

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA

|                          |       |                  |
|--------------------------|-------|------------------|
| UNITED STATES OF AMERICA | and ) |                  |
| STATE OF INDIANA,        | )     |                  |
|                          | )     |                  |
| Plaintiffs,              | )     |                  |
| v.                       | )     | Civil Action No. |
|                          | )     |                  |
|                          | )     |                  |
| SC Holdings, Inc. et al. | )     |                  |
|                          | )     |                  |
| Defendants.              | )     |                  |
| _____                    | )     |                  |

CONSENT DECREE

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## I. INTRODUCTION

WHEREAS, the United States of America (the "United States"), on behalf of the United States Department of Interior ("DOI"), and the State of Indiana, on behalf of the Indiana Department of Environmental Management ("IDEM") and the Indiana Department of Natural Resources ("IDNR"), have filed complaints pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9601, et seq., alleging that the Defendants are liable for damages for injury to, destruction of, and loss of natural resources belonging to, managed by, held in trust by, controlled by or appertaining to the United States and the State of Indiana as trustees for those resources, including the cost of assessing such injury, resulting from releases of hazardous substances from the Fort Wayne Reduction Site (the "Site").

WHEREAS, the United States, the State of Indiana, Settling Defendants, and the Cashout Parties (collectively "Parties") stipulate and agree to the making and entry of this Consent Decree to provide for the restoration, replacement or acquisition of the equivalent of natural resources allegedly injured by the release of hazardous substances from the Site in settlement of all natural resource damage claims without adjudication of any issue of fact or

law, and without any admission of liability or fault as to any allegation that natural resources were injured or that a release occurred, and without any admission of liability or fault as to any matter arising out of the pleadings or otherwise.

WHEREAS, the Parties believe, and the Court finds, that this Consent Decree has been negotiated by the Parties in good faith, is fair, reasonable, and in the public interest, and that implementation of this Consent Decree will expedite restoration of the alleged injured natural resources, and will avoid prolonged, difficult, expensive and complicated litigation.

Whereas, the Cashout Parties and the Settling Defendants were parties to previous litigation with respect to remediation of the Site and, in settlement of that litigation, the Cashout Parties made payments to the Settling Defendants and were indemnified by the Settling Defendants for all response costs and damages associated with the Site, including natural resource damages, if any. The inclusion of the Cashout Parties in this Consent Decree will promote and expedite settlement and help to avoid future piecemeal litigation.

NOW, THEREFORE, it is hereby 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 2201, and 42 U.S.C. § 9613(b). This Court also has personal jurisdiction over the Settling Defendants and the Cashout Parties. The Settling Defendants and the Cashout Parties will not challenge the terms of this Consent Decree or this Court's jurisdiction to enter and enforce this Consent Decree.

## **III. PARTIES BOUND**

2. This Decree shall inure to the benefit of and be binding upon the United States, the State of Indiana, the Settling Defendants, and the Cashout Parties, and their successors and assigns. Any change in ownership or corporate status of a Settling Defendant including, but not limited to, any transfer of assets or real or personal property, shall in no way alter such Settling Defendants' responsibilities under this Consent Decree.

## **IV. DEFINITIONS**

3. Unless otherwise defined herein, terms used in this Decree which are defined in CERCLA, and in regulations promulgated

pursuant to CERCLA, shall have the meaning assigned to them in CERCLA Statute or regulations.

"Best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any potential force majeure event (1) as it is occurring and (2) following the potential force majeure event, such that the delay is minimized to the greatest extent possible.

"Cashout Parties" means those parties that have previously settled their respective Natural Resource Damages liability with the Settling Defendants and are listed in Exhibit C attached hereto.

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

"Completion Report" means any report or submittal required by the Restoration Plan that documents the completion of a discrete element of the Restoration Plan.

"Consent Decree" means this Consent Decree and all appendices attached hereto.

"Damage Assessment Costs" means the costs of those studies and activities performed as part of the Natural Resource Damage

Assessment for the Site, including all costs incurred by the Trustees prior to the effective date of this Consent Decree, that are in any way associated with the claimed Natural Resource Damages associated with the Site.

"DOI" means the United States Department of the Interior and any successor departments or agencies of the United States.

"DOJ" means the United States Department of Justice and any successor departments or agencies of the United States.

"Fort Wayne Parks Department" means the City of Fort Wayne, Indiana, Parks Department.

"Force Majeure" means any event arising from causes beyond the control of the Settling Defendants expressly including, but not limited to, the refusal by the seller of any Restoration Property to honor the Settling Defendants' option to purchase such property, the inability of the Settling Defendants to obtain access to properties not owned by the Settling Defendants, or causes beyond the control of any entity controlled by the Settling Defendants, including, but not limited to, their contractors and subcontractors, that delays or prevents the performance of any obligation under this Consent Decree despite the Settling Defendants' best efforts to fulfill the obligation. "Force



Majeure" does not include financial inability to complete the Restoration Plan.

"FWS" means the Fish and Wildlife Service of the United States Department of Interior.

"Governments" means the United States and the State of Indiana, acting on behalf of, respectively, the federal and state natural resource trustees.

"IDEM" means the Indiana Department of Environmental Management and any successor departments or agencies of the State of Indiana.

"IDNR" means the Indiana Department of Natural Resources and any successor departments or agencies of the State of Indiana.

"Interest" means interest at the rate specified for debts owed to departments or agencies of the United States pursuant to 31 U.S.C. § 3717.

"Natural Resources" means land, resident and anadromous fish, wildlife, biota, air, water, sediments, wetlands, ground water, drinking water supplies, and all other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States or the State of Indiana.

"Natural Resource Damages" means damages for injury to, destruction of, lost use of or loss of natural resources including

the reasonable costs of assessing injury, destruction, or loss resulting from a release of hazardous substances at and from the Site, and each of the categories of recoverable damages described in 43 C.F.R. § 11.15.

"Natural Resource Damage Assessment" means those studies and activities performed to determine injury to or loss of natural resources, to quantify the injury to or loss of natural resources, and to develop a plan for restoration of injured or lost resources, including compensation for interim losses.

"Oversight Costs" means all costs, including but not limited to direct and indirect costs, that the United States or the State of Indiana incurs after the effective date of this Consent Decree in performing studies or activities as part of any Natural Resource Damage restoration; in reviewing or developing plans, reports and other items pursuant to this Consent Decree; in verifying the Work; or in otherwise implementing, overseeing, or enforcing this Consent Decree, including but not limited to, payroll costs, contractor costs, travel costs, and laboratory costs.

"Parties" means the United States, the State of Indiana, the Settling Defendants, and the Cashout Parties.

"Restoration Property" means the property identified and described in the Restoration Plan.

"Restoration plan" means the "Natural Resource Damage Assessment Settlement RESTORATION PLAN" and which is attached hereto as Exhibit A.

"Settling Defendants" means those companies and entities listed on Exhibit B.

"State" means the State of Indiana, acting on behalf of the Indiana Co-Trustees for natural resource damages under CERCLA.

"Trustees" means the Secretary of the DOI, acting through FWS, and the duly designated officials of IDEM and IDNR, each of which shall be a "Trustee."

"United States" means the United States of America, including its departments, agencies, and instrumentalities.

