

Copy mailed to attorneys for parties by the Court pursuant to Rule 77 (d) Federal Rules of Civil Procedures.

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF WISCONSIN

U.S. DIST. COURT EAST DIST. WISC. FILED NOV 25 1998 AT 0'CLOCK SOFROB. MEDILSKY M

UNITED STATES OF AMERICA,)
Plaintiff,)
v.)
LAKE GENEVA ASSOCIATES,)
PLAYBOY ENTERPRISES,)
and)
MARCUS GENEVA, INC.,)
Defendants.)

CIVIL ACTION NO. 98-C-0972

TCJ RECEIVED FILED DEC - 3 1998 FILE

ORDER

Upon consideration of the Motion of United States to Enter Consent Decree, the Court finds that the Consent Decree is fair, reasonable, in the public interest, and consistent with the purposes of CERCLA, and hereby GRANTS said motion.

It is hereby ORDERED that the Consent Decree between Plaintiff United States and the above-named Defendants shall be entered with the Court in this case.

SO ORDERED this 25 day of Nov., 1998.

Lynn Adelman Judge United States District Court

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ed to attorneys for
by the Court pursuant
Rule 77 (d) Federal Rules of
Civil Procedure: 40

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

U.S. DIST. COURT EAST DIST. WISC.
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ATTORNEY
WISCONSIN

UNITED STATES OF AMERICA,)
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LAKE GENEVA ASSOCIATES,)
PLAYBOY ENTERPRISES,)
and)
MARCUS GENEVA, INC.,)
)
)
Defendants.)

CIVIL ACTION NO.

DEELMAN

CONSENT DECREE

I. BACKGROUND

A. The United States of America ("United States"), on behalf of the Administrator of the United States Environmental Protection Agency ("EPA") and on behalf of the United States Department of the Interior ("DOI"), through the United States Fish and Wildlife Service ("FWS"), as the federal trustee for natural resources in and around Lake Geneva, Wisconsin, filed a complaint in this matter pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, Liability Act of 1980, 42 U.S.C. § 9607, as amended ("CERCLA").

90-11-3-1063

DEPARTMENT OF JUSTICE
DEC 16 1998
U.S. DISTRICT COURT EASTERN DISTRICT OF WISCONSIN

B. The United States in its complaint seeks reimbursement of response costs incurred and to be incurred by EPA and the Department of Justice for response actions in connection with the release or threatened release of hazardous substances at the Southern Lakes Trap and Skeet Club site at the Grand Geneva Resort and Spa near Lake Geneva, Walworth County, Wisconsin ("the Site" as defined herein), and a declaration of Settling Defendants' liability for further response costs. The United States also seeks reimbursement of damages to natural resources, including the cost of restoring, replacing or acquiring the equivalent of the damaged natural resources, and the reasonable cost of assessing those damages.

C. In January 1992, FWS Game Agents investigating the circumstances relating to the discovery of dead Canada geese in the vicinity of Lake Geneva, Wisconsin, concluded that the birds had died as a result of consuming lead shot from the Southern Lakes Trap and Skeet Club Site. On November 25, 1992, the FWS notified the Wisconsin Department of Natural Resources ("WDNR") of potential co-trusteeship at the site. The WDNR has declined to participate as a trustee for this case.

D. On January 8, 1993, EPA sent to JMB Urban Development Company, Inc., on behalf of Lake Geneva Associates ("LGA"), and Playboy Enterprises ("Playboy") a General Notice of Potential Liability pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, regarding the Site. EPA notified the Wisconsin Department of Natural Resources of this activity. In accordance with Section 122(j)(1) of CERCLA, 42 U.S.C. § 9622(j)(1), EPA, DOI, and FWS participated jointly in negotiations with LGA and Playboy regarding the release of hazardous substances that may have resulted in injury to the natural resources under Federal trusteeeship at the Site. On September 11, 1996, EPA sent to Marcus Hotels, Inc.

("Marcus"), a General Notice of Potential Liability pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, regarding the Site.

E. On October 7, 1993, FWS issued a Damage Assessment Plan for the Site pursuant to Section 107(f)(1) of CERCLA, 42 U.S.C. § 9607(f)(1), and 43 C.F.R. §11.32(c)(1).

