

IN THE MATTER OF:)	AGREEMENT
)	
Lower Passaic River Study Area portion)	
of the Diamond Alkali Superfund Site)	U.S. EPA Region 2
)	
In and About Essex, Hudson, Bergen and)	
Passaic Counties, New Jersey)	CERCLA Docket No. 02-2004-2011
)	
)	
Alcan Corporation, et al.)	PROCEEDING UNDER SECTION
)	122(h) OF CERCLA,
)	42 U.S.C. §9622

I. JURISDICTION

1. This Agreement is entered into pursuant to the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9622(h), which authority has been delegated to the Regional Administrators of the EPA by EPA Delegation No. 14-14-D. This Agreement is also entered into pursuant to the authority of the Attorney General of the United States to compromise and settle claims of the United States, which authority, in the circumstances of this settlement, has been delegated to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice. Through this Agreement Settling Parties will provide funding to EPA to conduct the Remedial Investigation/Feasibility Study ("RI/FS") of the Lower Passaic River Study Area pursuant to its authorities under Section 104, 42 U.S.C. §9604.

2. This Agreement is made and entered into by EPA and the Settling Parties. The Settling Parties are set forth in Appendix A. Each Settling Party consents to and will not contest EPA's authority to enter into this Agreement or to implement or enforce its terms.

II. BACKGROUND

3. This Agreement concerns the Lower Passaic River Study Area, as hereinafter defined, located in and about Essex, Hudson, Bergen and Passaic Counties, New Jersey. EPA alleges that the Lower Passaic River Study Area is a facility as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9). This Agreement does not address the Diamond Alkali plant known as Operable Unit 1 of the Diamond Alkali Superfund Site.

4. In response to the release or threatened release of hazardous substances at or from the Lower Passaic River Study Area, EPA undertook response actions at the Lower Passaic River Study Area pursuant to Section 104 of CERCLA, 42 U.S.C. §9604, and will undertake additional response actions in the future.

a. In 1983, hazardous substances were detected at various locations in Newark, New Jersey including the Diamond Alkali plant located at 80 Lister Avenue.

b. EPA, pursuant to Section 105 of CERCLA, 42 U.S.C. Section 9605, placed the Diamond Alkali Superfund Site on the National Priorities List, which is set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register on September 21, 1984, 49 Fed. Reg. 37070.

c. Pursuant to Administrative Orders on Consent with NJDEP, Diamond Shamrock Chemicals Company conducted investigations and response work for the 80 and 120 Lister Avenue portion of the Diamond Alkali Superfund Site. The investigation included the sampling and assessment of sediment contamination within the Passaic River. EPA issued a Record of Decision that set forth an interim remedy for the 80 and 120 Lister Avenue portion of the Diamond Alkali Superfund Site on September 30, 1987. Pursuant to a judicial Consent Decree with EPA, Occidental Chemical Corporation and Chemical Land Holdings, Inc. (now known as Tierra Solutions, Inc.), agreed to implement the 1987 ROD. Remedial action is currently underway.

d. Sampling and assessment of sediments in the Passaic River during the investigation of 80 and 120 Lister Avenue revealed many hazardous substances including, but not limited to, 2,3,7,8 -TCDD, DDT, 2,4-D, 2,4,5-T, and 2,4,5-TCP, PCBs, PAHs, mercury, cadmium, copper, lead, nickel, and zinc.

e. Occidental Chemical Corporation, as successor to Diamond Shamrock Chemicals Company, executed an Administrative Order on Consent, Index No. II-CERCLA-0117 with EPA to investigate a six-mile stretch of the Passaic River whose southern boundary was the abandoned Conrail Railroad bridge located at the U.S. Army Corps of Engineers ("USACE") station designation of 40+00 to a transect six miles upriver located at the USACE station designation of 356+80. The primary objectives of the investigation were to determine: (1) the spatial distribution and concentration of hazardous substances, both horizontally and vertically in the sediments; (2) the primary human and ecological receptors of contaminated sediments; and (3) the transport of contaminated sediment.

f. The sampling results from the investigation in the six mile area and other environmental studies demonstrated that evaluation of a larger area was necessary. Sediments contaminated with hazardous substances and other potential sources of hazardous substances are present along at least the entire 17-mile stretch of the Lower Passaic River and its tributaries from Dundee Dam to Newark Bay ("Lower Passaic River

Study Area”). Furthermore, the tidal nature of the Lower Passaic River has resulted in greater dispersion of hazardous substances than originally expected, thus promoting the distribution of hazardous substances into and out of the six-mile stretch of the Passaic River. As a result, the investigation has been expanded to include the entire Lower Passaic River Study Area, where hazardous substances are currently known to be located.

g. USACE has received Congressional appropriations to conduct an ecosystem restoration study pursuant to the Water Resources Development Act (“WRDA”) for the Lower Passaic River Study Area. USACE and its local sponsor, the New Jersey Department of Transportation, Office of Maritime Resources (“OMR”) are performing this study (“WRDA Study”)

h. Since the RI/FS and WRDA Study have many overlapping information needs, EPA, USACE and OMR have formed a partnership to identify and address water quality improvement, remediation, and restoration opportunities in the Lower Passaic River Study Area. This governmental partnership is consistent with a national Memorandum of Understanding (“MOU”) executed on July 2, 2002 between EPA and USACE. This MOU calls for the two agencies to cooperate, where appropriate, on environmental remediation and restoration of degraded urban rivers and related resources. In agreeing to implement the MOU, EPA and USACE will use their existing statutory and regulatory authorities in a coordinated manner to maximize benefits and avoid duplicating studies.

i. EPA, USACE, and OMR are proceeding with an integrated study known as the Lower Passaic River Restoration Project (“Project”) that will gather information in addition to the information that has already been gathered in the Lower Passaic River Study Area to assist in the determination of an appropriate remediation and restoration plan for the entire Lower Passaic River Study Area. EPA intends to cooperate with USACE, OMR, the Federal and State Natural Resource Trustees to develop a protocol for a working relationship to coordinate their respective activities associated with the Lower Passaic River Study Area. The Project is being conducted by EPA under the authority of CERCLA and by USACE and OMR, under WRDA. EPA intends that the RI/FS will be part of the Project. EPA intends that the RI/FS will collect sampling data to the extent it is consistent with CERCLA to meet certain of the data needs of the Federal and State Natural Resource Trustees. EPA intends to share its RI/FS data with the Federal and State Natural Resource Trustees to assist them in performing a natural resource damage assessment. EPA, USACE and OMR estimate that the Project will cost approximately \$19,000,000.00, with EPA’s Future Response Costs to conduct the RI/FS expected to be approximately \$10,000,000.00. Through this Agreement the Settling Parties agree to fund EPA’s Future Response Costs for the RI/FS portion of the Project up to \$10,000,000.00.