## V. GENERAL PROVISIONS

### A. Objectives of the Parties

4. The objectives of the Parties in entering into this Consent Decree are: to provide for the restoration, replacement, or acquisition of the equivalent of the injured, destroyed, or lost Natural Resources resulting from injury to, destruction of, or loss of Natural Resources and to compensate for the alleged Natural Resource Damages to the Natural Resources at the Site; to compensate the public for "interim losses" resulting from such

alleged injured, destroyed, or lost Natural Resources, as defined in 43 C.F.R. 11.80(b)(1996); to provide for the reimbursement by the Settling Defendants of the Trustees' Damage Assessment Costs; to provide for the payment by the Settling Defendants of the Trustees' projected Oversight Costs that have or may be incurred by the Trustees in connection with the Settling Defendants' implementation of the Restoration Plan; and to resolve the Settling Defendants' and the Cashout Parties' liability for Natural Resource Damages as provided herein.

**B. Commitments of Settling Defendants**

5. The Settling Defendants shall finance and implement the Restoration Plan, including, at their sole expense, conveying title to the Restoration Property to the Fort Wayne Parks Department, or IDNR, or other appropriate entity approved by the Trustees, to compensate for all Natural Resource Damages, including lost habitat and recreational uses of the Maumee River and nearby wetlands, and to restore, replace or protect Natural Resources allegedly injured by the release of hazardous substances. The Settling Defendants shall also restore, reforest and monitor such Restoration Property in accordance with the Restoration Plan. The Settling Defendants shall reimburse the Trustees for their projected Oversight Costs

associated with the Restoration Plan, up to a combined total of \$8,000.

**C. Joint and Several Obligations**

6. All obligations of any Settling Defendant under this Consent Decree are joint and several. In the event of the insolvency or other failure of any one or more Settling Defendants, the remaining Settling Defendants shall complete all such obligations of this Consent Decree.

**D. Compliance With Applicable Law**

7. All activities undertaken by the Settling Defendants pursuant to this Consent Decree shall be performed in accordance with the National Environmental Policy Act, CERCLA and the requirements of applicable federal and state laws and regulations.

**E. Permits**

8. Where any permit or approval is needed, the Settling Defendants shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals.

**VI. PAYMENT OF GOVERNMENTS' COSTS**

9. Reimbursement of Assessment Costs. Within thirty (30) days of entry of this Decree, the Settling Defendants shall pay

\$90,000 to the Governments as reimbursement for Damage Assessment Costs.

10. Method of Payment of Assessment Costs. Payment of the Damage Assessment Costs described in paragraph 9 above shall be deemed made upon receipt of check or wire transfer by the specified recipient. Payments shall be made as provided below and sent to the following addresses with the following references:

For the United States:

Within 30 days of the effective date of this Decree, the Settling Defendants shall pay \$70,000 to DOI for reimbursement of Damage Assessment Costs by FedWire Electronic Funds Transfer ("ETF" or wire transfer) to the U.S. Department of Justice account in accordance with current electronic funds transfer procedures, referencing U.S.A.O. file number \_\_\_\_\_, DOJ case number 90-11-3-1687z, and the Fort Wayne Reduction Site. Payment shall be made in accordance with instructions to be provided to the Settling Defendants by the Financial Litigation Unit of the United States Attorney's Office for the Northern District of Indiana, Fort Wayne Division, following lodging of the Consent Decree. Any payments received by the Department of Justice after 4:00 P.M. (Eastern Time) will be credited on the next business day. The

Settling Defendants shall send notice that such payment has been made to the United States as specified in Section XIX (Notices and Submissions).

Further payment instructions may be provided by the United States for any stipulated penalty payments.

**For the Indiana Department of Environmental Management:**

A check in the amount of \$5,000 made payable to the "Indiana Department of Environmental Management" and sent to:

Indiana Department of Environmental Management  
Office of Legal Counsel  
ATTN: Beth Admire  
100 N. Senate Ave.  
P.O. Box 6015  
Indianapolis, IN 46206-6015

The check to IDEM shall reference Acct. No. 630-108900.

**For the Indiana Department of Natural Resources:**

A check in the amount of \$2,400, made payable to the "Indiana Department of Natural Resources, Division of Fish and Wildlife" and sent to:

ATTN: Carrie Doehrmann  
Chief of Staff and General Counsel  
DNR, IGC - South, Rm. 256 C  
402 West Washington Street  
Indianapolis, IN 46204

The check to the IDNR shall reference Damage Acct. No. 600-492.

For the Indiana Attorney General's Office:

A check in the amount of \$12,600, made payable to the "Indiana Attorney General's Office," and sent to:

Timothy J. Junk, Dep. Atty. Gen.  
Indiana Government Center South  
402 West Washington St., Fifth Floor  
Indianapolis, IN 46204-2770

Further payment instructions may be provided by the State for any stipulated penalty payments.

11. Reimbursement of Oversight Costs. The Settling Defendants shall reimburse the Governments for all Oversight Costs up to a combined total of \$8,000, as described in Paragraph 5 above. On an annual basis, the Governments shall provide the Settling Defendants one unified bill with payment instructions and supporting documentation for unreimbursed oversight Costs. Payment of Oversight Costs shall be made within 30 days after receipt and in accordance with the instructions provided.

12. Late Payments. In the event the Settling Defendants fail to make timely payments of any amounts required under this Consent Decree, the Settling Defendants shall be liable for Interest on the unpaid balance, as defined by this Decree. The Interest shall be calculated from the 30th day following the date the payment invoice is received by Settling Defendants until the entire outstanding balance has been received. The Settling Defendants shall also pay



a penalty of 6% per annum on any unpaid required amounts, which penalty will be charged for the period from the due date to the date of payment. The Settling Defendants shall also reimburse the United States and the State for costs and reasonable attorney fees incurred by them in enforcing the Settling Defendants' obligation to make the payments required by this Decree.

13. Notice of Payments. For all payments required to be made by the Settling Defendants under this Consent Decree, the Settling Defendants shall send, at the time payment is made, a copy of all checks or other documentation of payment to each of the following:

For the United States:

Chief, Environmental Enforcement Section  
U.S. Department of Justice  
DOJ #90-11-3-1687z  
P.O. Box 7611  
Washington, DC 20044-7611

Field Supervisor  
United States Fish & Wildlife Service  
Bloomington Field Office  
620 S. Walker Street  
Bloomington, IN 47403-2121

For the State of Indiana:

Timothy J. Junk  
Deputy Attorney General  
Indiana Government Center South  
402 W. Washington Street, 5th Floor  
Indianapolis, IN 42604

## VII. ACCESS AND RETENTION OF RECORDS

14. With respect to lands owned or controlled by the Settling Defendants, the Settling Defendants agree to provide the Trustees and their agents access at all reasonable times to such lands upon which the Restoration Plan is being implemented. With respect to lands not owned or controlled by the Defendants, the Settling Defendants agree to use best efforts to secure access to such lands for the Trustees and their agents. The Settling Defendants agree further to provide the Trustees and their agents access at all reasonable times to non-privileged documents to which access is required for the implementation of this Consent Decree. Access to property and documents, as described in this Paragraph 14, shall include but not be limited to:

- a. Monitoring the work;
- b. Verifying any data or information submitted;
- c. Conducting investigations relating to contamination at or near the Site;
- d. Obtaining samples (such samples to be split with Settling Defendants upon request);
- e. Assessing the need for planning or implementing additional Response Actions or natural resource damage assessment at or near the Site;

f. Inspecting and copying records, operating logs, contracts, or other documents maintained at the Site or generated by the Settling Defendants or their agents; and

g. Assessing the Settling Defendants' compliance with this Consent Decree.