F. On July 5, 1994, EPA issued an Administrative Order on Consent ("AOC"), Docket No. V-W-94-C-243, pursuant to Sections 106(a), 107, and 122 of CERCLA, 42 U.S.C. §§ 9606(a), 9607, and 9622, under which LGA and Playboy agreed to perform a two-phase site assessment to investigate polynuclear aromatic hydrocarbons ("PAHs"), elemental lead, and lead contamination of soils, surface waters and sediments at the Site, and to develop clean-up criteria for the Site. The State of Wisconsin was notified of the issuance of the AOC pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

G. In August and September 1994, LGA and Playboy conducted extensive assessment activities at the Site, pursuant to the AOC. On October 28, 1994, LGA and Playboy submitted, and EPA subsequently approved, a Phase I Site Assessment Report detailing extensive lead shot distribution throughout the Site. On August 4, 1995, LGA and Playboy submitted to EPA a Draft Phase II Removal Plan, proposing to remove lead from the dry-land portion of the Site and place a "sand cap" over lead in the wetland portion of the Site. EPA rejected the LGA and Playboy plan to cap the wetland portion of the Site by letter dated October 20, 1995.

H. On September 5, 1996, EPA issued an Action Memorandum to implement removal activity to mitigate an imminent and substantial threat to public health and the

environment posed by the presence of hazardous substances in the form of lead shot at the Site. In the Action Memorandum, EPA determined that conditions at the Site, subsequent to the site assessment, met the criteria of Section 300.415(b)(2) of the National Contingency Plan for a removal action.

I. The Removal Action has been implemented by EPA. On January 22, 1998 EPA issued its finding that no further response activities are planned at the Site (the "NFRAP") and that the Site will be removed from the CERCLIS database. A copy of the NFRAP is attached as Appendix B. In addition, in a separate letter dated January 26, 1998, EPA explained that the WDNR agrees with EPA's NFRAP designation. A copy of the letter is attached as Appendix C. The NFRAP was based on two reports, the "Final Pollution Report" (October 31, 1997) and the "Preliminary Assessment Equivalent Report" (July 16, 1997), which are attached as Appendices D and E, respectively.

J. The purposes of this Consent Decree are: (1) to provide for Settling Defendants' payment of their share of all response costs at the Site related to the cost of the Removal Action, as defined herein; (2) to provide for Settling Defendants' reimbursement for natural resource damages resulting from Shooting Activities, as defined herein, and the costs of assessing those damages; and, (3) to resolve any and all claims by the United States for violations of the requirements of the AOC, Docket No. V-W-94-C-243.

K. The Defendants that have entered into this Consent Decree ("Settling Defendants" as defined herein) do not admit any liability to the Plaintiff arising out of the transactions or occurrences alleged in the complaint and further deny that the die-off of Canada geese in January 1992 was caused by consumption of lead shot from the Site.

L. The Parties recognize, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith and implementation of this Consent Decree will expedite the cleanup of the Site and 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:

II. JURISDICTION

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. §§ 9607 and 9613(b). This Court also has personal jurisdiction over the Settling Defendants. Solely for the purposes of this Consent Decree and the underlying complaint, the Settling Defendants waive all objections and defenses that they may have to jurisdiction of the Court or to venue in this District and shall not challenge the 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 and upon the Settling Defendants and their 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 the Settling Defendants 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 terms listed below are used in this Consent Decree or in any appendix attached hereto the following definitions shall apply:

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

b. "Consent Decree" shall mean this Decree, including Appendix A (Site Map), Appendix B (EPA NFRAP), Appendix C (EPA January 26, 1998 letter), Appendix D (Final Pollution Report dated October 31, 1997) and Appendix E (Preliminary Assessment Equivalent Report dated July 16, 1997) to this Decree.

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

d. "DOI" shall mean the United States Department of Interior and any successor departments, agencies or instrumentalities of the United States.

