



California Regional Water Quality Control Board

Los Angeles Region



Linda S. Adams,
Cal/EPA Secretary

320 W 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger
Governor

December 5, 2008

Ms. Valerie Baxa
First Industrial Realty Trust
311 S. Wacker Dr., Suite 4000
Chicago, IL 60606

2008 - 2009 ANNUAL ESTIMATION LETTER FOR THE SITE CLEANUP COST RECOVERY PROGRAM - CALMAR, INC. AT 333 TURNBULL CANYON ROAD, INDUSTRY, CALIFORNIA 90292 (CASE NO. 102.0055; SITE ID NO. 2040156)

Dear Ms. Baxa:

Section 13304 of the California Water Code (Porter Cologne Act) allows the Regional Water Quality Control Boards (Regional Boards) to recover reasonable expenses from a responsible party for overseeing the investigation and cleanup of unregulated discharges adversely affecting the State's waters. It is our intent to continue to recover costs for regulatory oversight work conducted at the subject site (Site) in accordance with our original cost recover letter. In compliance with Section 13365 of the California Water Code, this annual estimation letter is being sent to provide you the following information regarding costs for regulatory oversight work:

1. A detailed estimate of the work to be performed or services to be provided;
2. A statement of the expected outcome of that work;
3. The billing rates for all individuals and classes of employees expected to engage in the work; and
4. An estimate of all expected charges to be billed to you by this agency.

Estimate of Work to be Performed

The Regional Board staff estimate that during the Regional Board's 2008/2009 fiscal year (July 1, 2008 to June 30, 2009) regulatory oversight work that may include, but not limited to, the following tasks to be performed at your Site:

1. Review environmental reports, and determine if the contamination sources are identified and the plumes are fully delineated vertically and laterally;
2. Request and review of additional assessment work plans, corrective action plans and other technical reports as necessary;
3. Preparation of comment letters on various reports and communicate findings to responsible parties;
4. Conduct site inspections, collect soil and/or groundwater samples, and meet with environmental consultants and responsible parties; and
5. Conduct internal and external communications (i.e. meetings, memos) about the Site.

Statement of Expected Outcome

The expected outcome of work that will be performed during fiscal year 2008/2009 includes:

- Provide written comments on technical reports to be submitted as appropriate;
- Verify the adequacy of technical reports; and
- Prepare and issue directive orders to the Site, as determined to be necessary by this Regional Board.

Billing Rates

Attached are the Site Cleanup Program, Monthly Salary Scales by Job Classification (Attachment 1) for employees expected to perform the work and the Reimbursement Process for Regulatory Oversight (Attachment 2). The names and classifications of employees that charge time to this site will be listed on the invoices. The average billing rate is about \$135.00 per hour. Recent salary adjustments will affect the current billing rates for many of our staff.

Estimation of Expected Charges

- A. Regional Board staff expects to charge about 100 hours for work related to this site during fiscal year 2008/2009. Based on the average billing rate of \$135.00 per hour, the estimated billing charge by the Regional Board staff for this site during this fiscal year is about \$13,500.00, which does not include possible contract charges stated in B. (see below). **Please note that this is neither a commitment nor a contract for regulatory oversight. It is only an estimate of the work, which may be performed. Furthermore, we anticipate that there may be possible delays in Regional Board staff's review of reports submitted.**
- B. To better evaluate the potential health risk from the detected or residual contaminants posed to the current/future occupants of the site and the immediate site vicinity, the Regional Board has established a contract with the State Office of Environmental Health Hazard Assessment (OEHHA), to have their toxicologists review the submitted health risk assessment reports. OEHHA will review, evaluate if appropriate, and provide comments on risk assessment reports. When requested, OEHHA toxicologists will provide the Regional Board consultation services on issues concerning human health and/or environmental risks.

Under the Cost Recovery Program, the responsible party (parties) is (are) required to reimburse the Regional Board for the cost incurred by OEHHA review. Occurred charges by OEHHA staff will be included in our invoices under the contract charges category. All quarterly invoices generated for this project will be sent to your provided billing contact by the Site Cleanup Program (SCP), State Water Resources Control Board.

Other Requirements

I. Change of Ownership

You must notify the Executive Officer, in writing at least 30 days in advance of any proposed transfer of this cost reimbursement account's responsibility to a new owner containing a specific date for the transfer. In addition, you shall notify the succeeding owner of the existence of this cost reimbursement account by letter, copy of which shall be forwarded to the Regional Board.

II. Public Participation

With increased public interest in our programs and the public knowledge of threat to human health and the environment, the Regional Boards are increasing our effort in getting the public more involved in our decision making process. The Regional Boards are also required to involve the public in site cleanup decisions under State law (including Health & Safety Code section 25356.1). You may be required to prepare and implement a public participation plan. Regional Board staff will provide you with additional guidance as appropriate.

III. Electronic Submittals

On July 1, 2005 (Attachment 3), the Regional Board informed each responsible party of new regulations requiring the electronic submittal of information (ESI), which went into effect on January 1, 2005. These regulations (Chapter 30, Division 3 of Title 23 & Division 3 of Title 27, CCR) require you to submit compliance reports, including site maps, data showing the locations (latitude and longitude) and elevations of boring logs, well screen intervals, depths to water, and data with laboratory analyses over the Internet to Geotracker (the State Water Board's Internet-accessible database system). Data showing locations (latitude and longitude) and elevation and depth data must be submitted in accordance with the Geotracker XYZ survey Guidelines and Restrictions (website: http://www.swrcb.ca.gov/water_issues/programs/ust/electronic_submittal/docs/geotracker_survey_xyz_4_14_05.pdf).

Furthermore, you are responsible for the authenticity, accuracy, and precision of electronic data submitted by individuals whom you have authorized to the Geotracker system. For the Geotracker XYZ survey, data indicating accurate and precise locations and elevations of boring and monitoring wells must be measured, referenced to NAD83 and NAVD88, and documented by professionals who are licensed to practice land surveying in California. You or your agent must confirm the accuracy of the survey data after upload into to Geotracker's electronic database.

The July 1, 2005, letter also stated that beginning on July 1, 2005, a paper copy of reports will no longer be required upon submittal of the electronic copy unless the Regional Board specifically requires the paper copy to be submitted. **However, the Site Cleanup Program at the Los Angeles Regional Board does not have the resources to acquire hardware to allow caseworkers to appropriately review**

Ms. Baxa
Case No. 102.0055

-4 -

December 5, 2008

documents in electronic form. Therefore, for the foreseeable future, we request that you continue to submit hard copies of all documents and data submittals.

If you have any questions, please contact Mr. Don Indermill at (213) 576-6811, or Mr. Dixon Oriola at (213) 576-6803.

Sincerely,

fw *David A. Bachanuskis, AEO*
Tracy J. Egoscue
Executive Officer

Attachments:

1. Monthly Salary Scales by Job Classification
2. Reimbursement Process for Regulatory Oversight
3. New Regulations – Electronic Submittal of Information

Attachment 1

SITE CLEANUP PROGRAM (SCP)
BILLING COST EXPLANATION

Employee Salary and Benefits by Classification¹ ABR		SALARY SCALE
Associate Governmental Program Analyst	AGPA	5,852 - 7,113
Engineering Geologist	EG	5,691 - 10,173
Environmental Scientist	ES	4,092 - 7,596
Office Assistant (G)	OA	2,758 - 3,684
Office Assictant (T)	OA	2,850 - 3,759
Office Technician (G)	OT	3,509 - 4,268
Office Technician (T)	OT	3,572 - 4,341
Principal Water Resources Control Engineer	PWRCE	13,090 - 14,434
Sanitary Engineering Associate	SEA	6,597 - 8,016
Sanitary Engineering Technician	SET	4,543 - 6,339
Senior Engineering, Water Resources	SWRCE	9,811 - 11,923
Senior Engineering Geologist	SEG	9,811 - 11,923
Senior Environmental Scientist	SRES	7,248 - 8,749
Staff Counsel	STCOUN	6,216 - 10,411
Staff Counsel III	STCOUNIII	10,217 - 12,606
Staff Counsel IV	STCOUNIV	11,286 - 13,934
Staff Environmental Scientist	SES	7,242 - 8,745
Student Assistant	SA	2,663 - 2,938
Student Assistant Engineer	SAE	2,663 - 3,985
Supervising Engineering Geologist	SUEG	10,769 - 13,090
Supervising Water Resources Control Engineer	SUWRCE	10,769 - 13,090
Water Resources Control Engineer	WRCE	7,883 - 10,131

Indirect Charges²

Indirect costs	100% of salaries and benefits
Accounting administrative costs	15% of salaries and benefits
Regional Board administrative costs	20% of salaries and benefits

Billing Example

Water Resources Control Engineer	
Salary	\$ 10,131
Overhead (indirect costs):	\$ 10,131
Admin.: State Board	\$ 1,520
Regional Board	\$ 2,026
Total Cost per month	\$ 23,808

Divided by 176 hours per month equals per hour: \$ 135.27
(Due to the various classifications that expend SLIC resources. An average of \$ 135.00 per hour can be used for projection purposes.)

¹ The name and classification of employees performing oversight work will be listed on the invoice you receive.

² The examples are estimates based on recent billings. Actual charges may be slightly higher or lower.

REIMBURSEMENT PROCESS FOR REGULATORY OVERSIGHT

We have identified your facility or property as requiring regulatory cleanup oversight. Pursuant to the Porter-Cologne Water Quality Control Act, reasonable costs for such oversight can be recovered by the Regional Water Quality Control Board (RWQCB) from the responsible party. The purpose of the enclosure is to explain the oversight billing process structure.

INTRODUCTION

The Porter-Cologne Water Quality Control Act authorizes the State Water Resources Control Board (SWRCB) to set up Cost Recovery Programs. The Budget Act of 1993 authorized the SWRCB to establish a Site Cleanups Program. The Cost Recovery Program is set up so that reasonable expenses incurred by the SWRCB and RWQCBs in overseeing cleanup of illegal discharges, contaminated properties, and other unregulated releases adversely impacting the State's waters can be reimbursed by the responsible party. Reasonable expenses will be billed to responsible parties and collected by the Fee Coordinator at the SWRCB in the Division of Clean Water Programs (DCWP).

THE BILLING SYSTEM

Each cost recovery account has a unique charge number assigned to it. Whenever any oversight work is done, the hours are billed to account number on the employee's time sheet. The cost of the staff hours is calculated by the State Accounting System based on the employee's salary and benefit rate and the SWRCB overhead rate.

SWRCB and RWQCB Administrative charges for work such as accounting, billing preparation, general program meetings and program specific training cannot be charged directly to an account. This work will be charged to Administrative accounting codes. The Accounting Office totals these administrative charges for the billing period and distributes them back to all of the accounts *based on the number of hours charged to* each account during that billing period. These charges show as SWRCB Program Administrative Charges and RWQCB Program Administrative Charges on the Invoice.

The Overhead Charges are based on the number of labor hours charged to the account. The overhead charges consist of rent, utilities, travel, supplies, training, and accounting services. Most of these charges are paid in arrears. Therefore, if there is no labor charged during the billing period, there still may be overhead charges associated with previous months services. The Accounting Office keeps track of these charges and distributes them back monthly to all of the accounts based on the number of hours charged to each account. Therefore, the quarterly statements could show no labor hours charged for that billing period, but some overhead costs could be charged to the account.

Invoices are issued quarterly, one quarter in arrears. If a balance is owed, a check is to be remitted to the SWRCB with the invoice remittance stub within 30 days after receipt of the invoice. The Accounting Office sends a report of payments to the Fee Coordinator on a quarterly basis.

Copies of the invoices will be sent to the appropriate RWQCBs so they are aware of the oversight work invoiced. Questions regarding the work performed should be directed toward your RWQCB case worker.

ATTACHMENT 2

If the responsible party becomes delinquent in their quarterly payments, oversight work will cease immediately. Work will not begin again unless the payments are brought up-to-date.

