

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Case No. 5:97 cv000894
v.)	
)	The Honorable David D. Dowd
CHRYSLER CORPORATION,)	
FORD MOTOR COMPANY,)	
KEWAUNEE INDUSTRIES, INC.,)	
CHEVRON U.S.A, INC.,)	
MINNESOTA MINING AND)	
MANUFACTURING COMPANY,)	
WASTE MANAGEMENT OF OHIO, INC.,)	
THE FEDERAL METAL COMPANY, AND)	
GENERAL MOTORS CORPORATION)	
)	
Defendants.)	
_____)	

NOTICE OF FILING OF NON-MATERIAL MODIFICATION AND AGREED SUPPLEMENT TO PARTIAL CONSENT DECREE WITH FORD MOTOR COMPANY

The United States, on behalf of the United States Department of the Interior (“DOI”), hereby gives notice that the United States and Ford Motor Company (“Ford”) have entered into a non-material modification and agreed supplement to a April 22, 2002 Partial Consent Decree in this case, which governs Ford’s performance of environmental cleanup activities at the Krejci Dump Site in the Cuyahoga Valley National Park (the “Ford Decree”). The terms of that non-material modification and agreed supplement to the Ford Decree are set forth in the accompanying “Agreement Regarding a Revised Schedule for Completion of the Remedial Action and Related Matters at the Krejci Dump Site, Ohio” (the “Agreement”). In accordance with Paragraph 117 of the Ford Decree, the Agreement modifies the schedule for completion of

certain environmental cleanup work at the Krejci Dump Site; Paragraph 117 expressly provides that any such schedule for completion of the work “may be modified by agreement of DOI and Ford.”

The United States is filing the attached copy of the Agreement with the Court to ensure that it becomes part of the public record relating to the Ford Decree, but the Court need not take any action on this filing.

Respectfully submitted,

FOR THE UNITED STATES OF AMERICA

RONALD J. TENPAS
Assistant Attorney General
Environment and Natural Resources Division

Dated: October 23, 2008

/s/ Randall M. Stone
RANDALL M. STONE
Senior Attorney
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, DC 20044-7611

Phone: (202) 514-1308
Fax: (202) 616-6584
E-Mail: Randall.Stone@USDOJ.GOV

WILLIAM J. EDWARDS
United States Attorney

STEVEN PAFFILAS
Assistant United States Attorney
Northern District of Ohio
801 West Superior Avenue, Suite 400
Cleveland, OH 44113-1852

CERTIFICATE OF SERVICE

I hereby certify that I caused true and correct copies of the foregoing NOTICE OF FILING OF NON-MATERIAL MODIFICATION AND AGREED SUPPLEMENT TO PARTIAL CONSENT DECREE WITH FORD MOTOR COMPANY (together with the accompanying AGREEMENT) to be served by first class mail, postage pre-paid, on the following persons, in accordance with Sections XXVI and XXXIII of the Partial Consent Decree in this case:

Brian J. Bussa
Principal Facility Environmental Control Engineer
Asset Rationalization and Environmental Services
For Motor Land Services Corporation
550 Town Center Drive -- Suite 550
Dearborn, MI 48126

Michael A. Burgin
Attorney – Office of General Counsel
Ford Motor Company
One American Road
Dearborn, MI 48126

Jeffrey L. Woolstrum
Honigman, Miller, Schwartz & Cohn, LLP
2290 First National Building
660 Woodward Avenue
Detroit, MI 48226

Dated: October 23, 2008

/s/ Randall M. Stone
Randall M. Stone

**AGREEMENT REGARDING A REVISED SCHEDULE FOR COMPLETION OF
THE REMEDIAL ACTION AND RELATED MATTERS
AT THE KREJCI DUMP SITE, OHIO**

Background

A. On April 22, 2002, the United States District Court for the Northern District of Ohio approved and entered three Partial Consent Decrees concerning the Krejci Dump Site (the “Site”) in the Cuyahoga Valley National Park in a case captioned United States v. Chrysler Corp., et al., Civil Action No. 5:97 CV00894 (N.D. Ohio); one of these three Partial Consent Decrees included Ford Motor Company (“Ford”) as a settling party (hereinafter the “Ford Decree”).