15. The 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 or state law. If the Settling Defendants assert such a privilege in lieu of providing documents, 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 contents of the document, record, or information; and (6) the privilege asserted by the Settling Defendants. However, no documents, reports or other information, the creation of which is required by this Consent Decree, shall be withheld on the grounds that they are privileged.

16. No claim of confidentiality shall be made with respect to any data, the collection of which is required by this Consent Decree, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering

data, or any other documents or information evidencing conditions at or around the Restoration Property with respect to implementation of this Consent Decree.

17. The Settling Defendants shall preserve and retain all records and documents now in their possession or control or which come into their possession or control that relate in any manner to the performance of the Restoration Plan for a period of seven years after the termination of this Consent Decree, regardless of any corporate retention policy to the contrary. The Settling Defendants shall also instruct their contractors and agents to preserve all documents, records, and information of whatever kind, nature or description relating to the implementation of the Restoration Plan. At the conclusion of this document retention period, the Settling Defendants shall notify the United States and the State at least 90 days prior to the destruction of any such records or documents, and, upon request, shall deliver any such records or documents to the Trustees. No documents, reports or other information the creation of which is required by the Consent Decree, shall be withheld on the grounds that they are privileged.

#### **VIII. SUBMISSIONS REQUIRING AGENCY APPROVAL**

18. After review of any plan, report or other item which is required to be submitted for approval pursuant to this Consent

Decree, the Trustees, after reasonable opportunity for review and comment, shall, consistent with the objectives of this Consent Decree: (a) approve, in whole or in part, the submission; (b) approve the submission upon specified conditions; (c) modify the submission to cure the deficiencies; (d) disapprove, in whole or in part, the submission, directing that the Settling Defendants modify the submission; or (e) any combination of the above. Provided, however that within seven (7) days of the Trustees' decision, the Settling Defendants shall have the right to submit such decision for Dispute Resolution pursuant to Section XII of this Consent Decree.

19. Upon receipt of a notice of the Trustees' disapproval or if the Trustees' decision has been submitted for and upheld by Dispute Resolution upon receipt of notice of such decision pursuant to Paragraph 29, the Settling Defendants shall, within 14 days of receipt of the appropriate notice (or such other reasonable time as specified by the Trustees), correct the deficiencies and resubmit the plan, report, or other item for approval. Stipulated penalties shall not accrue until after the Settling Defendants have had the opportunity to revise the submission in accordance with the Trustees' written comments.

## **IX. PROJECT COORDINATOR**

20. Within 20 days of the lodging of this Consent Decree, the Settling Defendants and the Trustees will notify each other, in writing, of the name, address, and telephone number of their respective designated project coordinator(s). If a project coordinator initially designated is changed, the identity of the successor will be provided at least 5 working days before the change occurs, unless impracticable. In no event shall notification be given later than the actual day the change is made unless impracticable. The Trustees' and the Settling Defendants' project coordinator(s) shall have sufficient technical expertise to adequately oversee all aspects of the work which they are to coordinate.

## **X. INDEMNIFICATION**

21. The United States and the State do not assume any liability by entering into this agreement or by virtue of any activities to be performed by the Settling Defendants under this Consent Decree. The Settling Defendants shall indemnify, save and hold harmless the United States, the State, and their officials, agents, employees, contractors, subcontractors, or representatives for or from any and all claims or causes of action arising from, or on account of, acts or omissions of the Settling Defendants, their

officers, directors, employees, agents, contractors, subcontractors, and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Consent Decree. Further, the Settling Defendants agree to pay the United States and the State all costs incurred including, but not limited to, attorneys' fees and other expenses of litigation and settlement arising from, or on account of, claims made against the United States or the State based on acts or omissions of the Settling Defendants, their officers, directors, employees, agents, contractors, subcontractors, and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Consent Decree. The United States and the State shall give the Settling Defendants reasonable notice of any claim for which the United States and State plan to seek indemnification pursuant to this paragraph. Neither the United States nor the State shall be a party to any contract entered into by or on behalf of the Settling Defendants in carrying out activities pursuant to this Consent Decree. Neither the Settling Defendants nor any contractor hired by them shall be considered an agent of the United States or the State.

22. The Settling Defendants shall not be a party to any contract entered into by or on behalf of the United States or the State in carrying out activities performed or funded pursuant to

this Consent Decree. Neither the United States nor the State nor any contractor hired by them shall be considered an agent of the Settling Defendants.

23. The Settling Defendants waive all claims against the United States and the State for damages or reimbursement or for set-off of any payments made or to be made to the United States or the State arising from or on account of any contract, agreement, or arrangement between any one or more of the Settling Defendants and any person for implementation of the Restoration Plan, including, but not limited to, claims on account of construction delays. In addition, the Settling Defendants shall indemnify and hold harmless the United States and the State with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between any one or more of the Settling Defendants and any person for performance of the requirements of this Consent Decree on or relating to the Restoration Property, including, but not limited to, claims on account of construction delays.

#### **XI. FORCE MAJEURE**

24. If any event occurs or has occurred that may delay the performance of any obligation under this Consent Decree, whether or not caused by a Force Majeure event, the Settling Defendants'



project coordinator shall notify the Trustees' project coordinator within ten business days of when the Settling Defendants first knew or should have known that the event might cause a delay. Within ten business days thereafter, the Settling Defendants shall provide a written explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; and the rationale for attributing such delay to a Force Majeure event, if the Settling Defendants intend to assert such a claim. The Settling Defendants shall include with any notice all available documentation supporting their claim that the delay was attributable to a Force Majeure event. Failure to comply with the above requirements shall preclude Settling Defendants from asserting any claim of Force Majeure for that event. The Settling Defendants shall be deemed to have notice of any circumstance of which their contractors or subcontractors had or should have had notice.

25. If the Trustees agree that the delay or anticipated delay is attributable to a Force Majeure event, the time for performance of the obligations under this Consent Decree that are affected by the Force Majeure event will be extended by the Trustees for such time as is necessary to complete those obligations. An extension

of the time for performance of the obligations affected by the Force Majeure event shall not, of itself, extend the time for performance of any other obligation. If the Trustees do not agree that the delay or anticipated delay has been or will be caused by a Force Majeure event, the Trustees will notify the Settling Defendants in writing of their decision within a reasonable time.

26. If the Settling Defendants elect to invoke the dispute resolution procedures set forth in Section XII (Dispute Resolution), they shall do so no later than 15 days after receipt of the Trustees' notice. In any such proceeding, the Settling Defendants shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure event, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that the Settling Defendants made their best efforts to fulfill the obligation to avoid and mitigate the effects of the delay, and that the Settling Defendants complied with the requirements of this Consent Decree. If the Settling Defendants carry this burden, the delay at issue shall be deemed not to be a violation by the Settling Defendants of the affected obligation of this Consent Decree.