DISPUTE RESOLUTION

If a dispute regarding oversight charges cannot be resolved with the RWQCB, Section 13320 of the California Water Code provides a process whereby persons may petition the SWRCB for review of RWQCB decisions. Regulations implementing Water Code Section 13320 are found in the Title 23 of the California Code of Regulations, Section 2050.

DAILY LOGS

A detailed description (daily log) of the actual work being done at each specific site is kept by each employee in the Regional Water Board who works on the cleanup oversight at the property. This information is provided on the quarterly invoice using standardized work activity codes to describe the work performed. *Upon request, a more detailed description of the work performed is available from the RWQCB staff.*

REMOVAL FROM THE BILLING SYSTEM

After the cleanup is complete, the RWQCB will submit a closure form to the SWRCB to close the account. If a balance is due, the Fee Coordinator will send a final billing for the balance owed. The responsible party should then submit a check to the Accounting Office to close the account.

AGREEMENT

No cleanup oversight will be performed unless the responsible party of the property has agreed in writing to reimburse the State for appropriate cleanup oversight costs. You may wish to consult an attorney in this matter. As soon as the letter is received, the account will be added to the active Site Cleanup program Cost Recovery billing list and oversight work will begin.



California Regional Water Quality Control Board Los Angeles Region



Alan C. Lloyd, Ph.D.
Agency Secretary

Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful
320 W 4th Street, Suite 200, Los Angeles California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger
Governor

ATTACHMENT 3

July 1, 2005

Notice to Interested Parties

NEW REGULATIONS - ELECTRONIC SUBMITTAL OF INFORMATION

The State Water Resources Control Board (State Water Board) recently adopted regulations requiring the electronic submittal of information (ESI), over the internet, for cleanup programs overseen by the California Regional Water Quality Control Boards (Regional Water Boards), starting January 1, 2005.

Parties responsible for cleanup of pollution at sites overseen by the Regional Water Board's Department of Defense (DoD), Spills, Leaks, Investigations, and Cleanups Program (SLIC), and Land Disposal Programs are required to submit over the internet, the following information electronically:

- groundwater analytical data,
- surveyed locations of monitoring wells,
- boring logs describing monitoring well construction, and,
- portable data format (PDF) copies of all reports.

The text of the regulations is attached, and can be found at the following URL:

http://www.waterboards.ca.gov/ust/cleanup/electronic_reporting/docs/final_electronic_regs_dec04.pdf

The State Water Board GeoTracker data management system is capable of accepting this electronic information. GeoTracker is a geographic information system providing online access to environmental and regulatory data. Currently, Geotracker has information submitted by responsible parties for over 10,000 Leaking Underground Storage Tank sites statewide. This information is available to the public at:

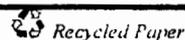
<http://www.geotracker.swrcb.ca.gov>

Beginning July 1, 2005, a paper copy of reports will no longer be required for the DoD, SLIC, or Land Disposal Programs upon submittal of the electronic copy unless the Regional Water Board specifically requires the paper copy to be submitted. The electronic reports are intended to replace the need for a paper report, and will be used for all public information requests, regulatory review, and compliance/enforcement activities.

The Regional Water Board does not have the resources to acquire hardware to allow caseworkers to appropriately review documents in electronic form. Therefore, for the foreseeable future, we request that you continue to submit hard copies of all documents and data submittals.

You will need a GeoTracker password for submitting data and reports. To obtain instructions for receiving a GeoTracker password please go to our ESI website.

California Environmental Protection Agency



http://www.swrcb.ca.gov/ust/cleanup/electronic_reporting/index.html

Our ESI website has an on-line tutorial to aid your transition to electronic data and reporting submittal. You can access information on how to upload electronic data at the following ESI website:

http://www.swrcb.ca.gov/ust/cleanup/electronic_reporting/docs/ab2886_primer.pdf

If you have any questions or need additional information on reporting electronic data, please contact Hamid Foolad at: hfoolad@waterboards.ca.gov.

Training and Outreach

User outreach meetings will be arranged in both Northern and Southern California based upon demand. The GeoTracker system will be announcing future sessions to all regulators, consultants and responsible parties who hold a GeoTracker password.

From: Don Indermill
To: Chavira.Raymond@epamail.epa.gov
Date: 1/28/2010 10:52 AM
Subject: Calmar

Ray the attachment is not attached.

Thanks,
Don

>>> <Chavira.Raymond@epamail.epa.gov> 1/28/2010 10:14 AM >>>
Attached are the St Gobain (parent of Calmar) CD entered January 2007 in
and the Reasonable Steps letter sent to First Industrial Realty Trust in
March 2004

Ray
----- Forwarded by Raymond Chavira/R9/USEPA/US on 01/28/2010 10:11 AM

From:
Raymond Chavira/R9/USEPA/US
To:
"Don Indermill" <dindermill@waterboards.ca.gov>
Date:
02/04/2009 12:09 PM
Subject:
Re: Calmar

Don,

I only have this document which states the new owner cannot decommission
without EPA approval. I would certainly like to know if Calmar has
correspondence?

Ray

"Don Indermill" <dindermill@waterboards.ca.gov>
11/18/2008 09:30 AM

To
Raymond Chavira/R9/USEPA/US@EPA
cc

Subject
Calmar

Ray,

I have a site Calmar at 333 Turnbull in City of Industry. I am ready to
give it complete closure. Apparently, They were given permission to
decommission monitoring wells in March 2006. I see reference to RWQCB

approval in the file and the consultant says EPA consent was given also.
What is your position on the closure?

Thanks,
Don

SITE CLEANUP PROGRAM FILE REVIEW FORM
PLEASE READ BEFORE REVIEWING FILES

1. TO BE FILLED OUT COMPLETELY BY PERSON RECEIVING THE REQUEST

Request Received by: Letty Aquilov Date: 2/8/10

Person(s) who wish To review files: Nancy Benesky Phone Number: 714 310 4188 Representing: Wakestone Env.

Files to be reviewed:

SCP# _____ WIP# 102-0055
Site Name: CalMar
Volume: 2/6 boxes
File Location _____

2. TO BE FILLED OUT BY PERSON SETTING APPOINTMENT

Appointment Date: 2/9/10 Time (s): 8:30
Staff Contact: Don Twierwill Phone: (213) 576-6811

INITIAL HERE IF USING A COPY SERVICE _____ DATE OF SERVICE _____

NOTE TO FILE REVIEWER AND/OR COPY SERVICE

Due to the amount of damaged files returned after previous files reviews, it is hereby requested that all files reviewed be treated in the following manner. This includes but not limited to: keeping chronological order, binding separated reports after copies have been made, theft of documents, damaging documents, removal of personal notes and tabs indicating what pages should be copied and not mixing case files with other files being reviewed. These are public documents and may NOT be removed from the premises. Failure to adhere to the above will result in the Reviewer and Copy Service being banned from copying further documents.

I CERTIFY THAT I HAVE READ THE ABOVE STATEMENT AND WILL NOT REMOVE ANY FILES FROM THE PREMISES, ABUSE OR DAMAGE FILES AND HAVE REPLACED ALL FILES REVIEWED IN THE ORDER IN WHICH THEY WERE PROVIDED TO ME.

SIGNATURE OF REVIEWER X _____
COPY SERVICE SIGNATURE X _____

COMMENTS _____

2009 APR 23 11:10 AM



EarthTouch, Inc
3135 North Fairfield Road Suite D
Layton, Utah 84041
Telephone 801 771 2800
Facsimile 801 771 2838

15-Apr-2009

Don Indermill
California Regional Water Quality Control Board
Los Angeles Region
320 W 4th Street, Suite 200
Los Angeles, California 90013

Mr. Indermill:

Attached please find the Remediation Section Case Review Form for the Calmar site at 333 Turnbull Canyon Road, City of Industry, California. This form, prepared for Environcon, LLC, property owner of record, and submitted by Zions Bank as lienholder of record in advance of foreclosure, with this attending letter is a formal request for review of the file for the purpose of issuance of a No Further Action status for the property. This letter summarizes the site background, assessment, and remediation relative to groundwater, the soil matrix, and soil vapor sampling and analysis for the site. Your earliest attention is appreciated.

Background:

Calmar, Incorporated constructed an industrial manufacturing facility on roughly 13 acres of previously undeveloped land at 333 Turnbull Canyon Road in approximately 1962-1963. Calmar Inc. manufactured spray systems for household products (lotion pumps and spray bottles). Between 1963 and 1968 polypropylene, high density polypropylene and styrene were used requiring acetone as a solvent. From 1968 to 1984 in addition to the previously identified solvents and materials, acrylonitrile butadiene styrene (ABS) was used requiring methyl ethyl ketone (MEK) as a solvent. In 1984 production shifted to ultrasonic bonding requiring only isopropyl alcohol and a degreaser/cleaner. At roughly the same time Futura (wood finishing) developed the parcel immediately adjacent to the southwest, identified as the Hunsaker property in many of the reports. Alcon Engineering purchased and developed roughly 1/2 of the 13 acre Calmar property in 1976 that is now identified as the Elmco Sales property immediately northwest of the current Calmar property. Calmar, Inc. ceased business operations at the site in the early 2000s moving to an automated plant near Kansas City, Missouri. ARC International, Inc., a recycler of various solid and universal wastes, acquired the subject property in late 2007 after operating under a lease to purchase option with First Industrial Realty Trust from the early 2000s and subsequently moved operations to another location.

Assessment:

In 1987 Calmar received notification from the Los Angeles Regional Water Quality Control Board (RWQCB) that an inspection determined a release had occurred to soil and possibly groundwater and

Environcon, LLC, property own of record, submitted by
Zions First National Bank as lienholder of record in advance of foreclosure
Regulatory File Review - NFA Request
Calmar Site - City of Industry, California



requested a site investigation and remediation. In response Calmar contracted with BCL Associates, Inc (BCL) to conduct a Preliminary Site Assessment in 1987. This study identified six areas of concern (AOC) the waste storage area; utility trench outlet area; the compressor/chiller area; the clarifier/discharge pipe area; the drum storage area, and the mold area. Chemicals of concern were identified as tetrachloroethylene (PCE), trichloroethylene (TCE); trichloroethane (TCA); 1, 1-dichloroethylene (DCE); and 1, 1-dichloroethane (DCA). Further investigation was recommended. This was followed up in 1989 by a Site Audit conducted by BCL. This report determined depth to groundwater at 35 to 36.5 feet below ground surface (bgs). A 1962 geotechnical report identified perched groundwater at 29 feet bgs. Groundwater gradient was determined to be north to northwest. This resulted in multiple follow on studies and reports conducted by BCL (1989-1990), Earth Technology Corporation (ETC, 1989-1990); Camp, Dresser and McKee, Inc. (CDM), 1991; Levine-Fricke / Levine-Fricke-Recon (LF / LFR, 1991-2000), Forensic Environmental Services, Inc. (FES, 2003); and Broadburne, Briller and Johnson, LLC (BJB, 2004-2006). These studies and subsequent reporting were conducted/submitted from 1991 through 2006 and included installation of 17 monitoring wells three piezometric wells (also used for groundwater monitoring) and 15 soil borings/vapor sites/nested vapor sites. The purposes included determining the lateral and vertical extent of the contaminant plume, depth to groundwater, and groundwater gradient. The depth to ground water (with seasonal fluctuation of up to 15 feet in some wells) and groundwater gradient (north to northwest) did not vary significantly over the period of study (1989 – 2006). The monitoring wells were abandoned with approval from the RWQCB in 2005. Soil matrix sampling and analysis; soil gas (soil vapor) sampling and analysis; and groundwater sampling and analysis were conducted during this time frame and reports filed with the RWQCB. The Calmar site is situated in the San Gabriel Valley Area 4 Puente Unit. Emergent COCs include perchlorates; 1,4-dioxane, n-nitrosodimethylaniline (NDMA); Freon-113; and hexavalent and total chromium.

Remediation

In 1995 the RWQCB requested and received a remediation work plan (RAP) discussing the remediation of contaminated soils. It was determined that soil vapor extraction (SVE) was the preferred method and two pilot studies were conducted to determine the effectiveness of an SVE system. Both the first and second pilot SVE studies concluded that the mass removal was too low to warrant the cost and time necessary to install and operate an SVE system and recommended remediation by natural attenuation (RNA) with on-going monitoring of groundwater, the soil matrix, and soil vapors. RNA appears to be the only form of remediation occurring at the site.