5. In performing response actions at the Lower Passaic River Study Area, EPA has incurred Response Costs and will incur additional Response Costs in the future.

6. EPA alleges that Settling Parties, among others, are responsible parties pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and are jointly and severally liable for Response Costs incurred and to be incurred at the Lower Passaic River Study Area.

7. EPA and Settling Parties recognize that this Agreement has been negotiated in good faith and that this Agreement is entered into without the admission or adjudication of any issue of fact or law. The actions undertaken by Settling Parties in accordance with this Agreement do not constitute an admission of any liability by any Settling Party. Settling Parties do not admit, and retain the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Agreement, the validity of the facts or allegations contained in this Section.

8. Parties Bound. This Agreement shall be binding upon EPA and upon Settling Parties and their successors and assigns. Any change in ownership or corporate or other legal status of a Settling Party, including but not limited to any transfer of assets or real or personal property, shall in no way alter such Settling Party's responsibilities under this Agreement. Each signatory to this Agreement certifies that he or she is authorized to enter into the terms and conditions of this Agreement and to bind legally the party represented by him or her. Additional persons or entities may be added to this Agreement under terms agreed upon by EPA and the Settling Parties.

III. STATEMENT OF PURPOSE

9. By entering into this Agreement, the mutual objective of the Parties is to avoid difficult and prolonged litigation by allowing Settling Parties to make a cash payment to resolve their alleged civil liability for the RI/FS as provided in the Covenant Not to Sue by EPA in Section VIII, subject to the Reservations of Rights by EPA in Section IX.

IV. DEFINITIONS

10. Unless otherwise expressly provided herein, terms used in this Agreement that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meanings assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Agreement or in any appendix attached hereto, the following definitions shall apply:

a. "Agreement" shall mean this Agreement and any attached appendices. In the event of conflict between this Agreement and any appendix, the Agreement shall control.

b. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et

seq.

c. "Day" shall mean a calendar day. In computing any period of time under this Agreement, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the close of business of the next working day. "Business Day" shall mean a Day other than a Saturday, Sunday, or Federal holiday.

d. "Effective Date" shall mean the date upon which EPA issues written notice that the public comment period has closed and that comments received, if any, do not require modification of or withdrawal by the EPA from this Agreement.

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

f. "Future Response Costs" shall mean all response costs to be incurred and paid by EPA in connection with the RI/FS from the Effective Date of this Agreement.

g. "Interest" shall mean interest at the rate specified for interest on investments of the Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

h. "Liaison Counsel" shall mean counsel designated by Settling Parties to perform the duties set forth in Section V (Payment of Response Costs), Paragraphs 11 and 12 of this Agreement.

i. "Lower Passaic River Study Area" shall mean the 17-mile stretch of the Lower Passaic River and its tributaries from Dundee Dam to Newark Bay.

j. "Non-Settling Parties" shall mean those responsible parties identified in the EPA General Notice Letters dated September 15, 2003 and February 9, 2004 issued for the Lower Passaic River Study Area that are not parties to this Agreement.

k. "Paragraph" shall mean a portion of this Agreement identified by an Arabic numeral or a lower case letter.

l. "Parties" shall mean EPA and Settling Parties.

m. "Past Response Costs" shall mean all response costs incurred and paid by EPA for the RI/FS through the effective date of this Agreement.

n. "Project" shall mean the Lower Passaic River Restoration Project, consisting of an integrated study which the EPA, USACE and OMR are conducting in order to determine an appropriate remediation and restoration plan for the entire Lower Passaic River. The Project includes the RI/FS and the WRDA Study.

o. "Response Costs" shall mean Past Response Costs and Future Response Costs.

p. "RI/FS" shall mean the Remedial Investigation/Feasibility Study portion of the Project that EPA is undertaking to investigate the Lower Passaic River Study Area, exclusive of the work undertaken pursuant to Administrative Order on Consent, Index No. II-CERCLA-0117 and Administrative Order on Consent, Index No. CERCLA 02-2004-2010.

q. "Section" shall mean a portion of this Agreement identified by a Roman numeral.

r. "Settling Parties" shall mean those parties identified in Appendix A to this Agreement

s. "Settling Parties Coordinator" shall mean Settling Parties' designee appointed to act in accordance with Section VII (Process for Technical Consultation) of this Agreement.

t. "Site" for purposes of this Agreement shall mean the Diamond Alkali Superfund Site, including the Diamond Alkali plant located at 80 and 120 Lister Avenue in Newark, NJ (known as Operable Unit 1), and the Lower Passaic River Study Area, and the areal extent of contamination.

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

v. "WRDA Study" shall mean the feasibility study being conducted by USACE, with OMR as local sponsor, with respect to the Lower Passaic River Study Area.

V. PAYMENT OF RESPONSE COSTS

11. Within 30 business days after Settling Parties receive notice from EPA that this Agreement has been signed by EPA, Settling Parties shall deposit \$1,500,000.00 into an escrow account bearing interest on commercially reasonable terms, in a federally-chartered bank (the "Escrow Account"). If the Agreement is not made effective after public comment, the monies placed in escrow, together with accrued interest thereon, shall be returned to Settling Parties. If the Agreement is made effective after public comment, Settling Parties shall, within 10 days thereof, cause the monies including

interest in the Escrow Account to be paid to EPA in accordance with Paragraph 12 below. On July 1, 2004, Settling Parties shall make a payment to EPA of \$1,500,000.00. On November 1, 2004, Settling Parties shall make a payment to EPA of \$1,000,000.00. On April 1, 2005, Settling Parties shall make a payment to EPA of \$2,000,000.00. On July 1, 2005, Settling Parties shall make a payment to EPA of \$2,000,000.00. On November 1, 2005, Settling Parties shall make a payment to EPA of \$1,000,000.00. On April 1, 2006, Settling Parties shall make a payment to EPA of \$1,000,000.00. All payments shall be paid to EPA in accordance with Paragraph 12 below.