## **XII. DISPUTE RESOLUTION**

27. Unless otherwise expressly provided for in this Consent Decree, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes between the United States, the State, and the Settling Defendants arising under or with respect to this Consent Decree.

28. The invocation of dispute resolution procedures under this Section shall not extend, postpone or affect in any way any obligation of the Settling Defendants under this Consent Decree not directly in dispute or affected by the dispute, unless the United States, the State, or the Court agree otherwise.

### **A. Initial Dispute Resolution Procedure**

29. The United States, the State, and the Settling Defendants shall attempt to resolve expeditiously and informally any disagreements concerning implementation of this Consent Decree and the Restoration Plan. If the disagreement cannot be resolved promptly, then Settling Defendants may file a notice of dispute with the United States and the State. A period of informal negotiations shall extend for not more than thirty working days following receipt of such notice by the United States and the State unless the United States, the State, and the Settling Defendants seeking dispute resolution determine that a longer period is

appropriate. During the informal negotiation period, such parties also may agree to utilize appropriate Alternative Dispute Resolution mechanisms. At the expiration of the informal negotiation period, the United States and the State shall issue a written Final Statement of Position on the matter in dispute to the Settling Defendants within 30 days.

30. An administrative record of any dispute shall be maintained by the United States and the State. The record shall include the written notification of such dispute, any relevant document generated by any party involved in the dispute resolution, or their contractors or agents, relevant documents submitted by any of the parties involved in the dispute resolution, and any other materials relied upon by the United States and the State. To ensure that the administrative record is complete, the parties involved in Dispute Resolution shall, within ten working days of the beginning of the informal negotiation period, confer to discuss the documents proposed for inclusion in the administrative record.

31. In the event that a petition relating to the dispute is not filed as set forth in Paragraph 32, the dispute shall be deemed resolved in accordance with the Final Statement of Position issued as set forth in Paragraph 29, and such position shall be deemed effective 15 days following the receipt by the Party that filed the notice of dispute of such Final Statement of Position; provided,

however, such effective date may be extended by the United States and the State for good cause shown.

#### **B. Judicial Resolution**

32. In the event that the Settling Defendants seeks judicial resolution of the dispute, they shall, within fifteen days of the effective date of the Final Statement of Position described in Paragraph 29, file a petition with the Court that describes the nature of the dispute and includes a proposal for its resolution. All other parties shall have fourteen days to respond to the petition.

33. In the event that the Settling Defendants seek judicial resolution of the dispute, the Settling Defendants shall have the burden of proof. Any Final Statement of Position reflecting a decision by the United States and the State will be reviewed by the Court on the basis of the administrative record and will be upheld by the Court unless it is arbitrary and capricious or is not in accordance with applicable law. Any decision by the Court under this Section is subject to appeal.

#### **XIII. STIPULATED PENALTIES**

34. Subject to the dispute resolution and force majeure provisions of this Consent Decree, the Settling Defendants shall

pay stipulated penalties for failure to comply with the requirements of this Consent Decree. Penalties begin to accrue on the day the deliverable or performance is due, and extend through the period of correction. Payment shall be due within 30 days of receipt of a demand letter from the Trustees. For violations not based on timeliness, stipulated penalties shall not begin to accrue until the Settling Defendants receive written notice from the Trustees of the failure to perform in accordance with the requirements of this Decree. The Settling Defendants shall pay interest on the unpaid balance which shall begin to accrue at the end of the 30-day period when payment is due, at the rate established by the Department of Treasury pursuant to 30 U.S.C.

§ 3717. Unless otherwise directed in writing by all Trustees, the Settling Defendants shall pay half of any penalty accrued under this Section to the United States, one fourth of the penalty to the Indiana Department of Natural Resources and one fourth of the penalty to the Indiana Department of Environmental Management. The Settling Defendants shall make such payments to the United States as provided by Paragraph 10 of this Consent Decree, and to the State of Indiana by forwarding two checks (one payable to the Indiana Department of Natural Resources and one payable to the Indiana Department of Environmental Management) to the Deputy

Attorney General at the address set forth in paragraph 13 of this Consent Decree.

35. Stipulated penalties shall also accrue per violation or noncompliance per day for the failure of the Settling Defendants to timely commence, complete, perform or comply with the following requirements of the Restoration Plan:

a. Acquire Restoration Property: Within 90 days of entry of Consent Decree

b. Record All Deed Restrictions on Restoration Property:  
Within 45 days of entry of the Consent Decree

c. Reforestation of Restoration Property:

Begin planting by June 1 of the year immediately following (1) entry of the Consent Decree and (2) expiration of all appeal periods concerning the Consent Decree, provided that such entry and expiration of the appeal periods have occurred prior to September 1 of such year. If Consent Decree entry or expiration of appeal periods occurs later than September 1 of any given year, the planting will be delayed until the spring of the second year following such entry or expiration of the appeal periods.

d. Project Maintenance (Herbicide Application):

The first application occurring at the time of the Initial Planting set forth in the approved Restoration Plan, and each annual subsequent reapplication in accordance with the schedule in the approved Restoration Plan.

e. Annual Reports:

An annual report will be provided to the Trustees by November 30 of each year following completion of the Initial Planting for a period of five (5) years.

f. Remedial Plantings Success:

Before September 1 following the fifth year after the Initial Planting, the 50% criteria will be evaluated and, if necessary, remedial plantings will be recommended as approved by the Trustees. Such remedial plantings will be completed before June 1 of each year in accordance with the approved Restoration Plan.

36. The stipulated penalties pursuant to this Consent Decree shall accrue in the amount of \$500 per day per violation or noncompliance for the first fifteen days of violation or noncompliance; \$1,000 per day per violation or noncompliance for the 15<sup>th</sup> through 30<sup>th</sup> days; and \$1,500 per day per violation for each day after the 30<sup>th</sup> day until the time of correction.

37. The Settling Defendants may dispute the Governments' right to assess penalties by invoking the dispute resolution procedures of Section XII. Penalties shall accrue but need not be paid during the dispute resolution period. Penalties, if any, shall be paid to the Governments within 30 days of resolution of the dispute. The Governments, in their discretion, may elect to waive all, or any portion of, accrued penalties.



#### **XIV. COVENANTS BY UNITED STATES AND STATE**

38. In consideration of the actions that will be performed and the payments that will be made by the Settling Defendants under the terms of this Consent Decree, and except as provided in Section XVI. of this Consent Decree (Reservations of Rights), the United States and the State covenant not to sue or to take administrative action against the Settling Defendants or the Cashout Parties pursuant to CERCLA or Indiana Code 13-25-4-8(a)(3) for Natural Resource Damages resulting from releases or threatened releases of Hazardous Substances at or from the Site. These covenants shall take effect upon entry of this Consent Decree. These covenants are conditioned upon the satisfactory performance by the Settling Defendants of their obligations under this Consent Decree. These covenants extend only to the Settling Defendants and the Cashout Parties, their successors and assigns, and do not extend to any other person.

