its Confirmation Order or under the bankruptcy code upon confirmation of its Plan, and all parties hereto shall be bound by the terms of the Confirmation Order including the injunctive provisions thereof. StorageTek retains fully the protections and defenses accorded it by the confirmation of its Plan.

7. All claims for or relating to costs the United States has incurred at the City Industries Site, whether or not such claims were previously existing, or may arise in the future, shall be resolved by the allowance of a Class 3C Claim in favor of the United States pursuant to paragraph 1 above. As full and complete resolution of the Bankruptcy dispute and the City Industries dispute among the parties hereto, the bar date with regard to the filing of formal proofs of claims may be reopened for the benefit of the United States, but only for the purpose of allowing the claim provided for in this agreement. In return therefore, the United States waives any and all objections it may have regarding proper notice in the bankruptcy case, and agrees to be bound by the terms of the Plan and by the Confirmation Order. All claims for or relating to costs the United States has incurred at the City Industries Site, whether or not such claims were previously existing, or may arise in the future, shall be resolved by the allowance of a Class 3C claim under the plan.

B. CIVIL PENALTIES

In addition to any other remedies or sanctions available to EPA, if Respondent fails or refuses to comply with

any term or condition of this Consent Order it shall be subject to a civil penalty of up to $25,000 per day of such failure or refusal pursuant to Section 122(1) of CERCLA, U.S.C. § 9622(1).

C. CERTIFICATION OF RESPONDENT

Respondent certifies that, to the best of its knowledge and belief, it has provided to EPA all information currently in its possession, or in the possession of its officers, directors, employees, contractors or agents, which relates in any way to the ownership, operation, generation, treatment, transportation or disposal of hazardous substances at or in connection with the Site.

D. COVENANT NOT TO SUE

1. Subject to the reservation of rights in Section VI, Paragraphs (E)(1) through (E)(4) of this Consent Order, upon payment of the amounts specified in Section VI(A), of this Consent Order, EPA covenants not to sue or to take any other civil or administrative action against the Respondent for matters addressed in this Consent Order. "Matters Addressed" shall include any and all civil liability for reimbursement of response costs or for injunctive relief pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 or 9607(a), or Section 7003 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6973, with regard to the Site.

2. In consideration of EPA's covenant not to sue in Section VI, Paragraph (D)(1), of this Consent Order, the Respondent agrees not to assert any claims or causes of action

against the United States or the Hazardous Substance Superfund arising out of Covered Matters, or to seek any other costs, damages, or attorney's fees from the United States arising out of response activities at the Site.

E. RESERVATION OF RIGHTS

1. Nothing in this Consent Order is intended to be nor shall it be construed as a release or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, at law or in equity, which the United States, including EPA, may have against the Respondent for:

a) any liability as a result of failure to make the payments required by Section VI, Paragraph (A), of this Consent Order; or

b) any matters not addressed in this Consent Order including, without limitation, any liability for damages to natural resources.

2. Nothing in this Consent Order constitutes a covenant not to sue or to take action or otherwise limits the ability of the United States, including EPA, to seek or obtain further relief from the Respondent, and the covenant not to sue in paragraph D of Section VI of this Administrative Order is null and void, if:

a) information not currently known to EPA is discovered which indicates that Respondent contributed hazardous substances to the Site in such greater amount or of such greater

toxic or other hazardous effects as to not qualify, in the determination of EPA, as a de minimis party for the Site because the Respondent contributed greater than 0.5853 percent of the hazardous substances at the Site or contributed hazardous substances which contributed disproportionately to the cumulative toxic or other hazardous effects of the hazardous substances at the Site; or

b) Respondent breaches one or more of the express warranties set out in Paragraph C of Section VI above.

3. Nothing in this Consent Order is intended as a release or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the United States, including EPA, may have against any person, firm, corporation or any other entity not a signatory to this Consent Order.

4. EPA and Respondent agree that the actions undertaken by the Respondent in accordance with this Consent Order do not constitute an admission of any liability by the Respondent. The Respondent does not admit, and retains the right to controvert in any subsequent proceedings, other than proceedings to implement or enforce this Consent Order, the validity of the Findings of Fact or determinations contained in this Consent Order.

F. CONTRIBUTION PROTECTION

1. Subject to the reservation of rights in Section VI, paragraphs (E)(1) through (E)(4) of this Consent

Order, EPA agrees that by entering into and carrying out the terms of this Consent Order, Respondent is entitled, as of the effective date of this Consent Order to such protection from contribution actions or claims as is provided in Section 122(g)(5) of CERCLA, 42 U.S.C. § 9622(g)(5), and shall not be liable for claims for contribution for matters addressed in this Consent Order.

G. PARTIES BOUND

This Consent Order shall apply to and be binding upon the Respondent and its directors, officers, employees, agents, successors and assigns. Each signatory to this Consent Order represents that he or she is fully authorized to enter into the terms and conditions of this Consent Order and to bind legally the Respondent.

H. PUBLIC COMMENT

This Consent Order shall be subject to a thirty (30) day public comment period pursuant to Section 122(i) of CERCLA, 42 U.S.C. § 9622(i). In accordance with Section 122(i)(3) of CERCLA, 42 U.S.C. § 9622(i)(3), EPA may withdraw its consent to this Consent Order if comments received disclose facts or considerations which indicate that this Consent Order is inappropriate, improper or inadequate. Any changes to this Agreement arising as a result of said public comment, or otherwise, shall be made only by mutual agreement of the parties in writing.

I. ATTORNEY GENERAL APPROVAL

The Attorney General or his designee has issued prior written approval of the settlement period embodied in this Consent Order in accordance with Section 122(g)(4) of CERCLA, 42 U.S.C. § 9622(g)(4).

J. EFFECTIVE DATE

The effective date of this Consent Order shall be the date upon which EPA issues written notice to the Respondent that the public comment period pursuant to Section VI, Paragraph H of this Consent Order has closed and that comments received, if any, do not require modification of, or EPA withdrawal from this Consent Order.

IT IS SO ORDERED:

United States Environmental Protection Agency
Region 4

By: _____ 9/29/95
H. Kirk Lucius, Chief DATE
Waste Programs Branch
Waste Management Division

By: _____ 7/28/95
(NAME) David E. Lacey DATE
(TITLE) Corporate VP & Interim CFO
(ADDRESS)