At the time the Escrow Account is established, the Liaison Counsel will provide notice to EPA that such account has been set up and identify the Settling Parties that have made their payment in accordance with Section XV (Notices and Submission).

12. All payments shall be made to EPA's Account with Mellon Bank, Pittsburgh, Pennsylvania by Electronic Funds Transfer ("EFT"). Settling Parties shall provide the following information to their bank:

- i. Account Title: EPA
- ii. Amount of payment:
- iii. Account code for Mellon Bank account receiving the payment:
9108544
- iv. Mellon Bank ABA Routing Number: 043000261
- v. Name of Party Making Payment
- vi. EPA Docket Number:
- vii. Site Name: Diamond Alkali Superfund Site
- viii. Site/Spill ID Number: 02-96

At the time of each such payment, the Liaison Counsel shall also send notice that payment has been made to EPA in accordance with Section XV (Notices and Submissions). Such notice shall reference the EPA Region and Site/Spill ID Number 02-96 and the EPA docket number for this action.

13. The total amount to be paid by Settling Parties pursuant to Paragraph 11 shall be deposited by EPA in the Diamond Alkali Superfund Site- Lower Passaic River Study Area Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Lower Passaic River Study Area. If EPA incurs less than \$10,000,000.00 in Future Response Costs, EPA will return the excess funds remaining in the Diamond Alkali Superfund Site- Lower Passaic River Study Area Special Account to Settling Parties.

14. Once every calendar year on the anniversary of the Effective Date of this Agreement, EPA will provide Settling Parties with a Superfund Cost Recovery Package Imaging and On-line System ("SCORPIOS") Report which includes direct and indirect costs incurred by EPA and its contractors for the RI/FS.

15. Settling Parties may not dispute any payment of Future Response Costs until EPA has incurred \$10,000,000.00 in Future Response Costs. After EPA has incurred

\$10,000,000.00 in Future Response Costs, EPA will perform an accounting of all direct and indirect costs relating to Future Response Costs and provide Settling Parties with a "final" SCORPIOS Report supporting those costs. At such time, Settling Parties may contest payment of the Future Response Costs only if they determine that EPA has made a mathematical error or if they allege that a cost item that is included represents costs that are inconsistent with the NCP or outside the definition of Future Response Costs. Such dispute, if any, shall be raised and resolved in the manner described in Paragraph 16.

16. Settling Parties and EPA shall make reasonable efforts to informally and in good faith resolve all disputes related to Future Response Costs which arise under Paragraph 15. If Settling Parties, in good faith, disagree in whole or in part with a payment of Future Response Costs, Settling Parties shall notify EPA in writing of their objections, as soon as possible, but not later than fourteen (14) calendar days after receipt of the "final" SCORPIOS Report. Such written notification shall include the relevant facts upon which the dispute is based, analysis or opinion supporting Settling Parties' position and all supporting documentation on which they rely. If Settling Parties so notify EPA within the aforesaid period, the Strategic Integration Manager of the Emergency and Remedial Response Division, EPA Region 2, shall provide a written response to Settling Parties setting forth EPA's position and the basis for that position. The written response of the Strategic Integration Manager shall constitute EPA's final decision with regard to the resolution of the dispute. EPA will be the final arbiter of disputes under this Paragraph.

VI. FAILURE TO COMPLY WITH AGREEMENT

17. Interest on Late Payments. If the Settling Parties fail to make any payment required by Paragraph 11 or if Liaison Counsel fails to transfer funds from the Escrow Account to EPA as required by Paragraph 12 by the required due dates, Interest shall accrue on the unpaid balance through the date of payment.

18. Stipulated Penalty.

a. If any amounts due to EPA under Paragraph 11 are not paid by the required date, Settling Parties, unless excused by an event EPA determines to be force majeure, shall be in violation of this Agreement and shall pay to EPA, as a stipulated penalty, in addition to the Interest required by Paragraph 17, \$1,000.00 per violation per day that such payment is late. For purposes of the preceding sentence, "force majeure" shall mean any event arising from causes beyond the control of the Settling Parties, of any entity controlled by Settling Parties, or of Settling Parties' contractors, which delays or prevents the performance of any obligation under this Agreement despite Settling Parties' best efforts to fulfill the obligation. The requirement that the Settling Parties exercise "best efforts to fulfill the obligation" includes best efforts to anticipate any potential force majeure event and best efforts to address the effects of any potential force majeure event (1) as it is occurring, and (2) following the potential force majeure event, such that the delay is minimized to the greatest extent possible. "Force majeure" does not

include financial inability to make the payments required under this Agreement.

b. Stipulated penalties are due and payable within thirty (30) days of the date of the demand for payment of the penalties by EPA. Payment shall be made by EFT to Mellon Bank, Pittsburgh, Pennsylvania. Settling Parties shall direct all payments to the following account and shall provide the following information along with each payment:

- (i) Account Title: EPA
- (ii) Amount of payment:
- (iii) Account code for Mellon Bank account receiving the payment: 9108544
- (iv) Mellon Bank ABA Routing Number: 043000261
- (v) Name of Party Making Payment
- (vi) EPA Docket Number:
- (vii) Site Name: Diamond Alkali Superfund Site
- (viii) Site/Spill ID Number: 02-96

c. At the time of each such payment, Settling Parties shall also send notice that payment has been made to EPA in accordance with Section XV (Notices and Submissions). Such notice shall identify the EPA Region and Site-Spill ID Number 02-96 and the EPA Docket Number for this action.

d. Penalties shall accrue as provided above regardless of whether EPA has notified Settling Parties of the violation or made a demand for payment, but need only be paid upon demand. All penalties shall begin to accrue on the day after payment is due and shall continue to accrue through the date of payment as required by Paragraph 11. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Agreement.

19. In addition to the Interest and Stipulated Penalty payments required by this Section and any other remedies or sanctions available to the United States by virtue of Settling Parties' failure to comply with the requirements of this Agreement, if the Settling Parties fail or refuse to comply with any term or condition of this Agreement, they shall be subject to an enforcement action pursuant to Section 122(h)(3) of CERCLA, 42 U.S.C. § 9622(h)(3). If the United States brings an action to enforce this Agreement, Settling Parties shall reimburse the United States for all costs of such action, including but not limited to costs of attorney time.

20. The obligations of Settling Parties to pay amounts owed to EPA under this Agreement are joint and several. In the event of the failure of any one or more Settling Parties to make the payments required under this Agreement, the remaining Settling Parties shall be responsible for such payments.

21. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive payment of all or any portion of the stipulated penalties that have accrued pursuant to this Agreement. Settling Parties' payment of stipulated

penalties shall not excuse Settling Parties from payment as required by Section V or from performance of any other requirements of this Agreement.

VII. PROCESS FOR TECHNICAL CONSULTATION

22. The goals of the consultation process established under this Section are to promote agreement among the Parties on technical issues relating to the design, planning, and implementation of RI/FS activities to be performed under this Agreement.

a. EPA will provide Settling Parties reasonable opportunities to consult with EPA concerning RI/FS activities performed and to be performed under this Agreement. EPA will provide the Settling Parties with an opportunity to meet about the conduct of the RI/FS not less frequently than once each quarter during the conduct of the RI/FS. Should additional discussions be necessary, EPA is willing to conduct conference calls in the interim. After such meetings or conference calls, any written comments from Settling Parties should address remaining substantive technical concerns and be synthesized by the Settling Parties Coordinator into one set of comments. EPA agrees to include any comments containing the views and conclusions of the Settling Parties in the administrative record maintained by EPA with respect to the RI/FS. While views expressed and conclusions reached during the consultations are in no way binding on EPA, the Parties expect that such views and conclusions will be taken into account, as appropriate, in governmental planning and selection processes for the RI/FS design and implementation.

b. The Settling Parties shall appoint one Settling Parties Coordinator to act as the primary contact between Settling Parties and EPA for all technical matters related to the RI/FS. The Settling Parties Coordinator shall have adequate technical and managerial experience to understand all matters arising under the RI/FS. The Settling Parties Coordinator shall not be an attorney. Within thirty days of the Effective Date of this Agreement, Settling Parties shall designate a Settling Parties Coordinator and shall provide EPA in writing with the name, address, phone number, and qualifications of the Settling Parties Coordinator.

c. With advance notice to EPA by the Settling Parties Coordinator, Settling Parties may involve technical consultants or independent technical experts in discussions under this Section. Settling Parties may request a meeting on substantive issues with the Division Director of the Emergency and Remedial Response Division on a semi-annual basis during the conduct of the RI/FS.

d. The Parties recognize that some information concerning RI/FS activities to be performed under this Agreement may need to be maintained as confidential, and that failure to maintain such information as confidential may impair or impede the project's success. To the extent EPA informs the Settling Parties that particular information discussed in meetings under this Paragraph is confidential, the Settling Parties, their representatives and any technical consultants or independent

technical experts involved in such meetings shall treat and maintain such information as confidential. At the request of EPA, Settling Parties and their technical consultants and independent technical experts may be required to execute a confidentiality agreement in a form to be provided by EPA.

e. Nothing in this Section shall be construed to require any consultations in connection with any response action to be performed by EPA if EPA determines that immediate action is required to address an imminent and substantial endangerment, an emergency situation or an incident or change in the Lower Passaic River Study Area conditions which may present an immediate threat to public health or welfare or the environment.

VIII. COVENANT NOT TO SUE BY EPA

23. Covenant Not to Sue by EPA. Except as specifically provided in Section IX (Reservations of Rights by EPA), EPA covenants not to sue or to take administrative action against Settling Parties pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), for performance of the RI/FS and for all Past Response Costs and Future Response Costs. This covenant shall take effect upon EPA's receipt of the first payment required by Section V (Payment of Response Costs) and any amount due under Section VI (Failure to Comply with Agreement) as it relates to the first payment. This covenant not to sue is conditioned upon the complete and satisfactory performance by Settling Parties of their obligations under this Agreement, including but not limited to, payment of all amounts required by Section V and any amounts due under Section VI. This covenant not to sue extends only to Settling Parties and does not extend to any other person. EPA agrees that the Settling Parties have resolved, pursuant to Section 122(h) of CERCLA, 42 U.S.C. 9622(h), their liability to the United States for Past Response Costs and Future Response Costs incurred by EPA at the Lower Passaic River Study Area as provided by Section 113(f)(3)(B) of CERCLA, 42 U.S.C. 9613(f)(3)(B).

IX. RESERVATIONS OF RIGHTS BY EPA

24. EPA reserves, and this Agreement is without prejudice to, all rights against Settling Parties with respect to all matters not expressly included within the Covenant Not to Sue by EPA in Paragraph 23. Notwithstanding any other provision of this Agreement, EPA reserves all rights against Settling Parties with respect to:

- a. liability for failure of Settling Parties to meet a requirement of this Agreement;
- b. criminal liability;

c. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;

d. liability arising from the past, present, or future disposal, release or threat of release of a hazardous substance, pollutant, or contaminant outside of the Lower Passaic River Study Area;

e. liability for future disposal, release or threat of release of a hazardous substance, pollutant or contaminant within the Lower Passaic River Study Area except a federally permitted release within the meaning of Section 101(10) of CERCLA, 42 U.S.C. 9601(10);

f. liability for performance of any response actions outside the definition of the RI/FS and for all costs incurred or to be incurred in connection with any response actions outside the definition of the RI/FS; and

g. liability for performance of response actions or for reimbursement of Future Response Costs for the RI/FS, if Future Response Costs exceed \$10,000,000.00. In the event that EPA's Future Response Costs exceed \$10,000,000.00, it is EPA's present intent, consistent with standard practices and in its unreviewable discretion, first to attempt to reach agreement with Non-Settling Parties, and/or newly identified responsible parties, for payment of the additional Future Response Costs. EPA agrees not to seek payment of Future Response Costs for the RI/FS in excess of \$10,000,000.00 from the Settling Parties before April 1, 2007; provided however that in the event EPA's use of the Diamond Alkali Superfund Site- Lower Passaic River Study Area Special Account results in there being \$1,000,000.00 or less at any time prior to April 1, 2007, and EPA determines that the amount remaining is an insufficient amount to fund the remainder of the RI/FS, EPA reserves its right to seek payment of additional Future Response Costs from the Settling Parties. In the event that prior to April 1, 2007 Settling Parties assert any claims or causes of action against any entities of the United States, or any entity of the United States is made a party to a cause of action brought by Settling Parties, nothing herein shall preclude the United States from filing counterclaims, crossclaims, or asserting any available defenses against the Settling Parties. If EPA and Settling Parties are unable to reach a settlement with regard to payment of additional Future Response Costs above \$10,000,000.00, EPA reserves its CERCLA enforcement authorities and the Settling Parties reserve their defenses available under law.