#### **XV. CERTIFICATION OF COMPLETION OF WORK**

39. When the Settling Defendants determine that they have completed the work required by this Consent Decree, they may submit to the Trustees a Notification of Completion and a draft final report. The draft report shall summarize all restoration activities performed by the Settling Defendants pursuant to this Consent

Decree. The draft report shall include or reference any supporting documentation.

40. Upon receipt of the Notice of Completion described in Paragraph 39 above, the Trustees shall review such Notice of Completion, the draft final report, any supporting documentation and the actual restoration activities performed pursuant to this Consent Decree. Within forty-five (45) days of receipt of the Notice of Completion, the Trustees shall determine whether the Settling Defendants have satisfactorily completed the requirements of this Consent Decree including, but not limited to, completing restoration activities required by this Consent Decree, complying with terms and conditions of this Consent Decree, and paying any and all costs of reimbursement and stipulated penalties owed to the Trustees pursuant to this Consent Decree. If the Trustees determine that any of the requirements of this Consent Decree have not been satisfied, the Trustees shall notify the Settling Defendants in writing of the activities that must be undertaken by the Settling Defendants pursuant to this Consent Decree; provided, however, that the Trustees may only require the Settling Defendants to perform such restoration activities pursuant to this Paragraph to the extent that such restoration activities are consistent with the Restoration Plan. If the Trustees determine that the requirements of the Consent Decree have been satisfied, the

Trustees shall so notify the Settling Defendants and, upon receipt of a "Final" report, shall issue a written Certificate of Completion. The Trustees shall not unreasonably withhold such certification.

41. The Certificate of Completion described in Section XV above shall constitute the necessary prerequisite to Termination of the Consent Decree as set forth in Paragraph 61 of the Consent Decree.

#### **XVI. RESERVATIONS OF RIGHTS**

42. Notwithstanding any other provision of this Consent Decree, the United States and the State reserve, and this Consent Decree is without prejudice to, all rights against the Settling Defendants with respect to all other matters not addressed in this Decree, including but not limited to, the following:

a. claims to seek specific performance and other remedies based on a failure by the Settling Defendants to meet a requirement of this Consent Decree;

b. liability arising from the past, present, or future disposal, release, or threat of release of Hazardous Substances by the Settling Defendants from anywhere other than the Site;

c. criminal liability; and

d. liability for violations of federal or state law which occur during or after implementation of the Restoration Plan.

43. Notwithstanding any other provision of this Consent Decree, the United States and the State reserve, and this Consent Decree is without prejudice to, the right to institute proceedings in this action or in a new action seeking recovery of Natural Resource Damages if, subsequent to the Certification of Completion: (1) conditions at the Fort Wayne Reduction Site previously unknown to the Trustees are discovered and such conditions cause injury to, destruction of, or loss of Natural Resources; or (2) information is first received by the Trustees and the unknown conditions or new information indicates that there is an injury to, destruction of, or loss of natural resources at the Fort Wayne Reduction Site of a type unknown to the Trustees as of the time of the Certification of Completion.

a. For purposes of this Paragraph, the information and conditions known to the Trustees shall include only that information and those conditions known to the Trustees prior to the date of the Certification of Completion.

b. For purposes of this Paragraph an increase solely in the Trustees' assessment of the magnitude or extent of the alleged injury, destruction, or loss to Natural Resources at the Fort Wayne Reduction Site, or in the estimated or actual Natural Resource

Damages resulting therefrom, shall not be considered to be unknown conditions or new information.

44. In the event the Trustees determine that the Settling Defendants have failed to implement any provisions of the Restoration Plan in an adequate or timely manner, the Trustees reserve the right to perform any and all portions of the Restoration Plan as determined necessary after providing notice specifying a time period for the Settling Defendants to perform such activities, and Settling Defendants shall reimburse the Trustees for the costs of such performance.

45. Notwithstanding any other provision of this Consent Decree, the United States and the State retain all access, information-gathering and inspection authorities and reserve all rights to take any and all restoration and response actions authorized by law.

#### **XVII. COVENANTS BY SETTLING DEFENDANTS**

46. Except as provided in Section XII above, (Dispute Resolution), the Settling Defendants hereby covenant not to sue and agree not to assert any claims or causes of action against the United States or the State or any of their agents or contractors with respect to any activities at the Restoration Property or any provisions of this Consent Decree.

#### XVIII. CONTRIBUTION PROTECTION

47. The Parties have agreed that implementation of this Consent Decree constitutes appropriate actions necessary to restore Natural Resources alleged to have been injured by the release of hazardous substances from or at the Fort Wayne Reduction Superfund Site and to compensate the Trustees for the alleged injuries to Natural Resources and Natural Resource Damages.

48. Nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Decree. Each of the Parties expressly reserves any and all rights, 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.

49. With regard to claims for contribution for matters addressed in this Consent Decree, the Settling Defendants and the Cashout Parties are entitled to such protection from contribution actions or claims brought by parties not signatories to this Consent Decree as is provided by CERCLA Section 113(f)(2), 42 U.S. C. § 9613(f)(2). The "matters addressed" in this Consent Decree are alleged Natural Resource Damages and claims for the restoration, replacement, or acquisition of the equivalent of Natural Resources relating to the injury to, destruction of, or

judicial proceeding if the United States or State prevails. Reimbursement of the United States' and States' and costs and attorney fees incurred under this paragraph are not subject to the limits set forth in Section VI of this Consent Decree.

#### **XIX. NOTICES AND SUBMISSIONS**

51. Whenever, under the terms of this Consent Decree, written notice is required to be given or a report or other document is required to be sent by one Party to another, it shall be directed to the project coordinator(s) designated pursuant to Paragraph 20 and 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. All notices and submissions shall be considered effective upon receipt, unless otherwise provided. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of the Consent Decree with respect to the United States, the State, and the Settling Defendants, respectively.

As to the United States:

Chief, Environmental Enforcement Section  
Environment & Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611  
Ben Franklin Station  
Washington, D.C. 20044

As to The State of Indiana:

Dr. Wayne Faatz  
IDNR, Div. Of Fish & Wildlife  
402 W. Washington Street  
Room W273  
Indianapolis, IN 46205

James Smith  
IDEM  
100 N. Senate  
P.O. Box 6015  
Indianapolis, IN 46206-6015

As to the Settling Defendants:

Thomas F. Wilczak, Esq.  
Pepper Hamilton LLP  
35<sup>th</sup> Floor, 100 Renaissance Center  
Detroit, MI 48243-1157

**XX. EXHIBITS**

52. The following Exhibits are attached to and incorporated into this Consent Decree:

"Exhibit A" is the Restoration Plan.

"Exhibit B" is a list of the Settling Defendants.

"Exhibit C" is a list of the Cashout Parties.



## **XXI. MODIFICATION**

53. The planting scheme/species and the schedules specified for completion of the Restoration Plan may be modified by agreement of the Trustees and the Settling Defendants. All such modifications shall be made in writing.

54. Except for the planting scheme/species and the schedules for completion specified in the Restoration Plan, the Restoration Plan may not be substantially modified without approval of the United States, the State, the Settling Defendants, and the Court.

55. Nothing in this Decree shall be deemed to alter the Court's power to enforce, supervise or approve modifications to this Consent Decree.