Ground Water

Groundwater sampling at the Calmar site started with the BCL Preliminary Site Assessment conducted in 1988 when three groundwater monitoring wells were installed (MW-1, -2, and -3). The initial investigation failed to determine vertical or lateral extent of the contamination and further study was recommended. Contaminants above the MCLs founding the 1988 groundwater monitoring event included 1,1-dichloroethylene; 1,1-dichloroethane, cis-1,2-dichloroethylene; 1,2-dichloroethane; 1,1,1-trichloroethane; trichloroethylene; and tetrachloroethylene. The levels of the BTEX fraction were either trace or non-detect. The quarterly and annual soil matrix, soil gas (soil vapor), and groundwater monitoring reports all indicated a general decrease in the levels of COCs. The decline indicates the absence of a significant residual source of VOC contamination on site that is contributing to the groundwater contamination levels and that natural attenuation of the plume is occurring. The average depth to ground water of roughly 30 feet below ground surface (bgs) appears to fluctuate seasonally with an attendant rise in groundwater contamination levels, particularly in down gradient wells. The groundwater gradient to the north and northwest has remained consistent throughout the investigation and

monitoring at the site. The latest round of groundwater monitoring appears to have been conducted in early 2000 with RWQCB approved abandonment of the wells in 2005.

Soil Matrix

Sampling of soils on the site started in 1988 with the preliminary site assessment. Eighteen soil borings were advanced, samples taken and analytical performed for the identified COCs, total petroleum hydrocarbons (TPH); aromatic volatile organics; and halogenated volatile organics. Additional soil borings were advanced in 1993 and 1997 to include eight more soil sampling locations along with hand auger soil borings at specific locations. Over 100 soil samples were collected and analyzed over the period from 1988 to 1997 when it appears the latest soil sample activities were undertaken. The general makeup of the soil is fine textured soils overlying coarse grained soils with the greatest concentration of PCE contamination limited to the upper 10 feet of the site with TCE concentration extending deeper into the coarse textured soils. It appears that soil contamination on the site is not a major source for groundwater contamination based on limited spatial distribution of the contaminated soils, minimal VOC concentrations, limited soil permeability; generally declining concentrations with depth; and impermeable cover in areas of historic releases. It appears that elevated VOC concentrations in soils at the Calmar site are associated with groundwater transport from an up-gradient source. Active remediation did not prove to be a viable means of soil contamination reduction as discussed above.

Soil Vapor

Soil vapor sampling and analysis was started on a limited basis in 1989 and was augmented in 1990, 1991, 1993, and 2000. A total of 57 soil vapor probes and four nested vapor probes were advanced with soil vapor samples collected at depths ranging from 2.5 feet bgs to roughly 41 feet bgs. Concentrated sampling and analysis over a one year period in 1999 indicated that soil vapor contamination is generally concentrated in the fine textured soils at depths of approximately 10 feet bgs. PCE, TCE and 1, 1-DCE remained stable or declined slightly over the year. The result of this study was that no further action be required at the Calmar site.

Conclusion

Based on the results of the groundwater, soil, and soil vapor sampling and analysis activities the general consensus is that remediation by natural attenuation has been and continues to be the best alternative for this site. Given the stable to declining levels of contaminant in soil and groundwater; the minimal mass of VOC contaminated soil that can contribute to down gradient contamination; the likelihood that soil contamination levels at the Calmar site are primarily a function of groundwater transport from up-gradient sources; and that soil vapor extraction is not a viable option to remove soil contaminants, it appears the a No Further Action status is warranted and should be granted to the Calmar site.

Respectfully Submitted



Wesley G. Dewsnup
Project Scientist



Brett E. Cox
Senior Scientist

**REMEDIATION SECTION
CASE REVIEW FORM
(Soil and Groundwater)**

Case Reviewer Don Indermill Date	Unit Chief Dixon Ariola Date	Section Chief Arthur G. Heath Date	AEO Date	EO Date
Date 15-Jul-2009	SCP File No 102.0055	Site ID	Account Status Paid <input type="checkbox"/> Yes <input type="checkbox"/> No	
Site Name/Address CALMAR 333 Turnbull Canyon Road City of Industry, CA 91745	Responsible Parties Environcon, LLC, property owner of record, submitted by Zions Bank as lienholder of record in advance of foreclosure.	Address 333 Turnbull Canyon Road City of Industry, CA 91745 Attn: Jay Hooper	Phone No 626-465-1587	

I. CASE INFORMATION

Area of Concern	Contaminant Source	Chemicals of Concern	Source Status	Date of Action
Clarifier (Interior)	Wastewater	Aromatic Volatile Organics: Halogenated Volatile Organics	Source removed 2005; Assessment completed soil borings and soil vapor samples; data summary Tables 1 & 2 Figures 3 & 4 BB&J Letter 2/3/2005; FES Soil and Groundwater Data Summary 10/2003	1998 & 2000
Injection Mold Repair Area (Interior)	Chemical use	Aromatic Volatile Organics: Halogenated Volatile Organics	Source removed 2005; Assessment completed soil borings and soil vapor samples; data summary Tables 3 & 4 Figures 1 & 3 BB&J Letter 2/3/2005; FES Soil and Groundwater Data Summary 10/2003	1997
Waste Storage Area (Exterior)	Waste Storage	Aromatic Volatile Organics: Halogenated Volatile Organics	Source removed 2005; Assessment completed soil borings and soil vapor samples; data summary Tables 9 & 10 Figures 1, 2 & 3 BB&J Letter 2/3/2005; FES Soil and Groundwater Data Summary 10/2003	1988, 1991, 1992, 1993, 1997, 2005
Wastewater Collection Area	Wastewater	Aromatic Volatile Organics: Halogenated Volatile Organics	Source removed 2005; Assessment completed soil borings and soil vapor samples; data summary Tables 5, 6, 7, & 8; Figures 1 & 2 BB&J Letter 2/3/2005; FES Soil and Groundwater Data Summary 10/2003	1988, 1991, 1992, 1993, 1997, 2005

II. SITE CHARACTERIZATION INFORMATION

GW Basin Puete Valley	Designated beneficial uses MUN, IND, AGR, and PROC	Depth to groundwater Shallow Zone: 35 feet bgs Intermediate Zone: 125 feet bgs Water Production Zone: 345 feet bgs	
Distance to nearest municipal supply well 0.5 miles NE		Distance between known shallow GW contamination and current drinking water aquifer. approximately 270 feet	
GW highest depth 25 feet bgs	GW lowest depth 41 feet bgs	Monitoring well screen interval NA wells abandoned in 2005	Flow direction North to northwest
Soil types MC/CL	Max soil depth sampled 55 feet bgs	AB681 Notification <input type="checkbox"/> yes <input type="checkbox"/> no AB2436 Deed Restriction <input type="checkbox"/> yes <input type="checkbox"/> no	Adjacent to school <input type="checkbox"/> yes <input checked="" type="checkbox"/> no

III MAXIMUM DOCUMENTED CONTAMINANT CONCENTRATIONS IN SOIL VAPOR

Contaminant	Soil vapor (µg/L) ⁽¹⁾		CHHSLs (with engineered fill) ⁽²⁾		CHHSLs (without engineered fill) ⁽²⁾		Soil Vapor Screening Level ⁽⁴⁾ (µg/L)
	Earliest Location ID (year/depth [feet bgs])	Latest Location ID (year/depth [feet bgs])	Ras (µg/L)	Com/Ind (µg/L)	Ras (µg/L)	Com/Ind (µg/L)	
Benzene	Non-Detect 1993	Non-Detect 1993	0.085	0.28	0.036	0.12	
Carbon Tetrachloride	NA	NA	0.063	0.21	0.025	0.085	
1,2-Dichloroethane (1,2-DCA)	NA	NA	0.11	0.36	0.05	0.17	
cis-1,2-Dichloroethane (cis-1,2-DCE)	1.0 (1999; VE8 @ 3-8 feet bgs)	1.0 (1999; VE8 @ 3-8 feet bgs)	41	120	16	44	
trans-1,2-Dichloroethane (trans-1,2-DCE)	NA	NA	84	240	32	89	
Ethylbenzene	0.037 (1989; SV7 @ 4.5 feet bgs)	0.037 (1989 SV7 @ 4.4 feet bgs)	postponed	postponed	postponed	postponed	
Mercury (elemental)	NA	NA	0.21	0.56	0.045	0.13	
Methyl tert-Butyl Ether (MTBE)	NA	NA	8.6	29	4.0	13	
Naphthalene	NA	NA	0.093	0.31	0.032	0.11	
Tetrachloroethane (PCE)	0.05 (1990; VP4 @ 6 feet bgs)	24.0 (2005; SV2 @ 20 feet bgs)	0.47	1.6	0.18	0.6	
Tetraethyl Lead	NA	NA	0.0016	0.0045	0.00021	0.00058	
Toluene	0.24 (1989; SV2 @ 4.5 feet bgs)	<1.0 (1993; all sample points all depths)	320	890	140	380	
1,1,1-Trichloroethane (1,1,1-TCA)	250.0 (1989; SV10 @ 4.5 feet bgs)	0.5 (2005; SV-4 @ 20 feet bgs)	2,500	7,000	990	2,800	
Trichloroethylene (TCE)	0.009 (1991; @ all depths)	0.9 (2005; SV-1 @ 5 feet bgs)	1.3	4.4	0.53	1.8	
Vinyl Chloride	NA	NA	0.028	0.095	0.013	0.045	
m-Xylene	NA	NA	850	2,400	320	890	
o-Xylene	NA	NA	740	2,100	320	880	
p-Xylene	NA	NA	800	2,200	320	890	
1,1-DCE	Non-Detect (1988)	0.8 (2005; SV5 @ 20 feet bgs)					
Freon-113	1.0 (1991; VP-35 # 3 feet bgs)	18 (2005 (SV-3 @ 20 feet bgs)					
Xylenes (total)	140 (1989; SV9 @ 3.5 feet bgs)	Non-Detect (1991; all sample points all depths)					

Notes:

- (1) µg/L = microgram per liter
- (2) For humans direct contact exposure, values for the California Human Health Screening Levels (CHHSLs) were obtained from *Human-Exposure-Based Screening Numbers Developed to Aid Estimation of Cleanup Costs for Contaminated Soil* dated January 2005 Revision (Table 6 - Soil-Gas-Screening Numbers for Volatile Chemicals below Buildings Constructed with Engineered Fill below Sub-slab Gravel)
- (3) For humans direct contact exposure, values for the CHHSLs were obtained from *Human-Exposure-Based Screening Numbers Developed to Aid Estimation of Cleanup Costs for Contaminated Soil* dated January 2005 Revision (Table 7 - Soil-Gas-Screening Numbers for Volatile Chemicals below Buildings Constructed without Engineered Fill below Sub-slab Gravel)
- (4) For groundwater resource protection, the values used were based on the Regional Water Quality Control Board - Region 4's *Interim Site Assessment and Cleanup Guidebook* dated May 1996

IV MAXIMUM DOCUMENTED CONTAMINANT CONCENTRATIONS IN UNSATURATED SOIL

Contaminant	Soil (mg/kg)		PRGs		CHHSLs (for non-volatile chemicals)		ESLs		Soil Screening Level* (mg/kg)
	Earliest Location ID (year/depth (feet bgs))	Latest Location ID (year/depth (feet bgs))	Res (mg/kg)	Ind (mg/kg)	Res (mg/kg)	Com/Ind (mg/kg)	Res (mg/kg)	Com/Ind (mg/kg)	
Benzene	Trace (1988; B-1 @ 25 feet bgs)	0.002 (2005; SB-5 @ 5 feet bgs)							0.165
Toluene	Trace (1988; B1 @ 0.5 @ 30 feet bgs)	0.003 (2005; SB-6 @ 5 feet bgs)							9.0
PCE	0.380 (1988; B-17 @ 2.5 feet bgs)	0.074 (1997; LFSB8 @ 9.5 feet bgs)							
TCE	0.081 (1988 B-3 @	0.076 (1997 @ 31.5 feet bgs)							