B. Under the Ford Decree, Ford agreed, inter alia, to perform certain response activities addressing the environmental conditions at the Site. Pursuant to Section VI of the Ford Decree, Ford has engaged EQ Industrial Services, Inc. (“EQIS”) as its Supervising Contractor for the performance of those response activities. The work performed by Ford and EQIS has been overseen by the U.S. Department of the Interior (“DOI”)/National Park Service (“NPS”) (“DOI/NPS”).

C. Among other things, the Ford Decree provides, in Paragraph 15, that “Ford shall complete the Remedial Action, up to and including initial reseeded of the Site as set forth in the [accompanying Statement of Work], within a three-year period after the initiation of excavation.” This three-year schedule for completion of that response work also is reflected in the Ford Decree’s Statement of Work and in submittals required by the Decree, including the Remedial Action Work Plan. Excavation at the Site was initiated on October 13, 2005, so the Ford Decree currently requires completion of the specified Remedial Action work by October 13, 2008.

D. Paragraph 117 of the Ford Decree provides that the “[s]chedules specified in this Consent Decree for completion of the Work may be modified by agreement of DOI and Ford.” Consistent with Paragraph 117, the United States and Ford are hereby agreeing to revise and extend the previously-established three-year schedule for completion of the specified Remedial Action work on the terms and conditions set forth in this Agreement Regarding a Revised Schedule for Completion of the Remedial Action and Related Matters (the “Agreement”).

E. The undersigned parties anticipate that the United States will file this Agreement with the Court as a non-material modification and an agreed supplement to the Ford Decree. The parties hereby agree that this Agreement will be effective on the date that it has been signed by the parties.

Agreement

The United States and Ford hereby agree as follows:

1. Revised Date for Completion of the Remedial Action through Initial Reseeding of the Site

a. Ford shall complete the Remedial Action, up to and including initial reseeded of the Site as set forth in the Statement of Work and other governing documents, by no later than September 30, 2010.

b. The revised date established by Subparagraph 1.a shall supersede and replace the original schedule specified by Paragraph 15 of the Ford Decree and the Statement of Work accompanying the Ford Decree, and any corresponding schedule in previously-prepared submittals under the Ford Decree. The revised date established by Subparagraph 1.a shall now be deemed the DOI/NPS-approved date for Completion of Construction through initial reseeded under Paragraph 15 of the Ford Decree and the Remedial Action construction schedule in the Remedial Action Work Plan, and that revised date shall supersede and replace Compliance Milestone (6) in Paragraph 74 of the Ford Decree.

2. Payment for Additional Response Activities to be Performed by DOI/NPS or its Authorized Designees

a. Within 60 days after the effective date of this Agreement, Ford shall pay a total of \$281,000 to the United States for additional response activities to be performed at or in connection with the Site by DOI/NPS or its authorized designees.

b. Ford's payment pursuant to Subparagraph 2.a. shall be deposited in the DOI's Central Hazardous Materials Fund ("CHF"), to be retained and used to conduct or finance response actions at or in connection with the Site, and, in DOI/NPS's discretion, it may then be transferred to another fund or account managed by DOI/NPS for use in financing improvements to Hines Hill Road near the Site after the completion of the Remedial Action, pursuant to the Cuyahoga Valley National Park's statutory authority.

c. Ford's payment under Subparagraph 2.a shall not alter Ford's existing obligation to assess and address the conditions of Hines Hill Road during the Remedial Action and upon demobilization, as specified by the Site Management and Operations Plan (the "SMO Plan") (Appendix D of the Remedial Design Report) that was developed by Ford and reviewed and approved by DOI/NPS pursuant to the Ford Decree. Section 3.16 of that SMO Plan provides as follows: "The condition of Hines Hill Road will be reviewed and compared to the initial photographic representation conducted prior to RA activities [pursuant to Section 3.1 of the Plan]. Any damage observed will be repaired to pre-RA conditions."

