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employee, or designee thereof. By: William Mackey Date 1/27/92

- B. "Days" shall mean calendar days, including weekends and holidays.
- C. "Document" means any record, report, photograph, video tape, correspondence, computer disk or tape, recorded or retrievable information of any kind, including raw data, narrative reports and any and all documentary evidence, relating to treatment, storage, disposal and concerning the investigation and remediation of hazardous waste or industrial waste or pollutants or other waste at the Site.
- D. "Feasibility Study" ("FS") means the development, evaluation, and analysis of remedial alternatives for cleanup action conducted by Respondent in accordance with State environmental laws and this Order.
- E. "Hazardous Waste" shall have the same meaning as defined at ORC 3734.01(J), and shall include "hazardous constituents" as that term is defined in Rule 3734-50-10(A) of the Ohio Administrative Code (OAC).
- F. "NCP" means the National Oil and Hazardous Substances Pollution Contingency Plan, referred to in CERCLA as the National Contingency Plan, and codified at 40 C.F.R. Part 300 (1990) (as subsequently amended).
- G. "OEPA" means the Ohio Environmental Protection Agency and its designated representatives, including any contractor retained by OEPA.
- H. "Party" or "Parties" means Respondent and/or OEPA.
- I. "Remedial Investigation" ("RI") means the investigation conducted in accordance with State environmental laws by Respondent, to determine the nature and extent of the contamination at the Site, and includes the gathering of all necessary data to support the Feasibility Study.
- J. "Remedial Investigation/Feasibility Study" ("RI/FS") means the Remedial Investigation and Feasibility Study together.

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By: Cheryl Mackey Date 1/27/92

- K. "Respondent" means ATOCHEM North America, Inc. (Atochem) its directors, officers, employees, agents, subsidiaries, successors, designated representatives and assigns acting under, for, or in concert with Respondent.
- L. "Site" means the facility which is within the locality of State Route 95 West, Marion, Marion County, Ohio, described at Article IV below, where the treatment, storage, placement or disposal of hazardous wastes, industrial wastes and/or other waste were conducted, including any other area contaminated or threatened to be contaminated by hazardous waste and/or industrial waste and/or other waste migrating therefrom.
- M. "U.S. EPA" means the United States Environmental Protection Agency.
- N. "Workplan" means that document detailing the requirements for characterizing the Site and for support of the Remedial Investigation and Feasibility Study. Each required Workplan shall include a detailed description of the proposed investigations and/or implementation activities; a time schedule for those actions; and personnel and equipment requirements. Each Workplan, which includes sampling as an element, shall also include a sampling plan together with the rationale for sampling activities; locations, quantity and frequency of sampling; sampling and analytical methods; constituents for analysis; and quality control/quality assurance procedures. The required content of the Workplans is outlined in the Generic Statement of Work (SOW) for the RI/FS attached hereto and incorporated herein as Attachment A.

IV. FINDINGS OF FACT, DETERMINATIONS, AND CONCLUSIONS OF LAW

OEPA has determined that all findings of fact necessary for the issuance of this Order, pursuant to ORC Sections 3734.13(A), 3734.20(B) and

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By: C. H. Mackey Date 1/27/92

6111.03(H), have been made and are outlined below. OEPA has determined the following:

- A. The Respondent is the owner of the Site located on State Route 95 West, Marion, Marion County, Ohio. The Respondent is a subsidiary of ATOCHEM S.A., a French corporation, which is a subsidiary of the French corporation Elf Aquitaine.
- B. Between 1965 and 1980, Great Lakes Carbon operated a charcoal briquet and fireplace log manufacturing plant at the Site. In May 1980 the Site was purchased by Purex Industries, then by Turco-Purex Industrial Corporation ("Purex"), the stock of which was sold to the Pennwalt Corporation in 1985. The Pennwalt Corporation changed its corporate name and became ATOCHEM North America, Inc., on December 31, 1989.
- C. Historically the Site has been used for the manufacture of charcoal briquets and fire place logs, as well as the packaging and distribution of janitorial chemicals such as floor polishes, cleaners, deodorizers, degreasers, paint strippers and metal preparation products. Currently the Site is being used for the production and distribution of janitorial chemicals.
- D. Between 1980 and 1990, the Respondent generated the following hazardous wastes at the Site: tetrachlorethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chromium, lead, acrylic acid, and phenol.
- E. In February, 1990, the U.S. EPA Field Investigation Team ("FIT") completed its Screening Site Inspection Report ("SSIR") of the Site. The SSIR was reviewed and adopted by OEPA subsequent to its submission from the U.S. EPA. Set out in the SSIR are analytical results of samples collected by the FIT from the Site in May, 1989. Those results indicate the presence of the following:

Vinyl chloride	48 ppb.
Trichloroethene	43 ppb.
1,2-dichloroethene	28 ppb.
Tetrachloroethene	150 ppb.
2-methylphenol	220 ppb.

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Tetra-chlorodibenzo-p-dioxin ("TCDD") was present in a soil sample collected from the Site at a concentration of .92 ppb..

F. Information set out in the SSIR indicates that ground water, under artesian condition, was encountered at depths between eight (8') and eighteen (18') feet below ground surface.

G. According to information contained in the SSIR the contaminants discovered at the Site have the potential to migrate quickly through the local aquifer.

H. Located within three quarters (.75) of mile of the Site are sixteen (16) municipal wells commonly used by the City of Marion for its drinking water supply. According to the SSIR, the location of these wells coupled with the area geology, creates a probable contamination pathway into and through the local aquifers, threatening the aforementioned wells.

I. Vinyl chloride, trichloroethene, 1,2-dichloroethene, tetrachloroethene, 2-methylphenol and Tetra-chlorodibenzo-p-dioxin became "industrial waste" and/or "other wastes" as defined in ORC Sections 6111.01(C) and (D) and/or "hazardous waste" as defined in ORC Section 3734.01(J) when emitted at the Site.

J. The Site is part of the "facility," as that term is defined in ORC Section 3734.01.

K. The discharge, deposit, injection, dumping, leaking, spilling, or

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5 By: C. A. Mackey Date 1/27/92

By: Chicki Mackey Date 1/27/92

placing or emitting of industrial waste, hazardous waste, or other wastes into or on surface and ground waters constitutes pollution of the "waters of the State" as that term is defined at ORC Section 6111.01(H) and is prohibited by ORC Section 6111.04.

L. The placement or disposal of industrial waste, hazardous waste, or other wastes at and from the Site constitutes a substantial threat to public health or safety or is causing or contributing to or threatening to cause or contribute to water pollution or soil contamination.

M. The actions to be taken pursuant to this Order are reasonable and necessary to protect the public health, welfare and/or the environment, and the Director believes the issuance of this Order is furthering the intent of the General Assembly and that of the Environmental Protection Agency, that the actions taken pursuant to this Order will prevent and abate pollution of the environment for the health, safety, welfare, and property of the people of the state of Ohio.

N. The Director has given consideration to and based his determination on evidence relating to the technical feasibility and economic reasonableness of complying with this Order and to evidence relating to conditions calculated to result from compliance with this Order. Further, the Director has determined that compliance with this Order shall benefit the people of the State of Ohio and accomplish the purposes set out in ORC Chapters 6111. and 3734.

V. ACCESS

A. OEPA through its authorized representatives shall have authority to enter the Site pursuant to and ORC Sections 3734.20, and 6111.05.

VI. WORK TO BE PERFORMED

A. All work to be performed by the Respondent pursuant to this Order shall

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be under the direction and supervision of a qualified environmental engineer or geologist with expertise in hazardous waste site investigation. Prior to the initiation of Site work under this Order the Respondent shall notify OEPA in writing regarding the name, title, and qualifications of such engineer or geologist and of any contractors and/or subcontractors to be used in carrying out the terms of this Order.

B. Attachment A to this Order contains the Generic Statement of Work (SOW) for implementation of the complete RI/FS which is incorporated into and made a part of this Order.