Notes:

* derived based on the Regional Board Interim Site Assessment and Cleanup Guidebook 1996 for groundwater resource protection

V MAXIMUM DOCUMENTED CONTAMINANT CONCENTRATIONS IN GROUNDWATER

Contaminant	Groundwater (µg/L)		Maximum Contaminant Level (µg/L)	Contaminant	Groundwater (µg/L)		Maximum Contaminant Level (µg/L)
	Earliest MW-3 (9/2/1988)	Latest MW-3 (1/26/2000)			Earliest (9/2/1988)	Latest (1/26/2000)	
PCE [®]	47	28	360	cis-1,2-Dichloroethylene	<1.0	9.9	9.9
TCE	110	500	580	1,1,1-Trichloroethane	<1.0	<5.0	98
1,2-DCA	12	<5.0	320				

VI. SOIL REMEDIATION

Method Soil Vapor Extraction Pilot Test	Duration of remediation Pilot test demonstrated that soil vapor extraction would not be an effective remediation technology
--	--

VII. GROUNDWATER REMEDIATION

Method Not Applicable - Site in a PRP in Puente Valley Operable Unit	Duration of remediation:
---	--------------------------

VIII. FREE PRODUCT:

Was free product encountered? No	Has free product been totally recovered? NA
When was free product recovery project completed? NA	

IX. RECOMMENDED ACTION:

Soil Closure only Recommended	Case Closure Recommended	Solvent Case? Yes
Additional Action Required (i.e. additional site assessment, remediation, monitoring) Deed Restriction can be considered		

X. CASE SUMMARY:

<p>Background:</p> <p>See attached</p> <p>Site Assessment:</p> <p>See attached</p> <p>Remediation: SVE Pilot Test demonstrated that soil vapor extraction would not be an effective remediation technology.</p> <p>Justification for NFA: The responsible party has performed a soil vapor and soil matrix test in the last area of concern. Previous consultants demonstrated that soil vapor extraction operations at the subject site would not meet performance criteria. The RP has demonstrated the soil vapor and soil matrix concentrations are above the CHHSLs; however the concentrations of PCE in the soil matrix and vapor phase has been limited to the shallow subsurface at the site and the RP is prepared to place a deed restriction on the property.</p>

www.swrcb.ca.gov

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2009 APR 23 11 10 32

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EarthTouch, Inc.
 3135 North Fairfield Road, Suite D
 Layton, Utah 84041
 Telephone: 801.771.2800
 Facsimile: 801.771.2838

25-Mar-2009

Via facsimile
 213-576-6717

All Units:
 Well Investigation Program (WIP); and
 Spills, Leaks, Investigations and Clean-up (SLIC) Program
 Regional Water Quality Control Board
 Los Angeles Region
 320 West Fourth Street, Suite 200
 Los Angeles, California 90013

ATTN: All Units File review Request;
 Well Investigation Program (WIP) File Review Request.; and
 Site Cleanup Program (SCP), formerly the Spills, Leaks, Investigations and Clean-up (SLIC)
 File Review Request

File Review Desk;

This letter is a request to conduct a review of information on file with all units, specifically the Well Investigation Program (WIP) and the Site Cleanup Program (SCP), formerly Spills, Leaks, Investigations and Clean-up (SLIC), for the following location:

- Calmar, Inc.
 333 Turnbull Canyon Road
 City of Industry, California 91745

WIP Case No.: 102.0055
 SLIC Case No.: SL603798525

~~2282~~, 2211, ~~2212~~, 2209, 2210, 2213

Not in basement,

Please contact the undersigned at (801) 771-2800 x 110 (office); (801) 499-9557 (cell); or wdewsnup@earthtouchinc.com with any questions regarding this request and to schedule a time to review the file information for the above-referenced site.

Thank you for your attention to this matter.

Sincerely,
 EarthTouch, Inc.

Wesley G. Dewsnap
 Project Scientist

Files at Don's Desk -
 contacted reviewer but
 am waiting to talk to Don
 before an appointment is
 made 4-2-09 -IF

SITE CLEANUP PROGRAM FILE REVIEW FORM
PLEASE READ BEFORE REVIEWING FILES

1. TO BE FILLED OUT COMPLETELY BY PERSON RECEIVING THE REQUEST

Request Received by: Lan Fulmer Date: 03/09/09

Person (s) who wish
To review files:

Phone Number:

Representing:

Brett Cox

801-381-5217

Earth Touch, Inc.

Files to be reviewed:

SCP# _____ WIP# 102.005

Site Name: Calmar Industries

Volume: _____

File Location _____

2. TO BE FILLED OUT BY PERSON SETTING APPOINTMENT

Appointment Date: 03/09/09 Time (s) 10:30 AM

Staff Contact: Caster ORTEZ Phone (813) 576-6758

INITIAL HERE IF USING A COPY SERVICE _____ DATE OF SERVICE _____

NOTE TO FILE REVIEWER AND/OR COPY SERVICE

Due to the amount of damaged files returned after previous files reviews, it is hereby requested that all files reviewed be treated in the following manner. This includes but not limited to: keeping chronological order, binding separated reports after copies have been made, theft of documents, damaging documents, removal of personal notes and tabs indicating what pages should be copied and not mixing case files with other files being reviewed. These are public documents and may NOT be removed from the premises. Failure to adhere to the above will result in the Reviewer and Copy Service being banned from copying further documents.

I CERTIFY THAT I HAVE READ THE ABOVE STATEMENT AND WILL NOT REMOVE ANY FILES FROM THE PREMISES, ABUSE OR DAMAGE FILES AND HAVE REPLACED ALL FILES REVIEWED IN THE ORDER IN WHICH THEY WERE PROVIDED TO ME.

SIGNATURE OF REVIEWER [Signature]

COPY SERVICE SIGNATURE _____

COMMENTS _____



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 9410

March 11, 2004

First Industrial Realty Trust, Inc.
Attn: Valerie Baxa-Director Environmental
311 S. Wacker Drive, Suite 4000
Chicago, IL 60606

Re: Property Located at 333 South Turnbull Canyon Road, City of Industry, California

Dear Ms. Baxa:

I am writing in response to a February 10, 2004 request by Deborah Orr of Bradburne, Briller & Johnson, LLC., concerning First Industrial's property located at 333 South Turnbull Canyon Road, City of Industry, California (the "Property"). As you are aware, the Property is located within the Puente Valley Operable Unit (PVOU) of the San Gabriel Valley Superfund Site, Area 4. The U.S. Environmental Protection Agency (EPA) is currently performing response actions to address groundwater within the PVOU. EPA has identified the Property as a source of groundwater contamination at the PVOU. In addition, actions have been taken to address contamination on the Property at the direction of the State of California (the "State"). If you have any questions regarding potential State liability, you must contact the State.

The bona fide prospective purchaser provision of the Small Business Liability Relief and Brownfields Revitalization Act of 2002, referred to as the Brownfields Amendments to Superfund, provides that a person meeting certain criteria is protected from Superfund liability. EPA provided your contractor, Deborah Orr with guidance documents discussing these requirements before First Industrial purchased the Property in December of 2003. As noted in these guidance documents, if EPA takes a future response action that increases the fair market value of the Property, EPA may have a windfall lien on the Property. The windfall lien would be limited to the increase in fair market value attributable to EPA's response action, capped by EPA's unrecovered response costs.

To qualify as a bona fide prospective purchaser, a person must (among other requirements) take "reasonable steps" with respect to stopping continuing releases, preventing threatened future releases, and preventing or limiting human, environmental, or natural resources exposure to earlier releases. A bona fide prospective purchaser must also provide access to appropriate regulatory agencies, including EPA and the State should they choose to conduct further response activities on the Property.

Based on the information EPA has evaluated to date, EPA believes that the following would be appropriate reasonable steps for First Industrial with respect to potential hazardous substance contamination remaining at or under the Property:

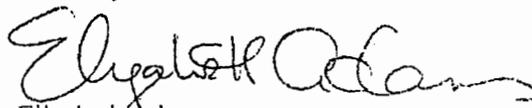
- 1) No drilling of any extraction or injection wells on the Property, without first obtaining approval from EPA and the State;
- 2) No extraction of groundwater water or injection of anything into any existing wells on the Property without first obtaining approval from EPA and the State; and
- 3) No destruction or abandonment of any groundwater wells on the Property without prior approval from EPA and the State. Any EPA and State approved destruction or abandonment of wells must be conducted in accordance with State law.

This letter does not provide a release from CERCLA liability, but only provides information with respect to reasonable steps based on the information U.S. EPA has available to it. This letter is based on the nature and extent of contamination known to EPA at this time. If additional information regarding the nature and extent of hazardous substance contamination at the Property becomes available, additional actions may be necessary to satisfy the reasonable steps criterion. In particular, if new areas of contamination are identified, First Industrial should ensure that reasonable steps are undertaken. As the Property owner, First Industrial should ensure that it is aware of the condition of the Property so that it is able to take reasonable steps with respect to any hazardous substance contamination at or on the Property.

Please note that the bona fide prospective purchaser provision has a number of conditions in addition to those requiring the property owner to take reasonable steps. Taking reasonable steps, providing access, and many of the other conditions are continuing obligations of the bona fide prospective purchaser. As noted above, EPA provided guidance documents discussing these requirements before First Industrial purchased the Property. Based on the information provided by EPA, First Industrial should have assessed whether it satisfied each of the statutory conditions for the bona fide prospective purchaser provision before it purchased the Property and should continue to meet the applicable conditions.

EPA hopes this information is useful to you. If you have any questions, or wish to discuss this letter, please feel free to contact Dustin Minor, Assistant Regional Counsel, at (415) 972-3888.

Sincerely,



Elizabeth Adams
Branch Chief

cc: Penelope McDaniel, Remedial Project Manager
Dustin Minor, Assistant Regional Counsel

1 SUE ELLEN WOOLDRIDGE
Assistant Attorney General
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United States Department of Justice

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CLERK, U.S. DISTRICT COURT
JAN 25 2007
ENTERED
CLERK, U.S. DISTRICT COURT
JAN 29 2007
CENTRAL DISTRICT OF CALIFORNIA
DEPUTY

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CENTRAL DISTRICT OF CALIFORNIA
DEPUTY

IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

14 Additional Counsel Listed on Next Page
15 UNITED STATES OF AMERICA
16 and THE STATE OF CALIFORNIA

17 Plaintiffs,

18 v.

19 SAINT-GOBAIN CORPORATION

20 Defendant.

21 CASE NO. CV 06-07047-ABe

22 CONSENT DECREE

(IC#)

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17 Department of Toxic Substances Control

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21 Facsimile: (610)-341-7087
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23 Attorney for Defendant

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TABLE OF CONTENTS

		Page
1		
2		
3	I. BACKGROUND	2
4	II. JURISDICTION	3
5	III. PARTIES BOUND	3
6	IV. DEFINITIONS	3
7	V. REIMBURSEMENT OF RESPONSE COSTS	6
8	VI. FAILURE TO COMPLY WITH REQUIREMENTS	8
9	VII. COVENANT NOT TO SUE BY PLAINTIFFS	10
10	VIII. COVENANT NOT TO SUE BY SETTLING DEFENDANT	11
11	IX. EFFECT OF SETTLEMENT/CONTRIBUTION PROTECTION	12
12	X. SITE ACCESS	13
13	XI. ACCESS TO INFORMATION	14
14	XII. RETENTION OF RECORDS	16
15	XIII. NOTICES AND SUBMISSIONS	17
16	XIV. RETENTION OF JURISDICTION	18
17	XV. INTEGRATION/APPENDICES	18
18	XVI. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT	18
19	XVII. EFFECTIVE DATE	19
20	XVIII. SIGNATORIES/SERVICE	19
21	XIX. FINAL JUDGMENT	19

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I. BACKGROUND

A. The United States of America ("United States"), on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), and the State of California ("State"), on behalf of the Department of Toxic Substances Control ("DTSC"), have filed a complaint in this matter pursuant to Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. §§ 9606 and 9607, and Section 7003 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6973, seeking performance of response actions and reimbursement of response costs incurred and to be incurred for response actions taken at or in connection with the release or threatened release of hazardous substances at the Puente Valley Operable Unit ("PVOU") of the San Gabriel Valley Superfund Site, Area 4, Los Angeles County, California (the "Site").