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

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

- g. "EPA Hazardous Substance Superfund" shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.
- h. "FWS" shall mean the United States Fish and Wildlife Service and any successor departments, agencies or instrumentalities of the United States.
- i. "Interest" shall mean interest at the current rate specified for interest on investments of the Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a).
- j. "National Contingency Plan" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, including but not limited to any amendments thereto.
- k. "Natural Resources" shall have the meaning provided in Section 101(16) of CERCLA, 42 U.S.C. § 9601(16).
- l. "Natural Resource Damages" means damages, including costs of damages assessment, recoverable under Section 107 of CERCLA for injury to, destruction of, or loss of any and all Natural Resources at, or related to, the "Site".
- m. "Paragraph" shall mean a portion of this Consent Decree identified by an arabic numeral or an upper case letter.
- n. "Parties" shall mean the United States and Settling Defendants.
- o. "RCRA" shall mean the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq.
- p. "Removal Action" shall mean the response actions undertaken pursuant to the Action Memo issued on September 5, 1996, for the removal of lead shot and clay targets at

and around the Site, as described below, as well as activities directed at restoration of wetlands at the Site that were injured as a result of the disposal of lead shot and clay targets at the Site.

The response action included the following actions:

- i. Development and implementation of a site-specific work plan including a proposed time line.
 - ii. Development and implementation of a site-specific health and safety plan.
 - iii. Conducting of a treatability study on contaminated soils, sediments, or other wastes.
 - iv. Development and implementation of a plan to lower the water level in the wetlands as deemed appropriate by the On-Scene Coordinator.
 - v. Excavation of contaminated soil, sediments, and debris and stage on-site, as necessary.
 - vi. Bulking and consolidation of wastes in preparation for on-site treatment.
 - vii. Performance of an on-site chemical fixation treatment of contaminated soils, sediments, and wastes, as necessary. Material was treated to RCRA nonhazardous levels and transported off-site for disposal.
 - viii. Bulk and consolidation of wastes in preparation for off-site transport.
 - ix. Transport and disposal of all hazardous wastes, pollutants, and contaminants at an EPA-approved disposal facility in accordance with the U.S.EPA Off-Site Rule.
 - x. Development and implementation of a confirmation sampling plan to determine completion of the removal action.
 - xi. Development and implementation of a site restoration plan as deemed appropriate by the On-Scene Coordinator.
- q. "Section" shall mean a portion of this Consent Decree identified by a roman numeral.

r. "Settling Defendants" shall mean Lake Geneva Associates, Playboy Enterprises and Marcus Geneva, Inc.

s. "Shooting Activities" shall mean shooting at or from the Southern Lakes Trap and Skeet Club occurring on or before December 31, 1996, including the discharge of lead shot, clay targets and other substances generated by or related to such shooting.

t. "Site" shall mean the area that was operated or used by the Southern Lakes Trap and Skeet Club as a trap and skeet shooting range, near Lake Geneva in Walworth County, Wisconsin, (T2N-R18E-SWSW Sec. 20), including what is currently a portion of the Grand Geneva Resort and Spa property, located between the airstrip on the southeast boundary of the Site and Sheridan Springs Road on the northwest boundary of the Site, consisting of a pond, an approximately 35-acre wetland and surrounding uplands, as depicted generally on the map included in Appendix A to this Consent Decree.

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

**V. REIMBURSEMENT OF RESPONSE COSTS:
PAYMENT OF NATURAL RESOURCE DAMAGES**

4.a. Payment of Response Costs to the United States on behalf of EPA. Within 30 days of entry of this Consent Decree, the Settling Defendants shall pay to the United States \$925,000 for response costs incurred or to be incurred by EPA in the performance of the Removal Action at the Site. Payment shall be made by FedWire Electronic Funds Transfer ("EFT") to the U.S. Department of Justice account in accordance with current EFT procedures, referencing USAO File Number 9500533, the EPA Region and Site ID Number

05-TX, and DOJ Case Number 90-11-3-1063. Payment shall be made in accordance with instructions provided to Settling Defendants by the Financial Litigation Unit of the U.S. Attorney's Office in the Eastern District of Wisconsin following lodging of the Consent Decree. Any payments received by the Department of Justice after 2:00 p.m. Eastern Time shall be credited on the next business day. Settling Defendants shall send notice to EPA and DOJ that payment has been made in accordance with Section XI (Notices and Submissions) and to Director, Waste Management Division, U.S. EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604-3590. Such notice shall reference the Site name and the Site ID number listed above.