3. Payment of Specified Future Response Costs

a. Ford shall pay to DOI/NPS all Specified Future Response Costs (as defined below) not inconsistent with the National Contingency Plan. All such Specified Future Response Costs shall be deemed to fall within the definition of “Future Response Costs” under the Ford Decree and shall be payable by the Ford under Section XVI of the Ford Decree. DOI/NPS will send Ford bills for such costs on a quarterly basis.

b. For the purpose of this Agreement, the term “Specified Future Response Costs” shall mean all Site-related response costs – including, but not limited to, direct and indirect costs – that the United States incurs between October 1, 2008 and September 30, 2010 or until such time that the Remedial Action up to the initial reseeded of the entire Site is complete, whichever is earlier, in reviewing or developing plans, reports and other items pursuant to the Ford Decree, verifying the Work, monitoring implementation of the remedy selected in the ROD, or otherwise implementing, overseeing, or enforcing the Ford Decree or this Agreement, including, but not limited to, payroll costs, contractor costs, cooperative agreement costs, travel costs, and laboratory costs.

c. Ford’s payment pursuant to Subparagraph 3.a shall be deposited in the CHF to reimburse the Specified Future Response Costs as described in Subparagraph 3.b above.

4. Payments for Additional Natural Resource Restoration Work

a. Initial Payment. Within 60 days after the effective date of this Agreement, Ford shall pay a total of \$285,000 to the United States for additional natural resource restoration work to be performed by DOI/NPS or its authorized designees.

b. Subsequent Payments. If the Remedial Action up to the initial reseeded of the entire Site is not complete on or before November 1, 2009, Ford shall – beginning November 1, 2009 through September 30, 2010 or until such time that the Remedial Action up to the initial reseeded of the entire Site is complete, whichever is earlier – pay the following additional amounts for additional natural resource restoration work to be performed by DOI/NPS or its authorized designees:

- i. \$8,400 is due on the last day of every calendar month if on that day the Remedial Action up to the initial reseeded of the East Site portion of the Site is not complete; and
- ii. \$5,700 is due on the last day of every calendar month if on that day the Remedial Action up to the initial reseeded of the West Site portion of the Site is not complete.

The East Site and West Site portions of the Site are generally depicted in Figure I-1 of the Record of Decision. Ford shall pay any amounts due under this Subparagraph 4.b within

30 days after the end of each calendar month. In the event that full payment of any amounts due under this Subparagraph is not made within 30 days after the end of the calendar month, Ford shall pay Interest (as defined by Paragraph 4 of the Ford Decree) on the unpaid balance.

c. Ford's payments pursuant to Subparagraphs 4.a and 4.b shall be deposited in a Site-specific sub-account within the DOI's Natural Resource Damage Assessment and Restoration Fund ("NRDAR Fund"), to be managed by DOI/NPS to pay for NPS-sponsored natural resource restoration projects at or near the Site. All such funds shall be applied toward the costs of restoration, rehabilitation, or replacement of injured natural resources, and/or acquisition of equivalent resources. DOI/NPS intends to prepare a separate Restoration Plan, pursuant to 43 C.F.R. § 11.93, describing how the funds dedicated for natural resource restoration efforts under this Paragraph will be used.

5. As an exercise of its discretion under Paragraph 84 of the Ford Decree, DOI/NPS will not assess, demand, or otherwise seek stipulated penalties under Paragraph 74 for Ford's failure to complete the Remedial Action up to and including the initial reseeding of the Site between October 13, 2008 and the effective date of this Agreement.

6. Payment Instructions

a. A single payment of the aggregate amounts due under Subparagraphs 2.a and 4.a shall be made by FedWire Electronic Funds Transfer ("EFT") to the U.S. Department of Justice account in accordance with current EFT procedures, referencing DOJ Case Number 90-11-3-768 and the case name and civil action number for original lawsuit (United States v. Chrysler Corp., et al., Civil Action No. 5:97 CV00894). Payment shall be made in accordance with instructions to be provided to Ford by the Financial Litigation Unit of the United States Attorney's Office for the Northern District of Ohio. In the event that full payment of the aggregate amount referenced in this Subparagraph is not made within 60 days of the effective date of this Agreement, Ford shall pay Interest (as defined by Paragraph 4 of the Ford Decree) on the unpaid balance. The Interest shall begin to accrue on the 61st day after the effective date of this Agreement, and shall continue to accrue through the date of Ford's full payment. Payments of Interest made under this Subparagraph shall be in addition to such other remedies or sanctions available to the United States by virtue of Ford's failure to make timely payments including, but not limited to, liability for statutory penalties under 42 U.S.C. § 9622(l).