25. Nothing herein shall limit the power and authority of EPA or the United States under CERCLA or any other applicable law 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 Lower Passaic River Study Area.

26. Nothing in this Agreement is intended to be nor shall it be construed as a

release, covenant not to sue, or compromise of any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which EPA may have against any person, firm, corporation or other entity not a signatory to this Agreement.

X. COVENANT NOT TO SUE BY SETTling PARTIES

27. Except as specifically set forth in subparagraph d. below, Settling Parties covenant not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the RI/FS or this Agreement, including but not limited to:

a. any direct or indirect claim for reimbursement from the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claims arising out of response actions at or in connection with the RI/FS, including any claim under the United States Constitution, the Tucker Act, 28 U.S.C. § 1491, and the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; and

c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the RI/FS.

d. This Covenant Not to Sue by Settling Parties shall not extend to, and Settling Parties specifically reserve, (1) any claims or causes of action in contribution pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, against the United States as a “covered person: (within the meaning of Section 107(a) of CERCLA, 42 U.S.C. § 9607(a)) with respect to the RI/FS or this Agreement, based solely on actions by the United States other than the exercise of the government’s authority under CERCLA or WRDA; and (2) any claims or causes of action pursuant to the Tucker Act, 28 U.S.C. § 1491, against the United States with respect to the RI/FS or this Agreement based solely on contracts that do not address or relate to the exercise of the government’s authority under CERCLA or WRDA.

28. Nothing in this Agreement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. 300.700(d).

29. The Settling Parties agree that the time between the Effective Date and April 1, 2007 (the “Tolling Time Period”) will not be included in computing the time limited by any statute of limitations that may be applicable to the commencement of an

action by the United States under Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, with respect to the Lower Passaic River Study Area. The Settling Parties agree that any applicable statute of limitations shall be tolled during the Tolling Time Period and agree not to assert, plead, or raise against the United States in any fashion, whether by answer, motion, or otherwise, any defense or avoidance based on the running of any statute of limitations during any portion of the Tolling Time Period. Similarly, the Settling Parties agree that the Tolling Time Period, or any portion thereof, shall not be used to raise any other defenses, including, but not limited to, laches, concerning the United States' timeliness in commencing a civil action for the recovery of response costs.

a. This Paragraph does not constitute in any way an admission or agreement on the part of a Settling Party that any claim filed against it would be timely.

b. In addition, this Paragraph does not constitute an admission or acknowledgment on the part of the United States that any statute of limitations is applicable to any claim or portion thereof asserted by the United States with respect to the Lower Passaic River Study Area.

c. Except as set forth in Sections VIII and IX, the United States reserves all rights and defenses which it may have to contest or defend any claim or action the Settling Parties may assert or initiate against the United States.

d. Except as set forth in Sections IX and X, the Settling Parties reserve all rights and defenses which they may have to contest or defend any claim or action the United States may assert or initiate against the Settling Parties.

XI. EFFECT OF SETTLEMENT/ CONTRIBUTION PROTECTION

30. Nothing in this Agreement shall be construed to create any rights in, or grant any cause of action to, any persons not Parties to this Agreement. The United States reserves any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action that it may have with respect to any matter, transaction, or occurrence relating in any way to the Lower Passaic River Study Area against any person not a Party hereto.

31. The Parties agree that Settling Parties are entitled, as of the effective date of this Agreement, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), for "matters addressed" in this Agreement. The "matters addressed" in this Agreement are all response actions taken or to be taken and all Past Response Costs and Future Response Costs incurred or to be incurred, by the United States or by any other person. The "matters addressed" in this Agreement do not include those response costs or response actions as to which EPA has reserved its rights under this Agreement, in the event that EPA asserts rights against Settling Parties coming within the scope of such reservations.

32. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, recovery of response costs, or other relief relating to the Lower Passaic River Study Area, Settling Parties shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the Covenant Not to Sue by EPA set forth in Section VIII.

XII. ACCESS TO INFORMATION

33. Subject to Paragraph 34 of this Agreement, Settling Parties shall provide EPA, upon request, copies of all records, reports, or information (hereinafter referred to as "records") within their possession or control or that of their contractors or agents relating to activities at the Lower Passaic River Study Area, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Lower Passaic River Study Area.

34. Confidential Business Information and Privileged Documents.

a. Settling Parties may assert business confidentiality claims covering part or all of the records submitted under this Agreement to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. 2.203(b). Records determined to be confidential by EPA will be accorded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies records when they are submitted to EPA, or if EPA has notified Settling Parties that the records are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2 Subpart B, the public may be given access to such documents or information without further notice to Settling Parties.

b. Settling Parties may assert that certain records are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Settling Parties assert such a privilege in lieu of providing records, they shall provide EPA with the following: 1) the title of the record; 2) the date of the record; 3) the name, title, affiliation (*e.g.*, company or firm), and address of the author of the record; 4) the name and title of each addressee and recipient; 5) a description of the subject of the record; and 6) the privilege asserted. If a claim of privilege applies only to a portion of a record, the record shall be provided to EPA in redacted form to mask the privileged portion only. Settling Parties shall retain all records that they claim to be privileged until EPA has had a reasonable opportunity to dispute the privilege claim and any such dispute has been resolved in the Settling Parties' favor. However, no records required to be created or generated pursuant to this or any other settlement with the EPA pertaining to the Lower Passaic River Study Area shall be withheld on the grounds that they are privileged.

35. No claim of confidentiality shall be made by the Settling Parties with respect to any data, including but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at or around the Lower Passaic River Study Area.

XIII. RETENTION OF RECORDS

36. Until 10 years after the effective date of this Agreement, each Settling Party shall preserve and retain all non-identical and/or original copies of records and documents (including records or documents in electronic form) now in its possession or control, or which come into its possession or control, that relate in any manner to response actions taken at the Lower Passaic River Study Area or to the liability of any person under CERCLA for response actions or response costs at or in connection with the Lower Passaic River Study Area, regardless of any corporate document retention policy to the contrary.