b. Payment of Natural Resource Damages to the United States on behalf of DOI and FWS. Within 30 days of the entry of this Consent Decree, Settling Defendants shall pay to the United States, on behalf of DOI and FWS, \$75,000 for natural resource damages associated with the release or threatened release of hazardous substances resulting from Shooting Activities at the Site. Payment shall be made in the form of a certified check made payable to the U.S. Department of the Interior and shall reference the FWS account number 14X5198, the site name – the Southern Lakes Trap and Skeet Club Site, the site location – Lake Geneva, Walworth County, Wisconsin, and the name and address of the parties making payment. The Settling Defendants shall forward the check[s] to:

Chief, Division of Finance
U.S. Fish and Wildlife Service
4401 N. Fairfax Dr., Rm.380
Arlington, VA 22203

VI. FAILURE TO MAKE TIMELY PAYMENTS

5. Interest on Late Payments. In the event that any payment[s] required by Section V are not made when due, Interest, as defined in Paragraph 3, shall accrue on the unpaid balance from the date of lodging through the date of payment.

6. Stipulated Penalty.

a. If any amounts due to EPA or DOI under this Consent Decree are not paid by the required date, Settling Defendants shall pay to EPA or to DOI, respectively, as a stipulated penalty, in addition to the Interest required by Paragraph 5, \$5,000 per violation per day that such payment is late.

b. Stipulated penalties are due and payable within 30 days of the date of the demand for payment of the penalties by EPA or DOI. All payments to EPA under this Paragraph shall be made by certified or cashier's check made payable to "EPA Hazardous Substance Superfund" and shall be sent to:

U.S. EPA
Superfund Accounting
P.O. Box 70753
Chicago, IL 60673

All payments shall indicate that the payment is for stipulated penalties and shall reference the name and address of the party making payment, the EPA Region and Site Spill ID Number 05-TX, USAO File Number 9500533, and DOJ Case Number 90-11-3-1063. Copies of check[s] paid pursuant to this Paragraph, and any accompanying transmittal letter[s], shall be sent to EPA and DOJ as provided in Section XI (Notices and Submissions) and to Director, Waste Management Division, U.S. EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604-3590.

All payments to DOI under this Paragraph shall be made by certified check made payable to the U.S. Department of the Interior and shall reference the FWS account number 14X5198, the site name -- the Southern Lakes Trap and Skeet Club Site, the site location -- Lake Geneva, Walworth County, Wisconsin, and the name and address of the party making payment. The Settling Defendants shall forward the check[s] to:

Chief, Division of Finance
U.S. Fish and Wildlife Service
4401 N. Fairfax Dr., Rm.380
Arlington, VA 22203

All payments shall indicate that the payment is for stipulated penalties. Copies of check[s] paid pursuant to this Paragraph, and any accompanying transmittal letter[s], shall be sent to DOI and DOJ as provided in Section XI (Notices and Submissions).

c. Penalties shall accrue as provided in this Paragraph regardless of whether EPA or DOI has notified Settling Defendants of the violation or made a demand for payment, but need only be paid upon demand. All penalties shall begin to accrue on the day after complete performance is due or the day a violation occurs, and shall continue to accrue through the final day of correction of the noncompliance or completion of the activity. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Decree.

7. If the United States must bring an action to collect any payment required by this consent decree, the Settling Defendants shall reimburse the United States for all costs of such action, including but not limited to costs of attorney time.

8. Payments made under Paragraphs 5, 6, and 7 shall be in addition to any other remedies or sanctions available to Plaintiffs by virtue of Settling Defendants' failure to make timely payments required by this Decree.

9. The obligations of the Settling Defendants to pay amounts owed the United States under this Consent Decree are joint and several. In the event of the failure of any one or more Settling Defendants to make the payments required under this Consent Decree, the remaining defendants shall be responsible for such payments.

VII. COVENANT NOT TO SUE BY PLAINTIFF

10. In consideration of the payments that will be made by the Settling Defendants under the terms of the Consent Decree, and except as specifically provided in Paragraph 11, the United States covenants not to sue or to take administrative action against Settling Defendants pursuant to Sections 106 and 107(a) of CERCLA and Section 7003 of RCRA for: (1) response costs and actions associated with the Removal Action at the Site; (2) Natural Resource Damages resulting from Shooting Activities at or from the Site; and, (3) any and all claims by the United States for violations of the requirements of the AOC, Docket No. V-W-94-C. These covenants not to sue are conditioned upon the complete and satisfactory performance by Settling Defendants of their obligations under Paragraphs 4, 5, and 6, as applicable, of this Consent Decree. These covenants not to sue extend only to the Settling Defendants and their successors and assigns and do not extend to any other person.