B. This Consent Decree provides for the reimbursement of a portion of the United States' Past Response Costs and a portion of the State DTSC's Past Response Costs at this Site by Saint-Gobain Corporation (as successor in interest to Saint-Gobain Calmar Inc.) ("Settling Defendant").

C. By entering into this Consent Decree, Settling Defendant does not admit liability to or arising out of the transactions or occurrences alleged in the Complaint or to any other person related to the Site.

D. The United States, the State DTSC, and Settling Defendant agree, and this Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith, that settlement of this matter will avoid prolonged and complicated litigation between the Parties, and that this Consent Decree is fair, reasonable, and in the public interest.

THEREFORE, with the consent of the Parties to this Decree, it is ORDERED, ADJUDGED, AND DECREED:

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II. JURISDICTION

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345, 42 U.S.C. §§ 6973, 9606, 9607, and 9613(b), and also has personal jurisdiction over Settling Defendant. Settling Defendant consents to and shall not challenge entry of this Consent Decree or this Court's jurisdiction to enter and enforce this Consent Decree.

III. PARTIES BOUND

2. This Consent Decree is binding upon the United States, the State DTSC, and upon Settling Defendant and its beneficiaries, heirs, successors, and assigns. Any change in ownership or corporate or other legal status, including but not limited to, any transfer of assets or real or personal property, shall in no way alter the status or responsibilities of Settling Defendant under this Consent Decree.

IV. DEFINITIONS

3. Unless otherwise expressly provided herein, terms used in this Consent Decree which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever the terms listed below are used in this Consent Decree, the following definitions shall apply:

a. "Basin-wide Response Costs" shall mean costs, including but not limited to direct and indirect costs, including accrued interest, that the United States has paid for basin-wide (non-operable unit) response actions in connection with the San Gabriel Valley Superfund Sites, Areas 1- 4.

b. "Carrier Consent Decree" shall mean the consent decree entered on April 28, 2006 in the matter of United States v. Carrier Corporation, Civ. Action No. 05-6022 ABC (FMOx)(C.D. Cal.), relevant portions of which are attached hereto as Appendix A.

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

1 § 9601, et seq.

2 d. "Consent Decree" shall mean this Consent Decree and
3 Appendix A attached hereto.

4 e. "Day" shall mean a calendar day. In computing any period of
5 time under this Consent Decree, where the last day falls on a Saturday, Sunday, or
6 federal holiday, the period shall run until the close of business of the next working
7 day.

8 f. "DOJ" shall mean the United States Department of Justice and
9 any successor departments, agencies, or instrumentalities of the United States.

10 g. "DTSC" shall mean the State of California Department of
11 Toxic Substances Control and any successor departments or agencies.

12 h. "Effective Date" shall mean the date of entry of this Consent
13 Decree.

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

17 j. "EPA Hazardous Substance Superfund" shall mean the
18 Hazardous Substance Superfund established by the Internal Revenue Code,
19 26 U.S.C. § 9507.

20 k. "ESD" shall mean the Explanation of Significant Differences
21 issued by EPA on June 14, 2005 for the Record of Decision.

22 l. "Facility" shall mean the Site.

23 m. "Future DTSC Response Costs" shall mean all costs, including
24 but not limited to Oversight Costs, direct and indirect costs, and Basin-wide
25 Response Costs allocated to the Site, including Interest, that the State DTSC pays
26 or incurs at or relating to the Site after the date of entry of this Consent Decree,
27 but prior to the later of (i) the date 8 years from the Operational and Functional
28 Date of the Carrier Consent Decree, or (ii) the date of issuance of a final Record of

1 Decision for the Site.

2 n. "Future Response Costs" shall mean all costs, including but not
3 limited to Oversight Costs, direct and indirect costs, and Basin-wide Response
4 Costs allocated to the Site, including Interest, that the United States or any third
5 party pays or incurs at or relating to the Site after the date of entry of this Consent
6 Decree, but prior to the later of (i) the date 8 years from the Operational and
7 Functional Date of the Carrier Consent Decree, or (ii) the date of issuance of a
8 final Record of Decision for the Site.

9 o. "Interest" shall mean interest at the applicable rate specified for
10 interest on investments of the Hazardous Substance Superfund established by
11 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance
12 with 42 U.S.C. § 9607(a).

13 p. "Oversight Costs" shall mean all direct and indirect costs,
14 including Interest, that the United States or the DTSC incurs in connection with
15 monitoring and supervising performance of the Response Work by other persons.

16 q. "Paragraph" shall mean a portion of this Consent Decree
17 identified by an arabic numeral or an upper or lower case letter.

18 r. "Parties" shall mean the United States, the State DTSC, and the
19 Settling Defendant.

20 s. "Past DTSC Response Costs" shall mean all costs, including
21 but not limited to Oversight Costs, direct and indirect costs, and Basin-wide
22 Response Costs allocated to the Site, including Interest, that the State DTSC has
23 paid or incurred at the Site through and including the date of entry of this Consent
24 Decree.

25 t. "Past Response Costs" shall mean all costs, including but not
26 limited to Oversight Costs, direct and indirect costs, and Basin-wide Response
27 Costs allocated to the Site, including Interest, that the United States or any third
28 party has paid or incurred at the Site through and including the date of entry of this

1 Consent Decree.

2 u. "Plaintiffs" shall mean the United States and the State of
3 California Department of Toxic Substances Control.

4 v. "Record of Decision" or "ROD" shall mean the September 30,
5 1998 EPA Interim Record of Decision for the Puente Valley Operable Unit of the
6 San Gabriel Valley Superfund Sites, Areas 1-4.

7 w. "Response Work" shall mean the design and implementation of
8 any remedial measures, including the operation and maintenance thereof,
9 encompassed within the Record of Decision as modified by the ESD.

10 x. "Section" shall mean a portion of this Consent Decree
11 identified by a Roman numeral.

12 y. "Settling Defendant" shall mean Saint-Gobain Corporation (as
13 successor in interest to Saint-Gobain Calmar Inc.) and any corporate successor(s)
14 but only to the extent that such corporate successor(s) has no independent liability
15 for the Site other than liability derived from that entity's relationship to or
16 affiliation with the Settling Defendant.

17 z. "Site" shall mean the facility, which consists of an area of
18 groundwater contamination in Los Angeles County, California, located in the
19 geographic area designated on the National Priorities List as the San Gabriel
20 Valley Superfund Site, Area 4 [see 49 Fed. Reg. 19480 (1984)], and identified as
21 the Puente Valley Operable Unit.

22 aa. "State" shall mean the State of California.

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

25 **V. REIMBURSEMENT OF RESPONSE COSTS**

26 4. Payments to the EPA Hazardous Substance Superfund and to the
27 State DTSC. Settling Defendant shall pay to the EPA Hazardous Substance
28 Superfund the amount of three hundred seventy-six thousand and three hundred

1 twenty dollars (\$376,320) in reimbursement of Past Response Costs and pay to the
2 State DTSC two thousand dollars (\$2,000) in reimbursement of Past DTSC
3 Response Costs. Payment shall be made as follows:

4 a. Settling Defendant shall, within fifteen (15) working Days after entry
5 of this Consent Decree, remit the principal of three hundred seventy-six thousand
6 and three hundred twenty dollars (\$376,320) to the United States. Payment to the
7 United States shall be made by FedWire Electronic Funds Transfer ("EFT") to the
8 U.S. Department of Justice in accordance with current EFT procedures,
9 referencing the USAO File Number, EPA Region IX, the Site/Spill ID Number 09-
10 8V, and DOJ Case Number 90-11-2-354/23. Payment shall be made in accordance
11 with instructions provided to the Settling Defendant by the Financial Litigation
12 Unit of the United States Attorney's Office for the Central District of California
13 following lodging of the Consent Decree. Any payments received by the
14 Department of Justice after 4:00 p.m. Eastern Time shall be credited on the next
15 business Day. Settling Defendant shall send notice to the EPA and the DOJ that
16 payment has been made in accordance with Section XIII (Notices and
17 Submissions) and to David Wood, PMD-6, Section Chief, U.S. EPA, Region IX,
18 75 Hawthorne Street, San Francisco, California 94105.

19 b. The three hundred seventy-six thousand and three hundred twenty
20 dollars (\$376,320) paid by Settling Defendant to the United States shall be
21 deposited in the "San Gabriel Valley Superfund Sites, Area 4, Special Account"
22 within the EPA Hazardous Substance Superfund. This Special Account shall be
23 retained and used to conduct or finance response actions at or in connection with
24 the Site or the San Gabriel Valley Superfund Sites (Areas 1- 4), or may be
25 transferred by the EPA from this Special Account to the EPA Hazardous
26 Substance Superfund.

27 c. Settling Defendant shall, within fifteen (15) working Days after
28 entry of this Consent Decree, remit the principal of two thousand dollars (\$2,000)

1 to the State DTSC. Payment to the State DTSC shall be made by certified check
2 or cashier's check, made payable to "Cashier of the Department of Toxic
3 Substances Control," Department of Toxic Substances Control, State of California,
4 Accounting Office, 1001 I Street, Sacramento, California 96814. Settling
5 Defendant shall send a transmittal letter with the check, referencing the San
6 Gabriel Superfund Sites, Area 4 (Puente Valley Operable Unit), Project Code No.
7 300346. Settling Defendant also shall send notice, including a copy of the check
8 and transmittal letter, to the State DTSC as provided in Section XIII (Notices and
9 Submissions).

10 **VI. FAILURE TO COMPLY WITH REQUIREMENTS**

11 5. Interest on Late Payments. In the event that any payment required
12 under Section V (Reimbursement of Response Costs) or Section VI, Paragraph 6
13 (Stipulated Penalties) is not received when due, Interest shall continue to accrue
14 on the unpaid balance through the date of payment. Settling Defendant shall be
15 liable for any such Interest pertaining to the payments required under Section V,
16 paragraphs 4. a. and c. (Reimbursement of Response Costs).

17 6. Stipulated Penalties.

18 a. Settling Defendant shall be liable for stipulated penalties for
19 late payments under Section V, paragraphs 4. a. and c. (Reimbursement of
20 Response Costs) and for the Interest on late payments for Section V, paragraphs 4.
21 a. and c. as required under Section VI, Paragraph 5. The stipulated penalties shall
22 be in the following amounts per violation per Day that any such payment is late:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$500	1st through 14th Day
\$1500	15th through 30th Day
\$2500	31st Day and beyond

27 Each of the payments required under Section V (Reimbursement of Response
28 Costs) shall be considered a separate violation for purposes of calculating

1 stipulated penalties under this provision.

2 b. Settling Defendant shall be liable for stipulated penalties in the
3 amount of \$1500 per Day per violation of the provisions contained in Sections XI
4 (Access To Information), and XII (Retention of Records).

5 7. All Interest and penalties set forth under this Section shall begin to
6 accrue on the Day a violation occurs, and shall continue to accrue through the final
7 Day of the correction of the noncompliance. Nothing herein shall prevent the
8 simultaneous accrual of separate penalties for separate violations of this Consent
9 Decree.

10 8. Interest and stipulated penalties shall accrue as provided in
11 Paragraphs 5 and 6, regardless of whether EPA or DTSC has notified Settling
12 Defendant of the violation or made a demand for payment, but need be paid only
13 upon demand.