## **XXII. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT**

56. This Consent Decree shall be lodged with the Court for a period of not less than thirty days for public notice and comment consistent with the policy of Section 122(d)(2) of CERCLA, 42 U.S.C. § 9622(d)(2), and 28 C.F.R. § 50.7. The United States and the State each reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations which indicate that the Consent Decree is inappropriate, improper, or inadequate. The Settling Defendants

and Cashout Parties consent to the entry of this Consent Decree without further notice.

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

#### **XXIII. SIGNATORIES/SERVICE**

58. Each Settling Defendant and Cashout Party 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 or the State has notified the Settling Defendants and Cashout Parties in writing that it no longer supports entry of the Consent Decree.

59. Each Settling Defendant and Cashout Party shall identify, on the attached signature page, the name, address and telephone number 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. The Settling Defendants and the Cashout Parties hereby agree to accept service by mail 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.

#### **XXIV. EFFECTIVE DATE**

60. This Consent Decree shall become effective upon entry by this Court, following compliance with the public notice and opportunity for comment provisions of Paragraph 56.

#### **XXV. CONTINUING JURISDICTION/TERMINATION**

61. The Court shall retain jurisdiction over the subject matter of this Consent Decree and over the Settling Defendants for the duration of the performance of the terms and provisions of this Consent Decree. Upon notification to the Court by the United States and the State that the requirements of this Consent Decree have been fully met, this Court shall terminate the Decree as to the Parties. Such notification by the United States and the State shall not be unreasonably withheld. Such termination and dismissal shall not affect the continuing obligations set forth in Section VII (Access and Retention of Records), Section X (Indemnification), Section XIV (Covenants By United States and State), Section XVI (Reservation of Rights), Section XVII (Covenants by Settling Defendants) and Section XVIII (Contribution Protection), which shall remain in effect.

**XXVI. COUNTERPARTS**

62. This Decree may be executed in any number of counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

SO ORDERED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2000.

---

United States District Judge  
Northern District of Indiana

THE UNDERSIGNED enter into this Consent Decree in the matter of United States and State of Indiana v. SC Holdings Inc. et al. in settlement of the natural resource damage claim relating to the Fort Wayne Reduction Superfund Site.

FOR THE UNITED STATES OF AMERICA:

Date: 4/3/00

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

U.S. Department of Justice  
Washington, D.C. 20530

Drenay L. Houston  
Drenay L. Houston  
Environmental Enforcement Section  
Environment and Natural Resources  
Division

U.S. Department of Justice  
P.O. Box 7611  
Washington, D.C. 20044

Daniel R. Dertke  
Daniel R. Dertke  
Environmental Defense Section  
Environment and Natural Resources  
Division

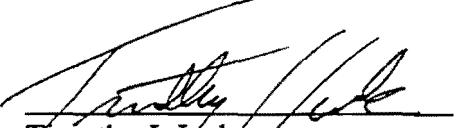
U.S. Department of Justice  
P.O. Box 23986  
Washington, D.C. 20026

David A. Capp  
United States Attorney  
Northern District of Indiana

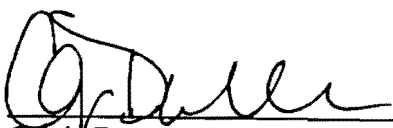
Deborah M. Leonard  
Deborah M. Leonard (Atty. #708749)  
Assistant U.S. Attorney  
3128 Federal Building  
1300 South Harrison Street  
Fort Wayne, IN 46802  
(219) 422-2595

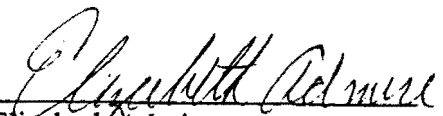
THE UNDERSIGNED PARTIES enter into this NRD Consent Decree in the matter of  
*United States et al. , v. SC Holdings, Inc., et al., (N.D. Ind.).*

FOR THE ATTORNEY GENERAL  
FOR THE STATE OF INDIANA

  
Timothy J. Junk  
Deputy Attorney General  
Date: 9/9/99

INDIANA NATURAL RESOURCE  
CO-TRUSTEES

  
Carrie Doehermann  
Indiana Department of Natural Resources  
Date: 11/18/99

  
Elizabeth Admire  
Indiana Department of Environmental  
Management  
Date: 11/17/99

THE UNDERSIGNED enter into this Consent Decree in the matter of United States and State of Indiana v. SC Holdings Inc. et al. in settlement of the natural resource damage claim relating to the Fort Wayne Reduction Superfund Site.

FOR SC Holdings, Inc.:

Date: October 18, 1999

Name: *James Forney*  
James Forney

Title: *Director - Closed Sites*

Address:

Waste Management, Inc.  
19200 West Eight Mile Road  
Southfield, Michigan 48075

Tel. Number: (248) 386-4227

Agent Authorized to Accept Service on Behalf of Above-signed Party:  
(Please Type)

Name: *James Forney*  
James Forney

Title: *Director - Closed Sites*

Address:

Waste Management, Inc.  
19200 West Eight Mile Road  
Southfield, Michigan 48075

Tel. Number: (248) 386-4227

THE UNDERSIGNED enter into this Consent Decree in the matter of United States and State of Indiana v. SC Holdings Inc. et al. in settlement of the natural resource damage claim relating to the Fort Wayne Reduction Superfund Site.

FOR Aeroquip Corporation :

Date: 10/13/99

Name: Earl R. Franklin

Title: Vice President and Secretary

Address:  
1111 Superior Avenue  
Cleveland, OH 44111-2584

Tel. Number: 216-523-5000

Agent Authorized to Accept Service on Behalf of Above-signed Party:  
(Please Type)

Name: \_\_\_\_\_

Title: Secretary

Address:  
1111 Superior Avenue  
Cleveland, OH 44111-2584

Tel. Number: 216-523-5000



THE UNDERSIGNED enter into this Consent Decree in the matter of United States and State of Indiana v. SC Holdings Inc. et al. in settlement of the natural resource damage claim relating to the Fort Wayne Reduction Superfund Site.

FOR Allen County Motors, Inc. :

Date: December 22, 1999

Name: X 

Title: PRESIDENT

Address:  
2300 WEST JEFFERSON  
FT. WAYNE, IN. 46802

Tel. Number: 219-436-3673

Agent Authorized to Accept Service on Behalf of Above-signed Party:  
(Please Type)

Name: Sharon A. Hilmes

Title: Attorney

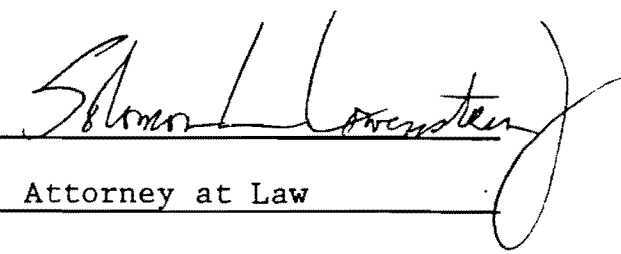
Address:  
Baker & Daniels  
300 N. Meridian St., Suite 2700  
Indianapolis, IN 46204

Tel. Number: 317-237-1398

THE UNDERSIGNED enter into this Consent Decree in the matter of United States and State of Indiana v. SC Holdings Inc. et al. in settlement of the natural resource damage claim relating to the Fort Wayne Reduction Superfund Site.