11. General reservations of rights. The covenants not to sue set forth above do not pertain to any matters other than those expressly specified in Paragraph 10. The United States

reserves, and this Consent Decree is without prejudice to, all rights against Settling Defendants with respect to all other matters, including but not limited to, the following:

(1) claims based on a failure by Settling Defendants to meet a requirement of this Consent Decree;

(2) liability arising from the past, present, or future disposal, release, or threat of release of hazardous substances and solid and/or hazardous wastes outside of the Site, except for Natural Resource Damages resulting from Shooting Activities at or from the Site;

(3) liability for response costs and response actions arising from the past, present, or future disposal, release, or threat of release of hazardous substances and solid and/or hazardous wastes at the Site that are not within the scope of the Removal Action;

(4) liability for natural resource damages not related to or resulting from Shooting Activities at the Site;

(5) liability for response costs that have been or may be incurred by any federal agencies other than EPA, DOI, FWS, or the Department of Justice on behalf of EPA, DOI or FWS; and

(6) criminal liability.

VIII. COVENANTS BY SETTLING DEFENDANTS

12. Settling Defendants hereby covenant not to sue and agree not to assert any claims or causes of action against the United States with respect to this Consent Decree or the Removal Action, including, but not limited to, any direct or indirect claim for reimbursement

from the Hazardous Substance Superfund (established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507), under CERCLA §§ 106(b)(2), 107, 111, 112, or 113, or any other provision of law, any claim against the United States, including any department, agency, or instrumentality of the United States pursuant to CERCLA Sections 107 and 113 related to response costs and actions associated with this Consent Decree or the Removal Action. Nothing in this Consent Decree shall be deemed to constitute preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

IX. EFFECT OF SETTLEMENT; CONTRIBUTION PROTECTION

13. Nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person other than the United States, the Settling Defendants and their successors and assigns. Each of the Parties expressly reserves any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action which each party may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a party hereto.

14. With regard to claims for contribution against Settling Defendants for matters addressed in this Consent Decree, the Parties hereto agree that the Settling Defendants are entitled to such protection from contribution actions or claims as is provided by CERCLA Section 113(f)(2), 42 U.S.C. § 9613(f)(2). The matters addressed in this settlement are all response costs incurred and to be incurred by the United States, including U.S. EPA and DOI - FWS, and the Settling Defendants with respect to the Removal Action and Natural Resource Damages resulting from Shooting Activities at or from the Site.

15. Settling Defendants agree that with respect to any suit or claim for contribution brought by them for matters related to this Consent Decree they will notify the United States in writing no later than 60 days prior to the initiation of such suit or claim. Settling Defendants also agree that with respect to any suit or claim for contribution brought against them for matters related to this Consent Decree they will notify in writing the United States within 10 days of service of the complaint on them. In addition, Settling Defendants shall notify the United States within 10 days of service or receipt of any Motion for Summary Judgment and within 10 days of receipt of any order from a court setting a case for trial for matters related to this Consent Decree.

16. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, recovery of response costs, or other appropriate relief relating to the Site, Settling Defendants shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the covenants not to sue set forth in Section VII (Covenants Not to Sue by Plaintiffs).

X. RETENTION OF RECORDS

17. Until 5 years after the entry of this Consent Decree, each Settling Defendant, to the best of its ability, shall preserve and retain all records and documents now in its possession or control or which come into its possession or control that relate in any manner to response

actions taken at the Site or the liability of any person for response actions conducted and to be conducted at the Site, regardless of any corporate retention policy to the contrary.