14 9. Interest and stipulated penalties set forth under this Section shall be
15 due and payable within 30 Days of the date of demand for payment. All payments
16 to the United States under this Paragraph shall be made by certified or cashier's
17 check made payable to the "EPA Hazardous Substances Superfund," shall be
18 forwarded to the U.S. EPA, Region IX, Superfund Accounting, P.O. Box
19 360863M, Pittsburgh, PA 15251, shall indicate that payment is for Interest and/or
20 stipulated penalties, and shall reference EPA Region IX, the Site/Spill
21 Identification Numbers 09-8V, the USAO File Number, the DOJ Case Number 90-
22 11-2-354/23, and the name and address of the party making payment. Copies of
23 check(s) paid pursuant to this Paragraph, and any accompanying transmittal
24 letter(s), shall be forwarded to the DOJ and the EPA as provided in Section XIII
25 (Notices and Submissions), and to David Wood, PMD-6, Section Chief, U.S. EPA
26 Region IX, 75 Hawthorne Street, San Francisco, California 94105. Payment to the
27 State DTSC under this Paragraph shall be made by certified check or cashier's
28 check, made payable to "Cashier of the Department of Toxic Substances Control,"

1 and shall be forwarded to the Department of Toxic Substances Control, State of
2 California, Accounting Office, 1001 I Street, Sacramento, California 96814.
3 Settling Defendant shall send a transmittal letter with the check, referencing the
4 San Gabriel Superfund Sites, Area 4 (Puente Valley Operable Unit), Project Code
5 No. 300346. Settling Defendant also shall send notice, including a copy of the
6 check and transmittal letter, to the State DTSC as provided in Section XIII
7 (Notices and Submissions).

8 10. Notwithstanding any other provision of this Section, the United States
9 and/or the State DTSC may, in its unreviewable discretion, waive any portion of
10 Interest or stipulated penalties that have accrued pursuant to this Consent Decree.

11 11. Payments made under Paragraphs 5 through 9 shall be in addition to
12 any other remedies or sanctions available to Plaintiffs by virtue of Settling
13 Defendant's failure to comply with the requirements of this Consent Decree.

14 12. If the United States and/or the State DTSC brings an action against
15 any Settling Defendant to enforce this Consent Decree, Settling Defendant shall
16 reimburse the United States and/or the State DTSC for all costs of such action,
17 including but not limited to costs of attorney time.

18 **VII. COVENANT NOT TO SUE BY PLAINTIFFS**

19 13. Covenant Not to Sue. Except as specifically provided in Paragraph
20 14 (Reservation of Rights), Plaintiffs covenant not to sue or to take
21 administrative action against Settling Defendant for performance of Response
22 Work, Past Response Costs, Future Response Costs, Past DTSC Response Costs,
23 and Future DTSC Response Costs, pursuant to Section 7003 of RCRA, 42 U.S.C.
24 § 6973, or Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a).
25 This covenant shall take effect upon receipt by Plaintiffs of the payments set forth
26 in Paragraph 4. This covenant is conditioned upon Settling Defendant's
27 satisfactory performance of its obligations under this Consent Decree. This
28 covenant extends only to Settling Defendant and does not extend to any other

1 person.

2 14. Reservation of Rights. The covenant not to sue set forth in Paragraph
3 13 does not pertain to any matters other than those expressly specified therein. The
4 Plaintiffs reserve, and this Consent Decree is without prejudice to, all rights
5 against Settling Defendant with respect to other matters, including but not limited
6 to:

- 7 a. liability for failure by Settling Defendant to meet a requirement
8 of this Consent Decree;
- 9 b. liability for damages for injury to, destruction of, or loss of
10 natural resources, and for the costs of any natural resource damage assessments;
- 11 c. criminal liability; and
- 12 d. liability for response actions and response costs incurred or to
13 be incurred by the United States not covered as "matters addressed" as set forth in
14 Paragraph 18 of this Consent Decree, including but not limited to liability for any
15 response actions and response costs at the Site that occur after the later of (i) the
16 date 8 years from the Operational and Functional Date of the Carrier Consent
17 Decree, or (ii) the date of issuance of a final Record of Decision for the Site.

18 **VIII. COVENANT NOT TO SUE BY SETTLING DEFENDANT**

19 15. Settling Defendant covenants not to sue and agrees not to assert any
20 claims or causes of action against Plaintiffs or their contractors or employees with
21 respect to Response Work, Past Response Costs, Future Response Costs, Past
22 DTSC Response Costs, and Future DTSC Response Costs, as set forth in this
23 Consent Decree, including but not limited to:

- 24 a. any direct or indirect claims for reimbursement from the
25 Hazardous Substance Superfund based on Sections 106(b)(2), 107, 111, 112, or
26 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any
27 other provision of law;
- 28 b. any claims arising out of costs or response actions at or in

1 connection with the Site, including any claim under the United States Constitution,
2 the California Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to
3 Justice Act, 28 U.S.C. § 2412, as amended, or at common law; and

4 c. any claims against the United States pursuant to Sections 107
5 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, related to the Site.

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

9 **IX. EFFECT OF SETTLEMENT/CONTRIBUTION PROTECTION**

10 17. Nothing in this Consent Decree shall be construed to create any rights
11 in, or grant any cause of action to, any person not a Party to this Consent Decree.
12 Each of the Parties expressly reserves any and all rights (including, but not limited
13 to, any right to contribution), defenses, claims, demands, and causes of action
14 which each Party may have with respect to any matter, transaction, or occurrence
15 relating in any way to the Site against any person not a Party hereto.

16 18. The Parties agree that in consideration of the payment made by
17 Settling Defendant and the execution of this Consent Decree, Settling Defendant
18 has resolved its liability to Plaintiffs and is entitled to protection from contribution
19 actions or claims as provided by Section 113(f)(2) of CERCLA,
20 42 U.S.C. § 9613(f)(2), for "matters addressed" in this Consent Decree,
21 conditioned only upon entry of this Consent Decree. The "matters addressed" in
22 this Consent Decree are: Response Work; Past Response Costs; Future Response
23 Costs; Past DTSC Response Costs; and Future DTSC Response Costs. The
24 "matters addressed" exclude those response actions and response costs to which
25 Plaintiffs have reserved their rights under this Consent Decree.

26 19. Settling Defendant agrees that, with respect to any suit or claim for
27 contribution brought by it for matters related to this Consent Decree, it will notify
28 the DOJ, the EPA, and the State DTSC in writing not later than sixty (60) Days

1 prior to the initiation of such suit or claim. Settling Defendant also agrees that,
2 with respect to any suit or claim for contribution brought against it for matters
3 related to this Consent Decree, it will notify the DOJ, EPA, and the State DTSC in
4 writing within ten (10) Days of service of the complaint or claims upon it. In
5 addition, Settling Defendant shall notify the DOJ, EPA, and the State DTSC
6 within ten (10) Days of service or receipt of any motion for summary judgment or
7 any order from a court setting a case for trial, for matters related to this Consent
8 Decree.

9 20. In any subsequent administrative or judicial proceeding initiated by
10 the United States or the State of California for injunctive relief, recovery of
11 response costs, or other relief relating to the Site, Settling Defendant shall not
12 assert, and may not maintain, any defense or claims based upon the principles of
13 waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other
14 defenses based upon any contention that the claims raised by the United States or
15 the State of California in the subsequent proceeding were or should have been
16 brought in the instant case; provided, however, that nothing in this Paragraph
17 affects the enforceability of the Covenant Not to Sue by Plaintiffs set forth in
18 Section VII.

19 X. SITE ACCESS

20 21. Commencing upon the date of lodging of this Consent Decree,
21 Settling Defendant agrees to provide the United States and the State of California
22 and their representatives, including the EPA, the DTSC, and the Los Angeles
23 Regional Water Quality Control Board, and their contractors, access at all
24 reasonable times to the property within the Site owned or controlled by Settling
25 Defendant to which access is determined by the EPA or the State of California to
26 be required for the implementation of this Consent Decree, or for the purpose of
27 conducting any response activity related to the Site, including but not limited to:

28 a. Monitoring of investigation, removal, remedial or other

1 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b).
2 Documents or information determined to be confidential by Plaintiffs will be
3 accorded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of
4 confidentiality accompanies documents or information when they are submitted to
5 the Plaintiffs, or if Plaintiffs have notified Settling Defendant that the documents
6 or information are not confidential under the standards of Section 104(e)(7) of
7 CERCLA, the public may be given access to such documents or information
8 without further notice to Settling Defendant.

9 b. Settling Defendant may assert that certain documents, records
10 or other information are privileged under the attorney-client privilege or any other
11 privilege recognized by federal law. If Settling Defendant asserts such a privilege
12 in lieu of providing documents, it shall provide Plaintiffs with the following:

13 1) the title of the document, record, or information; 2) the date of the document,
14 record, or information; 3) the name and title of the author of the document, record,
15 or information; 4) the name and title of each addressee and recipient; 5) a
16 description of the subject of the document, record or information; and 6) the
17 privilege asserted. However, no documents, reports, or other information created
18 or generated pursuant to the requirements of this or any other consent decree with
19 Plaintiffs shall be withheld on the grounds that they are privileged. If a claim of
20 privilege applies only to a portion of a document, the document shall be provided
21 to Plaintiffs in redacted form to mask the privileged information only. Settling
22 Defendant shall retain all records and documents that it claims to be privileged
23 until Plaintiffs have had a reasonable opportunity to dispute the privilege claim
24 and any such dispute has been resolved in the Settling Defendant's favor.

25 25. No claim of confidentiality shall be made with respect to any data,
26 including but not limited to, all sampling, analytical, monitoring, hydrogeologic,
27 scientific, chemical, or engineering data, or any other documents or information
28 evidencing conditions at or around the Site.

XII. RETENTION OF RECORDS

1
2 26. Until ten (10) years after the entry of this Consent Decree, Settling
3 Defendant shall preserve and retain all records and documents now in its
4 possession or control, or which come into its possession or control thereafter, that
5 relate in any manner to response actions taken at the Site or the liability of any
6 person for response actions conducted and to be conducted at the Site, regardless
7 of any corporate retention policy to the contrary. After five (5) years, Settling
8 Defendant may contact the EPA in writing to request instructions as to whether
9 such records and documents shall be maintained for the remaining five (5) year
10 retention period, or whether such records and documents may be discarded. No
11 retained records or documents shall be disposed of prior to the ten (10) year
12 retention period, unless Settling Defendant receives instructions from the EPA
13 specifically permitting Settling Defendant to dispose of such records and
14 documents.

15 27. After the conclusion of the ten (10) year document retention period in
16 the preceding Paragraph, Settling Defendant shall notify the EPA and the DOJ at
17 least ninety (90) Days prior to the destruction of any such records or documents,
18 and, upon request by the EPA or the DOJ, Settling Defendant shall deliver any
19 such records or documents to EPA subject to the same privilege provisions set
20 forth in Section XI (Access To Information).

21 28. By signing this Consent Decree, Settling Defendant certifies
22 individually that, after thorough inquiry, to the best of its knowledge and belief, it
23 has not altered, mutilated, discarded, destroyed, or otherwise disposed of any
24 records, documents, or other information relating to its potential liability regarding
25 the Site, after notification of potential liability or the filing of a suit against
26 Settling Defendant regarding the Site; and that it has fully complied with any and
27 all EPA requests for information regarding the Site pursuant to Section 104(e) and
28 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(c), and Section 3007 of

1 RCRA, 42 U.S.C. § 6927.

2 **XIII. NOTICES AND SUBMISSIONS**

3 29. Whenever, under the terms of this Consent Decree, notice is required
4 to be given or a document is required to be forwarded by one party to another, it
5 shall be directed to the individuals at the addresses specified below, unless those
6 individuals or their successors give notice of a change to the other Parties in
7 writing. Written notice as specified herein shall constitute complete satisfaction of
8 any written notice requirement of the Consent Decree with respect to the United
9 States (the DOJ and the EPA), the State of California DTSC, and Settling
10 Defendant, respectively.