37. After the conclusion of the document retention period in the preceding paragraph, Settling Parties shall notify EPA at least 90 days prior to the destruction of any such record, and, upon request by EPA, Settling Parties shall deliver such records to EPA. Settling Parties may assert that certain records are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Settling Parties assert such a privilege, they shall provide EPA with the following: 1) the title of the record; 2) the date of the record; 3) the name, title, affiliation (e.g., company or firm), and address of the author of the record; 4) the name and title of each addressee and recipient; 5) a description of the subject of the record; and 6) the privilege asserted. If a claim of privilege applies only to a portion of a record, the record shall be provided to EPA in redacted form to mask the privileged portion only. Settling Parties shall retain all records that they claim to be privileged until EPA has had a reasonable opportunity to dispute the privilege claim and any such dispute has been resolved in the Settling Parties' favor. However, no records required to be created or generated pursuant to this or any other settlement with the EPA pertaining to the Lower Passaic River Study Area shall be withheld on the grounds that they are privileged.

XIV. CERTIFICATION

38. Each Settling Party hereby certifies individually that, to the best of its knowledge and belief, after thorough inquiry, and except for the documents listed on Appendix B to this Agreement, it has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, reports, or information relating to its potential liability regarding the Lower Passaic River Study Area since notification of potential liability by the United States or the filing of a suit against it by the United States regarding the Lower Passaic River Study Area and that it has fully complied with any and all EPA requests for information regarding the Lower Passaic River Study Area pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e).

XV. NOTICES AND SUBMISSIONS

39. Whenever, under the terms of this Agreement, notice is required to be given or a document is required to be sent by one Party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of this Agreement with respect to EPA, and Settling Parties.

As to EPA:

Chief, New Jersey Superfund Branch
Office of Regional Counsel
U.S. EPA, Region 2
290 Broadway- 17th Floor
New York, NY 10007
Attn: Diamond Alkali Superfund Site - Lower Passaic River Study Area Attorney

Strategic Integration Manager
Emergency and Remedial Division
U.S. EPA, Region 2
290 Broadway- 19th Floor
New York, NY 10007
Attn: Diamond Alkali Superfund Site - Lower Passaic River Study Area Remedial Project Manager

With respect to Sections V and VI, Notice shall also be given to:

Chief, Financial Management Branch
U.S. EPA, Region 2
290 Broadway- 29th Floor
New York, NY 10007

As to Settling Parties:

William H. Hyatt, Jr., Liaison Counsel
Kirkpatrick & Lockhart, LLP
One Newark Center
Tenth Floor
Newark, New Jersey 07102
whyatt@kl.com

XVI. INTEGRATION/APPENDICES

40. This Agreement and its appendices constitute the final, complete and

exclusive Agreement and understanding among the Parties with respect to the settlement embodied in this Agreement. The Parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Agreement. The following appendices are attached to and incorporated into this Agreement: Appendix A is the List of Settling Parties and Appendix B is the List of Documents.

XVII. PUBLIC COMMENT

41. This Agreement shall be subject to a public comment period of not less than 30 days pursuant to Section 122(i) of CERCLA, 42 U.S.C. § 9622(i). In accordance with Section 122(i)(3) of CERCLA, the United States may modify or withdraw its consent to this Agreement if comments received disclose facts or considerations which indicate that this Agreement is inappropriate, improper, or inadequate.

XVIII. ATTORNEY GENERAL APPROVAL

42. The Attorney General, or his designee, has approved the settlement embodied in this Agreement in accordance with Section 122(h)(1) of CERCLA, 42 U.S.C. Section 9622(h)(1).

XIX. EFFECTIVE DATE

43. The effective date of this Agreement shall be the date upon which EPA issues written notice that the public comment period pursuant to Paragraph 41 has closed and that comments received, if any, do not require modification of or withdrawal by the United States from this Agreement.

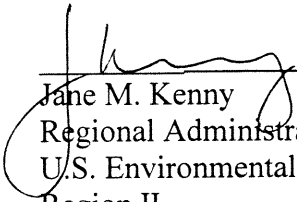
IT IS SO AGREED.

For: U.S. Department of Justice

By: Tom Sansonetti
Thomas L. Sansonetti
Assistant Attorney General
Environment and Natural Resources
Division
U.S. Department of Justice

4.6.04
Date

For: U.S. Environmental Protection Agency

By:  _____
Jane M. Kenny
Regional Administrator
U.S. Environmental Protection Agency
Region II

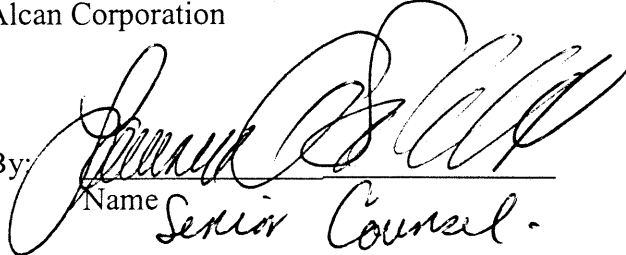
3/31/04
Date

The signatory identified below certifies that he or she is fully authorized to represent the Settling Party in this matter, to agree to the terms and conditions of this Agreement on behalf of the Settling Party and to bind Settling Party to all of the terms and conditions of this Agreement. Settling Party agrees to enter into this Agreement and to be bound by its terms.

Alcan Corporation

By:

Name



Senior Counsel.

Date

3-19-2007

The signatory identified below certifies that he or she is fully authorized to represent the Settling Party in this matter, to agree to the terms and conditions of this Agreement on behalf of the Settling Party and to bind Settling Party to all of the terms and conditions of this Agreement. Settling Party agrees to enter into this Agreement and to be bound by its terms.

Alliance Chemical, Inc.

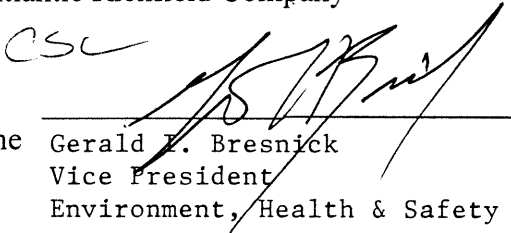
By: 
Name

March 24, 2004
Date

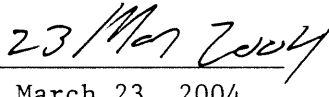
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Amerada Hess Corporation,
on its own behalf and on behalf
of Atlantic Richfield Company

By:


Name Gerald E. Bresnick
Vice President
Environment, Health & Safety

Date


March 23, 2004

The signatory identified below certifies that he or she is fully authorized to represent the Settling Party in this matter, to agree to the terms and conditions of this Agreement on behalf of the Settling Party and to bind Settling Party to all of the terms and conditions of this Agreement. Settling Party agrees to enter into this Agreement and to be bound by its terms.