18. At the conclusion of this document retention period, Settling Defendants shall notify the United States at least 90 days prior to the destruction of any such records or documents, and, upon request by the United States, Settling Defendants shall deliver any such records or documents to the EPA. Settling Defendants may assert that certain documents, records, and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Settling Defendants assert such a privilege, they shall provide the plaintiffs with the following: (1) the title of the document, record, or information; (2) the date of the document, record, or information; (3) the name and title of the author of the document, record, or information; (4) the name and title of each addressee and recipient; (5) a description of the subject of the document, record, or information; and (6) the privilege asserted. However, no documents reports, or other information created or generated pursuant to the requirements of this or any other consent decree with the United States shall be withheld on the grounds that they are privileged. If a claim of privilege applies only to a portion of a document, the document shall be provided to Plaintiffs in redacted form to mask the privileged information only.

19. Each Settling Defendant hereby certifies, individually, that, to the best of its knowledge and belief, it has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents, or other information relating to its potential liability regarding the Site since notification of potential liability by the United States or the filing of suit against it

regarding the Site and that it has fully complied with any and all EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA and Section 3007 of RCRA.

XI. NOTICES AND SUBMISSIONS

20. Whenever, under the terms of this Consent Decree, notice is required to be given or a document is required to be sent by one party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of the Consent Decree with respect to the United States, EPA, DOI - FWS, and the Settling Defendants, respectively.

As to the United States:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20044
Re: #90-11-3-1063

As to EPA:

U.S. EPA Region 5
Emergency Response Branch
Response Section II (SE-5J)
77 W. Jackson Blvd.
Chicago, IL 60604-3590

As to DOI - FWS:

Field Supervisor
U.S. Fish & Wildlife Service
Ecological Services Field Office
1015 Challenger Ct.
Green Bay, WI 54311

As to Settling Defendants:

Playboy Enterprises

Howard Shapiro
Playboy Enterprises, Inc.
680 North Lake Shore Drive
Chicago, Illinois 60611

Lake Geneva Associates

Gary A. Nickele, Esq.
General Counsel
JMB Realty Corporation
900 N. Michigan Avenue
Chicago, Illinois 60611

John S. Hahn, Esq.
Sonnenschein Nath & Rosenthal
1301 K Street, N.W.
Suite 600, East Tower
Washington, D.C. 20005

Marcus Geneva, Inc.

Linda R. Treland, Esq.
250 East Wisconsin Ave.
Suite 1750
Milwaukee, Wisconsin 53202

XII. RETENTION OF JURISDICTION

21. This Court shall retain jurisdiction of this matter for the purpose of enforcing the terms of this Consent Decree.

**XIII. LODGING AND OPPORTUNITY FOR
PUBLIC COMMENT AND PARTICIPATION**

22. This Consent Decree shall be lodged with the Court for a period of thirty (30) days for public notice and comment as well as for compliance with the public participation

requirements of Section 7003(d) of RCRA, 42 U.S.C. § 6973(d). The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations which indicate that this Consent Decree is inappropriate, improper, or inadequate. Settling Defendants consent to the entry of this Consent Decree without further notice.

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

XIV. APPENDICES

24. The following appendices are attached to and incorporated into this Consent Decree: "Appendix A" is a map of the Site; "Appendix B" is a copy of the January 22, 1998 EPA NFRAP; "Appendix C" is the EPA letter dated January 26, 1998 referenced in paragraph I; "Appendix D" is the "Final Pollution Report" dated October 31, 1997; and, "Appendix E" is the "Preliminary Assessment Equivalent Report" dated July 16, 1997.


XV. SIGNATORIES/SERVICE

25. Each undersigned representative of a Settling Defendant to this Consent Decree and the Chief of the Environmental Enforcement Section, Environment and Natural Resources Division, of the United States Department of Justice certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind such party to this document.

26. Each 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.

XVI. EFFECTIVE DATE

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


·SO ORDERED THIS 25 DAY OF Nov, 1998.

United States District Judge

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. Lake Geneva Associates, Playboy Enterprises, and Marcus Geneva, Inc., relating to the Southern Lakes Trap and Skeet Club Site.