11 As to the United States:

12 As to DOJ:

13 Bruce S. Gelber
14 Chief, Environmental Enforcement Section
15 Environment and Natural Resources Division
16 U.S. Department of Justice (DJ # 90-11-2-354/23)
17 P.O. Box 7611
18 Washington, D.C. 20044-7611

19 Matthew A. Fogelson
20 Trial Attorney
21 Environmental Enforcement Section
22 Environment and Natural Resources Division
23 U.S. Department of Justice
24 301 Howard Street, Suite 1050
25 San Francisco, CA 94105

26 As to EPA:

27 Dustin Minor (ORC-3)
28 Senior Counsel,
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, California 94105

As to the State of California Department of Toxic Substances Control:

Ann Rushton
Deputy Attorney General, Environment Section
California Department of Justice
300 South Spring Street, #5000
Los Angeles, California 90013

1 Jacalyn Spizman
2 Project Manager, Site Mitigation Branch
3 Department of Toxic Substances Control, Region 3
4 5796 Corporate Avenue
5 Cypress, California 90630

4 As to Settling Defendant:

5 Lauren P. Alterman
6 Associate General Counsel
7 Saint-Gobain Corporation
8 750 E. Swedesford Road
9 Valley Forge, PA 19482

8 Settling Defendant may change the identity or contact information for its
9 agent at any time by written notice to the Court and to the United States.

10 **XIV. RETENTION OF JURISDICTION**

11 30. This Court shall retain jurisdiction over this matter for the purpose of
12 interpreting and enforcing the terms of this Consent Decree.

13 **XV. INTEGRATION/APPENDICES**

14 31. This Consent Decree constitutes the final, complete and exclusive
15 agreement and understanding among the Parties with respect to the settlement
16 embodied in this Consent Decree. The Parties acknowledge that there are no
17 representations, agreements or understandings relating to the settlement other than
18 those expressly contained in this Consent Decree.

19 **XVI. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT**

20 32. This Consent Decree shall be lodged with the Court for a period of
21 not less than thirty (30) Days for public notice and comment. The United States
22 reserves the right to withdraw or withhold its consent if the comments regarding
23 the Consent Decree disclose facts or considerations which indicate that this
24 Consent Decree is inappropriate, improper, or inadequate. Settling Defendant
25 consents to the entry of this Consent Decree without further notice.

26 33. If for any reason this Court should decline to approve this Consent
27 Decree in the form presented, this agreement is voidable at the sole discretion of
28 any party and the terms of the agreement may not be used as evidence in any

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litigation between the Parties.

XVII. EFFECTIVE DATE

34. The effective date of this Consent Decree shall be the date upon which it is entered by the Court.

XVIII. SIGNATORIES/SERVICE

35. Each undersigned representative of Settling Defendant, the Assistant Attorney General for the Environment and Natural Resources Division of the United States Department of Justice, and together for the State of California, the Deputy Attorney General and the Chief of Operations, Southern California Cleanup Operations Branch Cypress Office, certifies that he or she is authorized to enter into the terms and conditions of this Consent Decree and to execute and bind legally such Party to this document.

36. Settling Defendant hereby agrees not to oppose entry of this Consent Decree by this Court or to challenge any provision of this Consent Decree, unless the United States has notified Settling Defendant in writing that it no longer supports entry of the Consent Decree.

37. Settling Defendant shall identify, on the attached signature page, the name and address of an agent who is authorized to accept service of process by mail on behalf of that Party with respect to all matters arising under or relating to this Consent Decree. Settling Defendant hereby agrees to accept service in that manner and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court, including, but not limited to, service of a summons.

XIX. FINAL JUDGMENT

38. Upon approval and entry of this Consent Decree by this Court, this Consent Decree shall constitute a final judgment between and among the United States, the State of California DTSC, and Settling Defendant. The Court finds that there is no just reason for delay and therefore enters this judgment as the final

IT IS SO ORDERED

Dated 1/25/07
[Signature]
United States District Judge

1 judgment under Fed. R. Civ. P. 54 and 58.

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SO ORDERED THIS 25 DAY OF January, 2007.

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Audrey B. Collins
AUDREY B. COLLINS
United States District Judge

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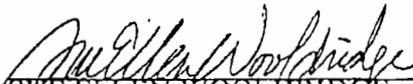
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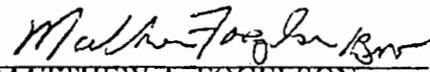
1 THE UNDERSIGNED PARTY enters into this Consent Decree, relating to
2 the San Gabriel Valley Superfund Site, Area 4, and further identified as the Puente
3 Valley Operable Unit.

4 FOR THE UNITED STATES OF AMERICA

5
6
7 Dated: 10-31-06


8 SUE ELLEN WOOLDRIDGE
9 Assistant Attorney General
10 Environment & Natural Resources Division
11 United States Department of Justice

12
13 Dated: 10-31-06


14 MATTHEW A. FOGELSON
15 ELIZABETH F. KROOP
16 Trial Attorneys
17 Environmental Enforcement Section
18 Environment & Natural Resources Division
19 United States Department of Justice
20 301 Howard Street, Suite 1050
21 San Francisco, CA 94105
22 Telephone: (415) 744-6470
23 Telecopier: (415) 744-6476
24
25
26
27
28

1 Dated: 9/24/07

fe *Nancy Sidra*

KELI TAKATA
Director
Superfund Division
U.S. Environmental Protection Agency
Region 9
75 Hawthorne Street
San Francisco, CA 94105

SCANNED

5 Dated: 9/26/06

Dustin Minor

DUSTIN MINOR
Senior Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency
Region 9
75 Hawthorne Street
San Francisco, CA 94105

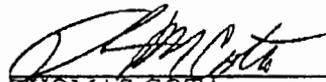
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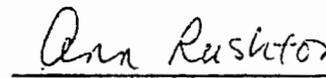
THE UNDERSIGNED PARTY enters into this Consent Decree, relating to the San Gabriel Valley Superfund Site, Area 4, and further identified as the Puente Valley Operable Unit.

FOR THE STATE OF CALIFORNIA
DEPARTMENT OF TOXIC
SUBSTANCES CONTROL

Dated: 10/11/06


THOMAS COTA
Chief, Southern California
Cleanup Operations Branch
Cypress Office
5796 Corporate Avenue
Cypress, CA 90630

Dated: 10-26-06


ANN RUSHTON
Deputy Attorney General
Environment Section
California Department of Justice
300 South Spring Street, #5000
Los Angeles, California 90013

1 THE UNDERSIGNED PARTY enters into this Consent Decree, relating to
2 the San Gabriel Valley Superfund Site, Area 4, and further identified as the Puente
3 Valley Operable Unit.

4 FOR SAINT-GOBAIN CORPORATION (as
5 successor in interest to Saint-Gobain Calmar Inc.)

6
7 Dated: 8/22/06

M. Shawn Ruccio
8 Senior Vice President - Finance

9 Saint-Gobain Corporation
10 750 E. Swedesford Road
11 Valley Forge, PA 19482
12 Telephone: (610) 341-7000
13 Telecopier: (610) 341-7087

14 Agent authorized to receive service of process pursuant to Paragraph 37:

15 Lauren P. Alterman
16 Associate General Counsel
17 Saint-Gobain Corporation
18 750 E. Swedesford Road
19 Valley Forge, PA 19482
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SCANNED

APPENDIX A

SCANNED

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ORIGINAL

1 SUE ELLEN WOOLDRIDGE
Assistant Attorney General
2 Environment & Natural Resources Division
United States Department of Justice

3 MATTHEW A. FOGELSON
4 Environmental Enforcement Section
Environment & Natural Resources Division
5 United States Department of Justice
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6 San Francisco, CA 94105
Telephone: (415) 744-6470
7 Facsimile: (415) 744-6476
E-mail: Matthew.Fogelson@usdoj.gov

8 ELIZABETH F. KROOP
9 Environmental Enforcement Section
Environment & Natural Resources Division
10 United States Department of Justice
P.O. Box 7611
11 Ben Franklin Station
Washington, DC 20044
12 Telephone: (202) 514-5244
Facsimile: (202) 514-2583
13 E-mail: Elizabeth.Kroop@usdoj.gov

FILED
CLERK, U.S. DISTRICT COURT
APR 25 2006
CENTRAL DISTRICT OF CALIFORNIA
DEPUTY
BY [Signature]

- Priority
- Send
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CENTRAL DISTRICT OF CALIFORNIA
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BY [Signature]

14 Additional Counsel Listed on Next Page
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CENTRAL DISTRICT OF CALIFORNIA
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IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

18 UNITED STATES OF AMERICA,
19 Plaintiff,
20
21 v.
22 CARRIER CORPORATION,
23 Defendant.

Case No. CV-05-6022 ABC (FMOx)
AMENDED CONSENT DECREE

29

1 III. PARTIES BOUND

2 2. This Consent Decree applies to and is binding upon the United States
3 and upon Settling Defendants and their successors and assigns. Any change in
4 ownership or corporate status of a Settling Defendant including, but not limited to,
5 any transfer of assets or real or personal property, shall in no way alter such
6 Settling Defendant's responsibilities under this Consent Decree.

7 3. Settling Defendants shall provide a copy of this Consent Decree to
8 each contractor hired to perform the Work (as defined below) required by this
9 Consent Decree and to each person representing any Settling Defendant with
10 respect to the Site or the Work and shall condition all contracts entered into
11 hereunder upon performance of the Work in conformity with the terms of this
12 Consent Decree. Settling Defendants or their contractors shall provide written
13 notice of the Consent Decree to all subcontractors hired to perform any portion of
14 the Work required by this Consent Decree. Settling Defendants shall nonetheless
15 be responsible for ensuring that their contractors and subcontractors perform the
16 Work contemplated herein in accordance with this Consent Decree. With regard to
17 the activities undertaken pursuant to this Consent Decree, each contractor and
18 subcontractor shall be deemed to be in a contractual relationship with the Settling
19 Defendants within the meaning of Section 107(b)(3) of CERCLA, 42 U.S.C.
20 § 9607(b)(3).

21 IV. DEFINITIONS

22 4. Unless otherwise expressly provided herein, terms used in this
23 Consent Decree that are defined in CERCLA or in regulations promulgated under
24 CERCLA shall have the meaning assigned to them in CERCLA or in such
25 regulations. Whenever terms listed below are used in this Consent Decree or in the
26 appendices attached hereto and incorporated hereunder, the following definitions
27 shall apply:

28 "Basin-wide Response Costs" shall mean costs, including but not limited to

1 direct and indirect costs, including accrued Interest, that the United States has
2 incurred or in the future incurs for basin-wide (non-operable unit) response actions
3 in connection with the San Gabriel Valley Superfund Sites, Areas 1 - 4.

4 "CERCLA" shall mean the Comprehensive Environmental Response,
5 Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601, *et seq.*
6 "Consent Decree" shall mean this Decree and all appendices attached hereto (listed
7 in Section XXX). In the event of conflict between this Decree and any appendix,
8 this Decree shall control.

9 "Day" shall mean a calendar day unless expressly stated to be a working
10 day. "Working Day" shall mean a day other than a Saturday, Sunday, or Federal
11 holiday. In computing any period of time under this Consent Decree, where the
12 last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run
13 until the close of business of the next working day.

14 "DOJ" shall mean the United States Department of Justice and any of its
15 successor departments, agencies, or instrumentalities.

16 "DTSC" shall mean the California Department of Toxic Substances Control
17 and any successor departments or agencies.

18 "Effective Date" shall be the effective date of this Consent Decree as
19 provided in Paragraph 117.

20 "Eligible SEP Costs" shall include the costs of implementing the
21 Supplemental Environmental Project (SEP) required pursuant to Section XVIII,
22 but do not include Settling Defendants' overhead, administrative expenses or legal
23 fees. Contractor oversight costs not exceeding 5% of \$468,750 may be included as
24 Eligible SEP Costs, so long as adequate documentation is provided.

25 "EPA" shall mean the United States Environmental Protection Agency and
26 any of its successor departments or agencies.