C. Within sixty (60) days of the effective date of this Order, Respondent shall submit a draft workplan for the implementation of the complete RI/FS at the Site. This RI/FS workplan shall be developed in conformance with this Order, the Generic SOW, state law including ORC Chapters 3734 and 6111 and the regulations promulgated thereunder, the National Contingency Plan ("NCP"), 40 CFR Part 300, and the most current version of the following guidance documents:

1. Guidance for Conducting Remedial Investigation and Feasibility Studies near CERCLA, Interim Final, OSWER 9355.3-01, October, 1988; EPA/540/G-89/004;
2. Risk Assessment Guidance for Superfund, Volume 1 - Human Health Evaluation Manual (Part A), Interim Final, EPA/540/1-89/002, December, 1989;
3. Risk Assessment Guidance for Superfund, Volume II - Environmental Evaluation Manual -Interim Final. OSWER Directive 9285.7-01. EPA/540/1-89/001A, 1989;
4. Superfund Exposure Assessment Manual, OSWER 9285.5-1, EPA/540/1-88/001, April, 1988;

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5. Exposure Factors Handbook. EPA/600/8-89/043, July, 1989;
6. RCRA Ground Water Monitoring Technical Enforcement Guidance Document (TEGD), OSWER 9950.1, September, 1986;
7. Remedial Actions for Contaminated Ground Water at Superfund Sites, OSWER 9283.1-2, August, 1988;
8. Data Quality Objectives for Remedial Response Activities, Volume I, EPA/540/G-87/004, Example Scenario;
9. Superfund Remedial Design and Remedial Action Guidance, OSWER 9355.0-4A;
10. Ecological Assessments of Hazardous Wastes Sites: A Field and Laboratory Reference, EPA/600/3-89/013, March, 1989;
11. Guidelines and Specifications for Preparing Quality Assurance Project Plans, Ohio EPA, February, 1990;
12. CERCLA Compliance with Other Laws Manual, OSWER 9234.1-01, March 6, 1988;
13. CERCLA Compliance with Other Laws Manual: Part II, OSWER 9234.1-02, August, 1989;
14. Interim Guidance on Superfund Selection of Remedy, J. Winston Porter, December 24, 1986;
15. U.S. EPA Integrated Risk Information System (IRIS) Data Base;
16. Guidance for Data Usability in Risk Assessment, Interim Final. EPA/540/G-90/008, October, 1990; and
17. Health Effects Assessment Summary Tables, DERR 9200 6-303, published quarterly.

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If OEPA determines that any additional guidance documents affect the work to be performed under this Order, OEPA will notify the Respondent and any affected Workplans or reports shall be amended accordingly.

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8 By: Chibi Mackey Date 1/27/92

D. Upon approval of the RI/FS Workplan, Respondent shall promptly implement the work detailed in the RI/FS Workplan in accordance with the schedule contained in the RI/FS Workplan.

VII. REPORTING

A. Respondent shall submit written progress reports which describe the activities which have been taken toward achieving compliance during the previous month, as well as activities which are scheduled for the next month, to OEPA by the tenth day of every month following the effective date of this Order, unless otherwise designated pursuant to this Order.

At a minimum, these reports shall:

1. Identify the Site and activity;
2. Describe status of work at the Site and progress to date;
3. Demonstrate the percentage of work completed in accordance with the approved schedule;
4. Describe difficulties encountered during the reporting period;
5. Describe actions being taken to rectify problems;
6. Describe activities planned for the next month;
7. Identify changes in key personnel.
8. List target and actual completion dates for each element of activity, including the project completion; and
9. Provide an explanation of any deviation from the milestones in the Workplan schedules.

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By: S. Allen Kachay Date: 1/27/92

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B. Such progress reports and any other documents, reports, approvals, or correspondence submitted pursuant to this Order shall be sent by certified mail return receipt requested (or the equivalent) to the OEPA at the

following addresses (or to such other address as the OEPA may hereafter designate in writing):

Ohio EPA
1800 Watermark Drive
P. O. Box 1049
Columbus, Ohio 43266-0149
ATTN: Manager, Technical and Program Support Section,
Division of Emergency and Remedial Response

and;

Ohio EPA
Northwest District Office
1035 Devlac Grove Drive
Bowling Green, Ohio 43402
ATTN: Site Coordinator, DERR

All correspondence to the Respondent will be directed to the following:

ATOCHEM North America Inc.
Technical Center
900 First Avenue
King of Prussia, Pennsylvania 19406-0018
Attn: Senior Environmental Engineer

VIII. SAMPLING AND DATA/DOCUMENT AVAILABILITY

- A. Respondent shall submit all raw data and all original reports of analytical procedures and results to OEPA according to the schedules set forth in the approved workplans.
- B. Respondent may submit to OEPA any interpretive reports and written explanations concerning raw data and original laboratory reports. Such interpretive reports or explanations may not be submitted in lieu of original laboratory reports and raw data. Should Respondent subsequently discover any error in any report or raw data, Respondent shall promptly notify OEPA of such discovery and provide the correct information.
- C. Respondent shall notify the OEPA Site Coordinator not less than thirty (30) days (unless otherwise agreed between the Site Coordinators) in advance of any sample collection for which the OEPA Site Coordinator has indicated that (s)he may wish to obtain split or duplicate samples.

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By: Alicia Mackey Date: 1/27/92

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D. Respondent shall preserve, during the pendency of this Order, and for a minimum of ten (10) years after its termination, copies of all records and documents within its possession or that of its divisions, employees, agents, accountants, or contractors which relate to work performed under this Order, despite any document retention policy to the contrary. After the ten (10) year period, Respondent shall notify OEPA within thirty (30) days prior to the destruction of any such documents required to be kept pursuant to this Order. Respondent shall make available to OEPA such records or copies of any such records, except for such documents or records as are protected by legal privileges or immunities.

IX. CONFIDENTIAL INFORMATION

Respondent may assert a claim of business confidentiality covering the information requested by this Order, except for analytical data, pursuant to ORC 6111.05(A) and Ohio Administrative Code (OAC) Rule 3745-50-30(A). Information determined to be confidential will be afforded protection under ORC 6111.05(A) and OAC Rule 3745-50-30. If no such claim accompanies the information when it is submitted to OEPA, it may be made available to the public by the OEPA without further notice to Respondent.

X. RESERVATION OF RIGHTS

A. Nothing contained herein shall be construed to prevent OEPA from (1) seeking legal or equitable relief to enforce the terms of this Order including claims for natural resources damages; or (2) completing any work described in this Order. OEPA reserves the right to take any enforcement action, recover costs, or seek damages for injury to natural resources pursuant to any available legal authority for past, present, or future violations of ORC Chapters 3734, and 6111, arising from conditions at the

Site.

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By: Wendi Mackey Date 1/27/92

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B. OEPA specifically reserves the right to perform or require the Respondent to perform additional investigation, removal, or remediation at the Site (including ground water investigation) pursuant to ORC Chapters 3734, or 6111. or other applicable authority for these or any other conditions at the site.

XI. OTHER CLAIMS

Nothing herein is intended to release, discharge, or in any way affect any claims, causes of action or demands in law or equity against any person, firm, partnership or corporation not named to this Order from any liability he, she, or it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release or disposal of any hazardous wastes, hazardous substances, industrial wastes, other wastes, or pollutants at, to or from the Site.

XII. DEED NOTICE, LAND USE AND CONVEYANCE OF TITLE

Respondent shall assure OEPA that no portion of the Site will be used in any manner which would adversely affect the integrity of any containment systems which may remain at the Site or monitoring systems installed pursuant to this Order. Respondent shall notify OEPA by registered mail at least ninety (90) days prior to any conveyance or an intent to convey any interest in land which is known to comprise the Site and of the provision made for continued maintenance of the system or systems.

XIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to this Order shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations including all environmental laws and regulations.

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By: C. Mike Mackay Date 1/27/92

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XIV. TERMINATION AND SATISFACTION

A. The provisions of this Order shall be satisfied when the Respondent demonstrates in writing and certifies to OEPA's satisfaction that all activities required under this Order have been completed and OEPA approves such certification in writing. Such certification by OEPA shall not terminate the obligation of the Respondent to comply with Sections VIII, and X (record preservation and reservation of rights).

IT IS SO ORDERED.

By: *Gerry Soanni*
Donald R. Schregardus, Director
Ohio Environmental Protection Agency

JAN 27 1992
Date

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