Ashland, Inc.

By: Col Laptchak REI 3/22/04
Name Date

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BASF Corporation

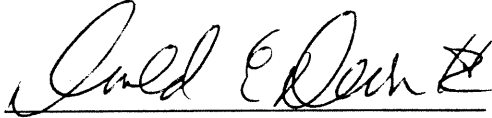
By: Nan Bernardo
Name
NAN BERNARDO

3-25-04
Date

The signatory identified below certifies that he or she is fully authorized to represent the Settling Party in this matter, to agree to the terms and conditions of this Agreement on behalf of the Settling Party and to bind Settling Party to all of the terms and conditions of this Agreement. Settling Party agrees to enter into this Agreement and to be bound by its terms.

Benjamin Moore & Co.

By:

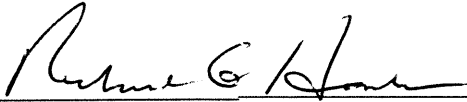


Donald E. Devine
Executive Vice President, CFO
And Treasurer

March 22, 2004
Date

The signatory identified below certifies that he or she is fully authorized to represent the Settling Party in this matter, to agree to the terms and conditions of this Agreement on behalf of the Settling Party and to bind Settling Party to all of the terms and conditions of this Agreement. Settling Party agrees to enter into this Agreement and to be bound by its terms.

Celanese LTD

By: 
Name
Richard G. Hanlon

3/22/04
Date



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Coltec Industries Inc

By:

John Mayo
Name

March 24, 2004
Date

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Curtiss-Wright Corp.

By: James V. Maher 3/22/04
Name Date

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E.I. duPont de Nemours and Company

By:

Bernard J. Reilly
Name

March 13, 2004
Date

The signatory identified below certifies that he or she is fully authorized to represent the Settling Party in this matter, to agree to the terms and conditions of this Agreement on behalf of the Settling Party and to bind Settling Party to all of the terms and conditions of this Agreement. Settling Party agrees to enter into this Agreement and to be bound by its terms.

Essex Chemical Corp.

By: Jane VanVarnes
Name

22 March 2004
Date

The signatory identified below certifies that he or she is fully authorized to represent the Settling Party in this matter, to agree to the terms and conditions of this Agreement on behalf of the Settling Party and to bind Settling Party to all of the terms and conditions of this Agreement. Settling Party agrees to enter into this Agreement and to be bound by its terms.

Franklin-Burlington Plastics, Inc.

By: Ne W. Spidel
Name

3/15/04
Date

Lower Passaic River Study Area portion of the
Diamond Alkali Superfund Site
Administrative Order on Consent
US EPA Region 2
CERCLA Docket No. 02-2004-2011

The signatory identified below certifies that he or she is fully authorized to represent the Settling Party in this matter, to agree to the terms and conditions of this Agreement on behalf of the Settling Party and to bind Settling Party to all of the terms and conditions of this Agreement. Settling Party agrees to enter into this Agreement and to be bound by its terms.

Goody Products, Inc.

By: 
Dale L. Matschullat

March 15, 2004
Date

Authorized Representative:
Andrew N. Sawula, Esq.
Schiff Hardin LLP
6600 Sears Tower
Chicago, IL 60606
(312) 258-5577
(312) 258-5700
asawula@schiffhardin.com

The signatory identified below certifies that he or she is fully authorized to represent the Settling Party in this matter, to agree to the terms and conditions of this Agreement on behalf of the Settling Party and to bind Settling Party to all of the terms and conditions of this Agreement. Settling Party agrees to enter into this Agreement and to be bound by its terms.

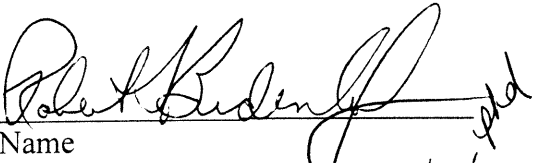
Lucent Technologies Inc.

By: R J Fomenella
Name

3/18/04
Date

The signatory identified below certifies that he or she is fully authorized to represent the Settling Party in this matter, to agree to the terms and conditions of this Agreement on behalf of the Settling Party and to bind Settling Party to all of the terms and conditions of this Agreement. Settling Party agrees to enter into this Agreement and to be bound by its terms.

Mallinckrodt, Inc.

By: 
Name
ROBERT T. Badenholzer
Vice President
Mallinckrodt Inc.

3/22/04
Date

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News America Incorporated

By: Eugenie C. Gavenchak
Name Eugenie C. Gavenchak

March 25, 2004
Date

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NPEC, Inc.

By:


Name

JEFFREY M. POLLOCK
as legal counsel to NPEC, INC.


Date

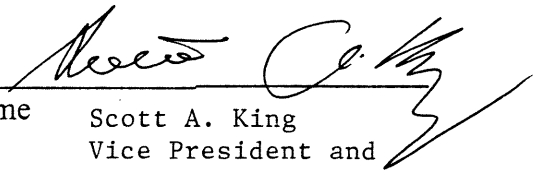
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Occidental Chemical Corporation

(as successor to Diamond Shamrock Chemicals Company)

By:

Name


Scott A. King
Vice President and
General Counsel

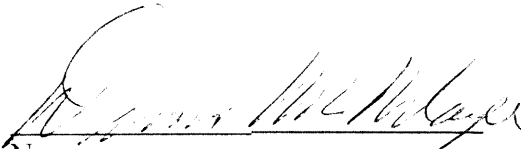
March 23, 2004

Date

-

The signatory identified below certifies that he or she is fully authorized to represent the Settling Party in this matter, to agree to the terms and conditions of this Agreement on behalf of the Settling Party and to bind Settling Party to all of the terms and conditions of this Agreement. Settling Party agrees to enter into this Agreement and to be bound by its terms.

Otis Elevator Company

By: 
Name

3/24/2004
Date

The signatory identified below certifies that he or she is fully authorized to represent the Settling Party in this matter, to agree to the terms and conditions of this Agreement on behalf of the Settling Party and to bind Settling Party to all of the terms and conditions of this Agreement. Settling Party agrees to enter into this Agreement and to be bound by its terms.

Pfizer Inc.