FOR COLWELL/GENERAL, INC. :

Date: October 14, 1999

Name: 

Title: Attorney at Law

Address:

503 West Wayne Street

Fort Wayne, IN 46802

Tel. Number: (219) 422-4655

Agent Authorized to Accept Service on Behalf of Above-signed Party:  
(Please Type)

Name: Solomon L. Lowenstein, Jr.

Title: Attorney at Law

Address:

503 W. Wayne Street

Ft. Wayne, IN 46802

Tel. Number: (219) 422-4655

THE UNDERSIGNED enter into this Consent Decree in the matter of United States and State of Indiana v. SC Holdings Inc. et al. in settlement of the natural resource damage claim relating to the Fort Wayne Reduction Superfund Site.

FOR DaimlerChrysler Corporation Michael W. Grice

Date: 1/4/00

Name: Michael W. Grice

Title: \_\_\_\_\_

Address:

DaimlerChrysler Corporation

Office of the General Counsel

CIMS 485-14-18

1000 Chrysler Drive

Auburn Hills, MI 48326-2766

Tel. Number: (248) 512-4124

Agent Authorized to Accept Service on Behalf of Above-signed Party:  
(Please Type)

Name: Steven C. Kohl

Title: \_\_\_\_\_

Address:

Howard & Howard Attorneys, P.C.

1400 North Woodward, Suite 101

Bloomfield Hills, MI 48304-2855

Tel. Number: (248) 723-0320

THE UNDERSIGNED enter into this Consent Decree in the matter of United States and State of Indiana v. SC Holdings Inc. et al. in settlement of the natural resource damage claim relating to the Fort Wayne Reduction Superfund Site.

FOR Dana Corporation :

Date: 9-30-99

Name: Lisa A. Wurster

Title: Legal Counsel

Address:  
4500 Dorr Street  
Toledo, Ohio 43615

Tel. Number: 419-535-4675

Agent Authorized to Accept Service on Behalf of Above-signed Party:  
(Please Type)

Name: Same AS Above

Title: \_\_\_\_\_

Address:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Tel. Number: \_\_\_\_\_

THE UNDERSIGNED enter into this Consent Decree in the matter of United States and State of Indiana v. SC Holdings Inc. et al. in settlement of the natural resource damage claim relating to the Fort Wayne Reduction Superfund Site.

FOR Essex Group, Inc. :

Date: 12/20/99

Name: Bryan K. Pollard  
Bryan K. Pollard

Title: Attorney-In-Fact for Essex Group, Inc.

Address:

c/o United Technologies Corporation  
One Financial Plaza  
Hartford, CT 06101

Tel. Number: (860) 728-7833

Agent Authorized to Accept Service on Behalf of Above-signed Party:  
(Please Type)

Name: SAME AS ABOVE

Title: \_\_\_\_\_

Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Tel. Number: \_\_\_\_\_

THE UNDERSIGNED enter into this Consent Decree in the matter of United States and State of Indiana v. SC Holdings Inc. et al. in settlement of the natural resource damage claim relating to the Fort Wayne Reduction Superfund Site.

FOR General Electric Company \_\_\_\_\_ :

*Larry G. Reynolds*

Date: October 14, 1999

Name: Larry G. Reynolds

Title: Manager, Global Remediation Programs

Address:

GE Industrial Systems

1635 Broadway Street

Building 19-5

Fort Wayne, IN 46801

Tel. Number: (219) 439-2040

Agent Authorized to Accept Service on Behalf of Above-signed Party:  
(Please Type)

Name: Service Agent for General Electric Co.

Title: CT - Corp. System

Address:

1 Commercial Plaza

Hartford, CT 06103

Tel. Number: (860) 724-9044

THE UNDERSIGNED enter into this Consent Decree in the matter of United States and State of Indiana v. SC Holdings Inc. et al. in settlement of the natural resource damage claim relating to the Fort Wayne Reduction Superfund Site.

FOR Indiana Michigan Power Company :

Date: 10/11/99

*Kevin D. Mack*  
Name: Kevin D. Mack

Environmental Counsel

Title: American Electric Power Service Corporation  
as agent for Indiana Michigan Power Co.

Address:

1 Riverside Plaza

Columbus, OH 43215

Tel. Number: (614)223-1642

Agent Authorized to Accept Service on Behalf of Above-signed Party:  
(Please Type)

Name: Kevin D. Mack

Title: Environmental Counsel

Address: American Electric Power Service Corporat  
1 Riverside Plaza  
Columbus, OH 43215

Tel. Number: (614)223-1642

THE UNDERSIGNED enter into this Consent Decree in the matter of United States and State of Indiana v. SC Holdings Inc. et al. in settlement of the natural resource damage claim relating to the Fort Wayne Reduction Superfund Site.

FOR ITT Industries : F/K/A ITT Corporation

Date: 12-20-99

Name:



Title:

Asst. Gen. Counsel

Address:

4 West Red Oak Lane  
White Plains  
New York 10604

Tel. Number: 914-641-2000

Agent Authorized to Accept Service on Behalf of Above-signed Party:  
(Please Type)

Name:

SAME AS ABOVE

Title:

Address:

Tel. Number:



THE UNDERSIGNED enter into this Consent Decree in the matter of United States and State of Indiana v. SC Holdings Inc. et al. in settlement of the natural resource damage claim relating to the Fort Wayne Reduction Superfund Site.

FOR Joslyn Manufacturing Company :

Date: October 6, 1999

Name: Carl S. Grabinski *Carl S. Grabinski*

Title: Vice President/Corporate Counsel

Address:

9200 West Fullerton Avenue

Franklin Park, Illinois 60131

Tel. Number: (773) 625-1500 Ext. 7404

Agent Authorized to Accept Service on Behalf of Above-signed Party:  
(Please Type)

Name: Same as above

Title: \_\_\_\_\_

Address:

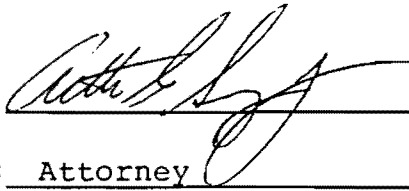
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Tel. Number: \_\_\_\_\_

THE UNDERSIGNED enter into this Consent Decree in the matter of United States and State of Indiana v. SC Holdings Inc. et al. in settlement of the natural resource damage claim relating to the Fort Wayne Reduction Superfund Site.

FOR Keefer Printing, Inc. :

Date: October 21, 1999

Name: 

Title: Attorney

Address:

803 South Calhoun Street

9th Floor, Courtside Building

P. O. Box 11489

Fort Wayne, Indiana 46858-1489

Tel. Number: 219/423-1311

Agent Authorized to Accept Service on Behalf of Above-signed Party:  
(Please Type)

Name: Arthur G. Surguine, Jr.

Title: Attorney

Address:

803 South Calhoun Street

9th Floor, Courtside Building

P. O. Box 11489

Fort Wayne, Indiana 46858-1489

Tel. Number: 219/423-1311

THE UNDERSIGNED enter into this Consent Decree in the matter of United States and State of Indiana v. SC Holdings Inc. et al. in settlement of the natural resource damage claim relating to the Fort Wayne Reduction Superfund Site.