b. Payments to DOI/NPS under Subparagraph 3.a shall be made to the CHF and payments under Subparagraph 4.b shall be made to the NRDAR Fund in accordance with payment instructions to be provided to Ford by DOI/NPS.

c. Upon making any payment under this Agreement, Ford shall send evidence of payment – together with a transmittal letter referencing DOJ Case Number 90-11-3-768 and the Ford Decree – to the persons identified in Section XXVI (Notices and Submissions) of the Ford Decree, as amended.

7. Covenants by Ford. Ford hereby covenants not to sue and agrees not to assert any claims or causes of action against the United States with respect to any payments made pursuant to this Agreement, including, but not limited to:

- i. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund (established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507) through CERCLA Sections 106(b)(2), 107, 111, 112, 113 or any other provision of law;
- ii. any claims against the United States (including any department, agency or instrumentality of the United States) under CERCLA Sections 107 or 113, 42 U.S.C. §§ 9607 or 9613, related to the payments made pursuant to this Agreement; or
- iii. any claims against the United States (including any department, agency or instrumentality of the United States) under the United States Constitution, the Ohio Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law, related to the payments made pursuant to this Agreement.

8. Jurisdiction. The undersigned parties to this Agreement hereby acknowledge and agree that the Court shall have jurisdiction to construe and enforce this Agreement pursuant to: (i) the Court's express retention of jurisdiction in Section XXVIII of the Ford Decree, and (ii) the All Writs Act, 28 U.S.C. § 1651.


9. Dispute Resolution and Force Majeure. The provisions of Section XVII (Force Majeure) and Section XIX (Dispute Resolution) of the Ford Decree shall apply to this Agreement.

10. Except as specified in this Agreement, no provisions of the Ford Decree or other governing documents are modified, superseded, or altered in any way by this Agreement.

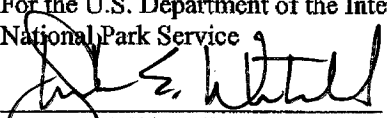
11. Execution. This Agreement may be executed in counterparts.

The undersigned party hereby consents and certifies that it is authorized to consent to the terms and conditions of this Agreement Regarding a Revised Schedule for Completion of the Remedial Action and Related Matters.

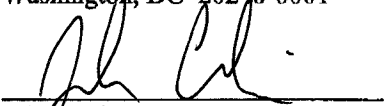
Dated: 10/22/08

For the United States

Randall M. Stone
Senior Attorney
Environmental Enforcement Section
United States Department of Justice
P.O. Box 7611
Washington, DC 20044-7611

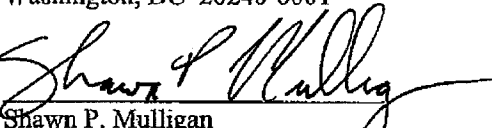
Dated: 10.17.08

For the U.S. Department of the Interior,
National Park Service

Steven E. Whitesell
Associate Director
Park Planning, Facilities, and Lands
National Park Service
1849 C Street, N.W. – Room 3120
Washington, DC 20240-0001

Dated: 10/16/08


John Carlucci
Assistant Solicitor
Division of Parks and Wildlife
Office of the Solicitor
United States Department of the Interior
1849 C Street, N.W. – Room 6557
Washington, DC 20240-0001

Dated: 10/14/08


Shawn P. Mulligan
Senior Environmental Program Advisor
National Park Service
United States Department of the Interior
1050 Walnut Street – Suite 220
Boulder, CO 80302

The undersigned party hereby consents and certifies that it is authorized to consent to the terms and conditions of this Agreement Regarding a Revised Schedule for Completion of the Remedial Action and Related Matters.

Dated:

10/14/08

For Ford Motor Company



Name:

Louis J. Ghilardi
Assistant Secretary

Title:

Address:

One American Road
Dearborn, MI 48126