By:

Carol A. Chryza
Name

3-26-04
Date

The signatory identified below certifies that he or she is fully authorized to represent the Settling Party in this matter, to agree to the terms and conditions of this Agreement on behalf of the Settling Party and to bind Settling Party to all of the terms and conditions of this Agreement. Settling Party agrees to enter into this Agreement and to be bound by its terms.

PPG Industries, Inc.

By: Rich Alexander
Name

MARCH 24, 2004
Date

The signatory identified below certifies that he or she is fully authorized to represent the Settling Party in this matter, to agree to the terms and conditions of this Agreement on behalf of the Settling Party and to bind Settling Party to all of the terms and conditions of this Agreement. Settling Party agrees to enter into this Agreement and to be bound by its terms.

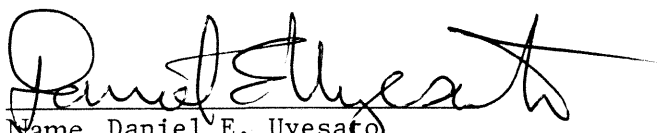
PSE&G Co.

By:  3/17/04
Name Date

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Reichhold Chemicals, Inc.
n/k/a Reichhold, Inc.

By:


Name Daniel E. Uyesato
General Counsel & Secretary

Date

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Reilly Industries, Inc.

By: Ann M. Fye
Name

March 24, 2004
Date

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RSR Corporation

By: Suzanne Peticolas March 25, 2004
Name Date
Gibbons DeLDeo Dolan
Griffinger & Vecchione
Attorneys for RSR Corporation

The signatory identified below certifies that he or she is fully authorized to represent the Settling Party in this matter, to agree to the terms and conditions of this Agreement on behalf of the Settling Party and to bind Settling Party to all of the terms and conditions of this Agreement. Settling Party agrees to enter into this Agreement and to be bound by its terms.

Safety-Kleen Envirosystems Company

By: 
Name

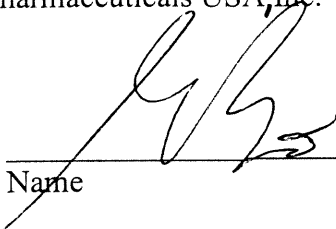
3-17-04
Date

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Teva Pharmaceuticals USA, Inc.

By:

Name

A handwritten signature in black ink, appearing to be "G. B. S.", written over a horizontal line.

Date

3/19/01

LEGAL AFFAIRS
KB

The signatory identified below certifies that he or she is fully authorized to represent the Settling Party in this matter, to agree to the terms and conditions of this Agreement on behalf of the Settling Party and to bind Settling Party to all of the terms and conditions of this Agreement. Settling Party agrees to enter into this Agreement and to be bound by its terms.

The Andrew Jergens Co.

By:



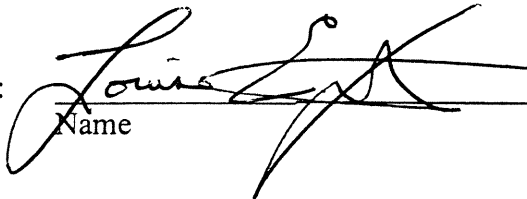
Name STEPHEN C. CAGLE

VICE PRESIDENT- PRODUCT SUPPLY

3/11/04
Date

The signatory identified below certifies that he or she is fully authorized to represent the Settling Party in this matter, to agree to the terms and conditions of this Agreement on behalf of the Settling Party and to bind Settling Party to all of the terms and conditions of this Agreement. Settling Party agrees to enter into this Agreement and to be bound by its terms.

The Sherwin Williams Company

By:  3/18/04/
Name Date

-

The signatory identified below certifies that he or she is fully authorized to represent the Settling Party in this matter, to agree to the terms and conditions of this Agreement on behalf of the Settling Party and to bind Settling Party to all of the terms and conditions of this Agreement. Settling Party agrees to enter into this Agreement and to be bound by its terms.

Three County Volkswagen

By: Scott A. Senior
Name

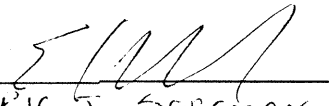
3-18-07
Date

The signatory identified below certifies that he or she is fully authorized to represent the Settling Party in this matter, to agree to the terms and conditions of this Agreement on behalf of the Settling Party and to bind Settling Party to all of the terms and conditions of this Agreement. Settling Party agrees to enter into this Agreement and to be bound by its terms.

Viacom Inc.

WLB
3/15/04

By:


Name ERIC S. SOBCZAK
VP, Assoc. Gen. Counsel

3-15-04
Date

Appendix A-List of Settling Parties

Alcan Corporation

Alliance Chemical, Inc.

Amerada Hess,
on its own behalf and on behalf
of Atlantic Richfield Company

Ashland, Inc.

BASF Corporation

Benjamin Moore & Co.

Celanese LTD

Coltec Industries Inc.

Curtiss-Wright Corp.

E. I. du Pont de Nemours and Company

Essex Chemical Corp.

Franklin-Burlington Plastics, Inc.

Goody Products, Inc.

Lucent Technologies Inc.

Mallinckrodt, Inc.

News America Incorporated

NPEC, Inc.

Occidental Chemical Corporation
(as successor to Diamond Shamrock Chemicals Company)

Otis Elevator Company

Pfizer Inc.

PPG Industries, Inc.

PSE&G Co.

Reichhold Chemicals, Inc.
n/k/a Reichhold, Inc.

Reilly Industries, Inc.

RSR Corporation

Safety-Kleen Envirosystems Company

Teva Pharmaceuticals USA, Inc.

The Andrew Jergens Co.

The Sherwin Williams Company

Three County Volkswagen

Viacom Inc.

Appendix B- List of Documents

1. Documents, e-mails, records, reports or information altered, mutilated, discarded, destroyed or otherwise disposed of prior to the time the Settling Party received its first notice of liability with respect to the Lower Passaic River Study Area;
2. Prior drafts of documents for which a last draft (document never made final) or final copy still exists;
3. Duplicates of documents maintained in other files;
4. Original documents, copies of which are now maintained only on microfilm, microfiche, CD-ROM disc, or by other similar information archiving methods; or
5. Original documents previously stored on archiving methods identified in Paragraph 4 above, for which the microfilm, microfiche, etc., no longer exists, but from which hard copies printed from the microfilm, microfiche, etc. do exist.