FOR KIMBERLY-CLARK TISSUE COMPANY :

Date: October 24, 1999

*Kenneth A. Strassner*

Name: Kenneth A. Strassner

Title: Vice President - Environment & Energy

Address:

Kimberly-Clark Corporation  
1400 Holcomb Bridge Road  
Roswell, GA 30076

Tel. Number: 770-587-7122

Agent Authorized to Accept Service on Behalf of Above-signed Party:  
(Please Type)

Name: Marcia K. Cowan, Esq.

Title: Counsel

Address:

Kimberly-Clark Corporation  
1400 Holcomb Bridge Road  
Roswell, GA 30076

Tel. Number: 770-587-7254

THE UNDERSIGNED enter into this Consent Decree in the matter of United States and State of Indiana v. SC Holdings Inc. et al. in settlement of the natural resource damage claim relating to the Fort Wayne Reduction Superfund Site.

FOR Michelin North America, Inc. :

Date: 10/12/99

Name: William J. Capile

Title: Vice President, General Counsel & Secretary

Address: One Parkway South  
Greenville, SC 29615

Tel. Number: (864) 458-5000

Agent Authorized to Accept Service on Behalf of Above-signed Party:  
(Please Type)

Name: Thomas P. Wilczak, Esquire

Title: \_\_\_\_\_

Address: \_\_\_\_\_  
Pepper Hamilton, LLP  
100 Renaissance Center  
Suite 3600  
Detroit, MI 48243

Tel. Number: (313) 259-7110

THE UNDERSIGNED enter into this Consent Decree in the matter of United States and State of Indiana v. SC Holdings Inc. et al. in settlement of the natural resource damage claim relating to the Fort Wayne Reduction Superfund Site.

Navistar International  
FOR Transportation Corp. :

Date: 10/22/99

Name: John J. Andriate

Title: Director, Env. Affairs

Address:

Navistar International Transportation Corp.

455 N. Cityfront Plaza Dr.

Suite 1300

Chicago, IL 60611

Tel. Number: (312) 836-3051

Agent Authorized to Accept Service on Behalf of Above-signed Party:  
(Please Type)

Name: SAME AS ABOVE

Title: \_\_\_\_\_

Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_


Tel. Number: \_\_\_\_\_

THE UNDERSIGNED enter into this Consent Decree in the matter of United States and State of Indiana v. SC Holdings Inc. et al. in settlement of the natural resource damage claim relating to the Fort Wayne Reduction Superfund Site.

FOR OmniSource Corporation :

Date: September 20, 1999

Name: \_\_\_\_\_

  
Daniel M. Rifkin

Title: President

Address:

1610 North Calhoun Street  
Fort Wayne, Indiana 46808  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Tel. Number: 219-422-5541

Agent Authorized to Accept Service on Behalf of Above-signed Party:  
(Please Type)

Name: Daniel M. Rifkin

Title: President

Address:


1610 North Calhoun Street  
Fort Wayne, IN 46808  
\_\_\_\_\_  
\_\_\_\_\_

Tel. Number: 219-422-5541

THE UNDERSIGNED enter into this Consent Decree in the matter of United States and State of Indiana v. SC Holdings Inc. et al. in settlement of the natural resource damage claim relating to the Fort Wayne Reduction Superfund Site.

FOR Phelps Dodge Industries, Inc.

Date: October 11, 1999

Name: 

Title: Vice President

Address:

2600 N. Central Ave.

Phoenix, AZ 85004

Tel. Number: (602) 234-8100

Agent Authorized to Accept Service on Behalf of Above-signed Party:  
(Please Type)

Name: Kevin S. Costello

Title: Counsel

Address:

2600 N. Central Ave.

Phoenix, AZ 85004

Tel. Number: (602) 234-8100

THE UNDERSIGNED enter into this Consent Decree in the matter of United States and State of Indiana v. SC Holdings Inc. et al. in settlement of the natural resource damage claim relating to the Fort Wayne Reduction Superfund Site.

Philips Electronics North America Corporation,  
FOR successor-in-interest to Magnavox Electronic Systems Company

Date: 9/30/99

Name: Risa H. Weinstock *Risa H. Weinstock*

Title: Senior Counsel

Address:

Philips Electronics North America Corporation  
1251 Avenue of the Americas  
New York, NY 10020-1104

Tel. Number: 212-536-0580

Agent Authorized to Accept Service on Behalf of Above-signed Party:  
(Please Type)

Name: Gene R. Leeuw

Title: Esquire

Address:

Leeuw & Doyle  
First Indiana Plaza, Suite 2000  
135 North Pennsylvania Street  
Indianapolis, IN 46204-2456

Tel. Number: 317-264-5000



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FOR Potlatch Corporation:

Date: 10/12/99

Name: William Smyth Dant

Title: Attorney

Address: Baker & Daniels  
300 N. Meridian St., Suite 2700  
Indianapolis, IN 46204

Tel. Number: 317-237-0300

Agent Authorized to Accept Service on Behalf of Above-signed Party:  
(Please Type)

Name: SAME AS ABOVE

Title: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Tel. Number: \_\_\_\_\_

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FOR Tokheim Corporation :

Date: Sept 29, 1999

Norman L Roelke

Name: Norman L Roelke

Title: Vice President

Address:

P.O. Box 360  
Fort Wayne, IN 46801

Tel. Number: 219-470-4722

Agent Authorized to Accept Service on Behalf of Above-signed Party:  
(Please Type)

Name: Norman L. Roelke

Title: Vice President

Address:

Tokheim Corporation  
P.O. Box 360  
Fort Wayne, IN 46801

Tel. Number: 219-470-4722

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FOR United Technologies Automotive Systems, Inc., f/k/a Sheller-Globe Corporation

Date: October 28, 1999

Name: William F. Leikin *W.F. Leikin*

Title: Attorney-in-Fact

Address:  
c/o United Technologies Corporation  
One Financial Plaza  
Hartford, CT 06101

Tel. Number: (860) 728-6430

Agent Authorized to Accept Service on Behalf of Above-signed Party:  
(Please Type)

Name: William F. Leikin

Title: Assistant General Counsel

Address:  
United Technologies Corporation  
One Financial Plaza M/S 524  
Hartford, CT 06101

Tel. Number: (860) 728-6430

THE UNDERSIGNED enter into this Consent Decree in the matter of United States and State of Indiana v. SC Holdings Inc. et al. in settlement of the natural resource damage claim relating to the Fort Wayne Reduction Superfund Site.

The Cashout Parties as listed on  
FOR Exhibit C to the Consent Decree :

Date: 1/3/00

Pepper Hamilton LLP

Name: By

Thomas P. Wilczak

Title: Authorized signatory for Cashout Parties

Address:

Thomas P. Wilczak, Esquire

Pepper Hamilton LLP

100 Renaissance Center

Detroit, MI 48243

Tel. Number: 313-393-7398

Agent Authorized to Accept Service on Behalf of Above-signed Party:  
(Please Type)

Name: Same as above

Title: \_\_\_\_\_

Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Tel. Number: \_\_\_\_\_