27 "Explanation of Significant Differences" or "ESD" shall mean the
28 Explanation of Significant differences relating to the Site issued by EPA on June

1 14, 2005. The ESD is attached as Appendix B to this Consent Decree.
2 "Future Response Costs" shall mean all costs that are incurred by the United
3 States or any third party for response actions with respect to the Site after the
4 Effective Date, but prior to the later of (i) the date 8 years from the Operational and
5 Functional Date, or (ii) the date of issuance of a final Record of Decision for the
6 Site. Future Response Costs include, but are not limited to, Basin-wide Response
7 Costs allocated to the Site, direct and indirect costs and accrued interest that the
8 United States incurs in reviewing or developing plans, reports, and other items
9 pursuant to this Consent Decree, verifying the Work, or otherwise implementing,
10 overseeing, or enforcing this Consent Decree, including but not limited to payroll
11 costs, contractor costs, travel costs, laboratory costs, the costs incurred pursuant to
12 Sections VII (Remedy Review), IX (Access and Institutional Controls; including
13 but not limited to the cost of attorney time and any monies paid to secure access or
14 to secure or implement institutional controls including but not limited to the
15 amount of just compensation), XV (Emergency Response), and Paragraph 29 of
16 Section XXII (Work Takeover).

17 "Interest," shall mean interest at the rate specified for interest on investments
18 of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507,
19 compounded annually on October 1 of each year, in accordance with 42 U.S.C.
20 § 9607(a). The applicable rate of interest shall be the rate in effect at the time the
21 interest accrues. The rate of interest is subject to change on October 1 of each
22 year.

23 "Interim ROD" shall mean the Interim Record of Decision relating to the
24 Puente Valley Operable Unit of the San Gabriel Valley Superfund Sites signed on
25 September, 30 1998 by the Regional Administrator, EPA Region 9, or his/her
26 delegate, and all attachments thereto. The Interim ROD is attached as Appendix A
27 to this Consent Decree.

28 "Mid-Valley Monitoring" shall mean the installation and monitoring of

1 wells in the intermediate and deep groundwater zones in the mid-valley area of the
2 Site to monitor vertical and horizontal contaminant migration in such groundwater
3 zones, as set forth in the SOW. For purposes of this Consent Decree, the mid-
4 valley shall extend from Azusa Avenue to Puente Creek.

5 "National Contingency Plan" or "NCP" shall mean the National Oil and
6 Hazardous Substances Pollution Contingency Plan promulgated pursuant to
7 Section 105 of CERCLA, 42 U.S.C. § 9605, and codified at 40 C.F.R. Part 300,
8 and any amendments thereto.

9 "Operational and Functional" shall mean that the Remedial Action, or a
10 phase thereof, has been constructed and that it is performing in accordance with the
11 applicable SOW and the applicable final Remedial Design/ Remedial Action Work
12 Plans and other plans approved by EPA.

13 "Operational and Functional Date" shall mean the date that all phases of the
14 Remedial Action are Operational and Functional pursuant to Paragraph 50.

15 "Paragraph" shall mean a portion of this Consent Decree identified by an
16 Arabic numeral or an upper case letter.

17 "Parties" shall mean the United States and the Settling Defendants.

18 "Past Response Costs" shall mean all costs, including but not limited to
19 Basin-wide Response Costs allocated to the Site, direct and indirect costs,
20 including Interest, that the United States or any third party has paid or incurred at
21 or in connection with the Site, through and including the Effective Date.

22 "Performance Criteria" shall mean the prevention of groundwater in the
23 shallow zone north of Puente Creek at the mouth of Puente Valley with
24 contamination greater than or equal to ten-times the levels listed in Table 2 of the
25 ESD from:

26 (1) migrating beyond its lateral extent as measured at the time the
27 shallow zone Remedial Action containment system is Operational and
28 Functional; and

1 (2) migrating vertically into the intermediate zone;
2 for a period of 8 years from the Operational and Functional Date.
3 "Plaintiff" shall mean the United States.
4 "RCRA" shall mean the Solid Waste Disposal Act, as amended, 42 U.S.C.
5 §§ 6901 et seq. (also known as the Resource Conservation and Recovery Act).
6 "Remedial Action" shall mean those activities to be undertaken by Settling
7 Defendants to implement the shallow zone remedy north of Puente Creek and Mid-
8 Valley Monitoring, in accordance with the Interim ROD as modified by the ESD,
9 the applicable SOW, and the applicable Remedial Design/ Remedial Action Work
10 Plans and other plans approved by EPA.
11 "Remedial Action Work Plan" shall mean the document developed pursuant
12 to Paragraph 11 of this Consent Decree and approved by EPA, and any
13 amendments thereto.
14 "Remedial Design" shall mean those activities to be undertaken by Settling
15 Defendants to develop the final plans and specifications for the Remedial Action
16 pursuant to the Remedial Design Work Plan.
17 "Remedial Design Work Plan" shall mean the document developed pursuant
18 to Paragraph 10 of this Consent Decree and approved by EPA, and any
19 amendments thereto.
20 "Section" shall mean a portion of this Consent Decree identified by a Roman
21 numeral.
22 "SEP" shall mean the Woodland Duck Farm Supplemental Environmental
23 Project as described in Paragraph 62, or any alternative Supplemental
24 Environmental Project approved by EPA pursuant to Paragraph 63.
25 "SEP Implementation Plan" shall the mean the document describing the SEP
26 and setting forth those activities required to implement the SEP.
27 "Settling Defendants" shall mean Carrier Corporation and United
28 Technologies Corporation.

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1 "Site" shall mean the area of groundwater contamination in Los Angeles,
2 County, California, located in the geographic area designated on the National
3 Priorities List as the San Gabriel Valley Superfund Site, Area 4 [see 49 Fed. Reg.
4 19480 (1984)], and identified as the Puente Valley Operable Unit.

5 "State" shall mean the California Department of Toxic Substances Control
6 ("DTSC").

7 "Statement of Work" or "SOW" shall mean the statement of work for
8 implementation of the Remedial Design and Remedial Action at the Site, as set
9 forth in Appendix D to this Consent Decree and any modifications made in
10 accordance with this Consent Decree.

11 "Supervising Contractor" shall mean the principal contractor retained by the
12 Settling Defendants to supervise and direct the implementation of the Work under
13 this Consent Decree.

14 "Unilateral Administrative Order Docket No. 2001-20" or "UAO Docket
15 No. 2001-20" shall mean the order issued by EPA to Carrier Corporation on or
16 about September 13, 2001.

17 "United States" shall mean the United States of America.

18 "Waste Material" shall mean (1) any "hazardous substance" under Section
19 101(14) of CERCLA, 42 U.S.C. § 9601(14); (2) any pollutant or contaminant
20 under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (3) any "solid waste"
21 under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27); and (4) any "hazardous
22 material" under the California Hazardous Waste Control Act Section 25100 et seq.

23 "Work" shall mean all activities Settling Defendants are required to perform
24 under this Consent Decree, except those required by Section XXVI (Retention of
25 Records) and Section XVIII (Supplemental Environmental Projects).

26 V. GENERAL PROVISIONS

27 5. Objectives of the Parties. The objectives of the Parties in entering into
28 this Consent Decree are to protect public health or welfare or the environment at

1 Decree.

2 XIV. CERTIFICATION OF COMPLETION

3 50. "Operational and Functional"

4 a. Within 30 Days after Settling Defendants conclude that the
5 Remedial Action is Operational and Functional, Settling Defendants shall schedule
6 and conduct a pre-certification inspection to be attended by Settling Defendants
7 and EPA. If, after the pre-certification inspection, the Settling Defendants still
8 believe that the Remedial Action is Operational and Functional, they shall submit a
9 written report requesting certification to EPA for approval, with a copy to the
10 State, pursuant to Section XI (EPA Approval of Plans and Other Submissions)
11 within 30 Days of the inspection. In the report, a registered professional engineer
12 and the Settling Defendants' Project Coordinator shall state that the Remedial
13 Action is Operational and Functional. The written report shall include as-built
14 drawings signed and stamped by a professional engineer. The report shall contain
15 the following statement, signed by a responsible corporate official of a Settling
16 Defendant or the Settling Defendants' Project Coordinator:

17 To the best of my knowledge, after thorough investigation, I certify
18 that the information contained in or accompanying this submission is
19 true, accurate and complete. I am aware that there are significant
penalties for submitting false information, including the possibility of
fine and imprisonment for knowing violations.

20 If, after completion of the pre-certification inspection and receipt and review of the
21 written report, EPA, after reasonable opportunity to review and comment by
22 DTSC, determines that the Remedial Action is not Operational and Functional,
23 EPA will notify Settling Defendants in writing of the activities that must be
24 undertaken by Settling Defendants pursuant to this Consent Decree in order for the
25 Remedial Action to be Operational and Functional. EPA will set forth in the notice
26 a schedule for performance of such activities consistent with the Consent Decree
27 and the SOW or require the Settling Defendants to submit a schedule to EPA for
28 approval pursuant to Section XI (EPA Approval of Plans and Other Submissions).

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1 Settling Defendants shall perform all activities described in the notice in
2 accordance with the specifications and schedules established pursuant to this
3 Paragraph, subject to their right to invoke the dispute resolution procedures set
4 forth in Section XX (Dispute Resolution).

5 b. If EPA concludes, based on the initial or any subsequent report
6 requesting certification, and after a reasonable opportunity for review and
7 comment by DTSC, that the Remedial Action is Operational and Functional, EPA
8 will so certify in writing to Settling Defendants.

9 c. If EPA fails to certify that the Remedial Action is Operational
10 and Functional within 90 Days after a request, EPA shall be deemed to have denied
11 the request, unless Settling Defendants agree to an extension of time. Settling
12 Defendants may, at any time thereafter, invoke Dispute Resolution pursuant to
13 Section XX (Dispute Resolution).

14 d. Nothing herein shall preclude Settling Defendants from
15 requesting, and EPA from granting, pursuant to the same procedures set forth in
16 Subparagraphs a-c of this Paragraph, certification that a phase of the Remedial
17 Action is Operational and Functional; provided, however, that any such
18 certification shall be conditioned on such phase remaining Operational and
19 Functional at the time Settling Defendants request certification for the final phase
20 of the Remedial Action. In the event Settling Defendants request certification that
21 a phase of the Remedial Action is Operational and Functional, and such request is
22 granted, the resulting certification shall not affect the Operational and Functional
23 Date.

24 e. Upon approval of the certification report by EPA or pursuant to
25 a ruling by the Court, the Operational and Functional Date shall be the date when
26 the last report requesting certification of the final phase of the Remedial Action
27 was submitted.

28 f. The Operational and Functional Date established pursuant to

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1 this Paragraph shall not be affected if existing contamination greater than or equal
2 to ten-times the levels listed in Table 2 of the SOW has migrated vertically into the
3 intermediate zone and this existing contamination prevents Settling Defendants
4 from meeting the Performance Criteria, provided the Settling Defendants are
5 taking the response actions determined by EPA to be necessary to reverse the trend
6 pursuant to the SOW.

7 g. Once EPA has determined that the Remedial Action is
8 Operational and Functional pursuant to this Paragraph, the Operational and
9 Functional Date shall not be affected in the event EPA subsequently determines,
10 pursuant to Paragraph 13, that modification to the Work specified in the SOW or in
11 work plans developed pursuant to the SOW is necessary to achieve and maintain
12 the Performance Criteria, to meet discharge ARARs, or to implement Mid-Valley
13 Monitoring.

14 51. Certification of Completion.

15 a. No later than 90 Days before, and no sooner than 120 Days
16 prior to, the eight-year anniversary of the Operational and Functional Date, and
17 upon Settling Defendants concluding that the Remedial Action is still Operational
18 and Functional; Settling Defendants shall schedule a pre-certification inspection to
19 be attended by Settling Defendants and EPA. The Settling Defendants shall submit
20 a Facility Status Package to EPA which shall include, but not be limited to, all
21 maintenance reports, performance reports, sampling results, and all other
22 deliverables updated as appropriate to reflect the performance and condition of the
23 containment and Mid-Valley Monitoring systems including all wells, pipelines,
24 and treatment facilities. If, after the pre-certification inspection, the Settling
25 Defendants still believe that the Remedial Action is Operational and Functional,
26 Settling Defendants shall submit a written report by a registered professional
27 engineer, in accordance with the SOW, stating that the Remedial Action is
28 Operational and Functional. The report shall contain the following statement,

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