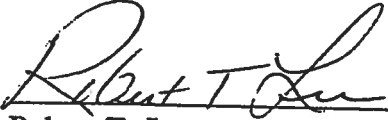
FOR THE UNITED STATES OF AMERICA

Date: 09/10/98

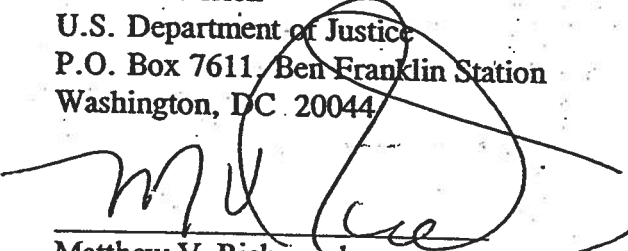
Lois J. Schiffer
Assistant Attorney General
Environment and Natural Resources
Division



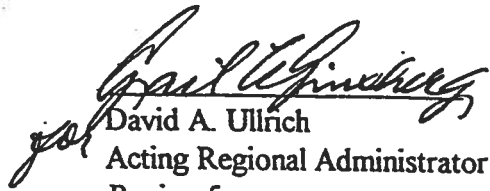
Joel M. Gross
Chief
Environmental Enforcement Section
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Agency

77 West Jackson Blvd.

Chicago, IL 60604



Reginald A. Pallesen

Associate Regional Counsel

U.S. Environmental Protection Agency

77 West Jackson Blvd.

Chicago, IL 60604

In re Consent Decree in the matter of United States
v. Lake Geneva Associates, Playboy
Enterprises, and Marcus Geneva, Inc.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. Lake Geneva Associates, Playboy Enterprises, and Marcus Geneva, Inc., relating to the Southern Lakes Trap and Skeet Club Site.

FOR DEFENDANT:

August 20, 1998
Date

LAKE GENEVA ASSOCIATES

Name of Defendant

By: JMB REALTY CORPORATION, General Partner
900 North Michigan Avenue, Suite 1900

Address Chicago, Illinois 60611

312-440-4800

Telephone Number

By: Gary A. Nickele
Name of Officer (please type or print)


Signature of Officer

Executive Vice President
Title

If different from above, the following is the name and address of Defendant's agent for service and, if Defendant has counsel, the name and address of Defendant's counsel. Counsel may act as agent for service.

Agent for Service

Attorney

Corporate Representative Services, Inc.

Name 900 North Michigan Avenue, Suite 1900 Name
Chicago, Illinois 60611

Address

Address

Telephone

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. Lake Geneva Associates, Playboy Enterprises, and Marcus Geneva, Inc., relating to the Southern Lakes Trap and Skeet Club Site.

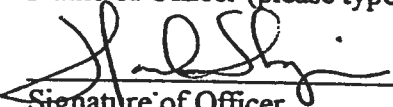
FOR THE DEFENDANT:

8/7/98
Date

PLAYBOY ENTERPRISES
Name of Defendant
680 N. Lake Shore Drive
Chicago, Illinois 60611
Address

312-440-5463
Telephone Number

By: Howard Shapiro
Name of Officer (please type or print)


Signature of Officer

Exec. V.P. / General Counsel
Title

If different from above, the following is the name and address of Defendant's agent for service and, if Defendant has counsel, the name and address of Defendant's counsel. Counsel may act as agent for service.

Agent for Service

Name

Address

Attorney
Robert M. Olian
Name
One First National Plaza
Chicago, Illinois 60603
Address
312-853-7208
Telephone

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. Lake Geneva Associates, Playboy Enterprises, and Marcus Geneva, Inc., relating to the Southern Lakes Trap and Skeet Club Site.

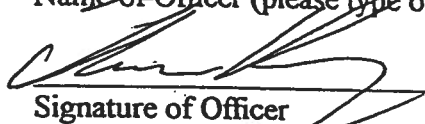
FOR THE DEFENDANT:

July 28, 1998
Date

MARCUS GENEVA, INC.
Name of Defendant
250 East Wisconsin Avenue, Suite 1750
Milwaukee, Wisconsin 53202
Address

(414) 905-1390
Telephone Number

By: Thomas F. Kissinger
Name of Officer (please type or print)


Signature of Officer

Secretary
Title

If different from above, the following is the name and address of Defendant's agent for service and, if Defendant has counsel, the name and address of Defendant's counsel. Counsel may act as agent for service.

Agent for Service

Name

Address

Attorney

Linda R. Treland
Name
250 East Wisconsin Avenue, Suite 1700
Milwaukee, Wisconsin 53202
Address

(414) 905-1447
Telephone