

ISSUE DATE MAR 20 1992

EFFECTIVE DATE MAR 23 1992

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

CITY OF TOLEDO
One Government Center
Toledo, Ohio 43604

and,

ALLIED-SIGNAL, INC.
Successor in Interest to
Allied Chemical Corp., Allied
Corp., and Allied Chemical and
Dye Corporation
c/o CF Corporation System
Statutory Agent
815 Superior Avenue, N.E.
Cleveland, Ohio 44114

and,

U.S. REDUCTION COMPANY
c/o CF CORPORATION SYSTEM
Statutory Agent
815 Superior Avenue, N.E.
Cleveland, Ohio 44114

and,

R. H. OBERLY COMPANY, INC.
c/o Robert H. Oberly
Statutory Agent
2858 South 109th Street
Toledo, Ohio 43611

and,

MATHER SEAL COMPANY
Successor in Interest to
Mather Spring Company and
The Mather Company
c/o George N. Bashara
Statutory Agent
c/o Federal Mongul Corporation
2655 Northwestern Highway
Southfield, Michigan 48034

DIRECTOR'S FINAL
FINDINGS AND ORDERS

I certify this to be a true and accurate copy of the
original document as it is in the records of the Ohio
Environmental Protection Agency.

By: Cheryl Mackey Date 3/22/92

and,

TOLEDO BLADE COMPANY
c/o Harry O. Davis
Statutory Agent
541 North Superior Street
Cleveland, Ohio 43660

and,

VALLET PAINT SERVICE CO.
c/o Richard B. Hartley
Statutory Agent
1808 Adams Street
Toledo, Ohio 43624

and,

BROWNING-FERRIS INDUSTRIES OF OHIO
AND MICHIGAN, INC.
Successor in Interest to
Community Sanitation Service, Inc.
and Community Sanitation Service
of Ohio and Michigan, Inc.
c/o CF Corporation System
Statutory Agent
815 Superior Avenue, N.E.
Cleveland, Ohio 44114

and,

OWEN-ILLINOIS, INC.
c/o CF Corporation System
Statutory Agent
815 Superior Avenue, N.E.
Cleveland, Ohio 44114

and,

LISBEY GLASS, INC.
c/o CF Corporation System
Statutory Agent
815 Superior Avenue, N.E.
Cleveland, Ohio 44114

and,

PAUL R. JEFFERS, INC.
f.d.b.a. Jeffers Crane
c/o Harry Levison
Statutory Agent
955 Spitzer Building
Toledo, OHIO 43604

I certify this to be a true and accurate copy of the
public information as filed. The records of the Ohio
Environmental Protection Agency.

By: Chris Mackay Date 3/20/72

and,

REFINERS TRANSPORT & TERMINAL
CORPORATION

c/o CF Corporation System
Statutory Agent
815 Superior Avenue, N.E.
Cleveland, Ohio 44114

and,

GENCORP, INC.

d.b.a. Gencorp Polymer Products
Successor in Interest to
General Tire & Rubber Company
Diversitech General, Inc.
and Textileather
c/o J. P. Bonsky, Statutory Agent
175 Ghent Road
Fairlawn, Ohio 44313

and,

E.I. DUPONT DE NEMOURS &
COMPANY, INC.

c/o CF Corporation System
Statutory Agent
815 Superior Avenue, N.E.
Cleveland; Ohio 44114

and,

TOLEDO EDISON COMPANY

Edison Plaza
300 Madison Avenue
Toledo, Ohio 43652

and,

SUN REFINING AND MARKETING
COMPANY

f.k.a. Sun Oil Company
Pennsylvania and Sun Oil Company
c/o CF Corporation System
Statutory Agent
815 Superior Avenue, N.E.
Cleveland, Ohio 44114

and,

LEASEWAY TRANSPORTATION CORP.

c/o CF Corporation System
Statutory Agent
815 Superior Avenue, N.E.
Cleveland, Ohio 44114

I certify this to be a true and accurate copy of the
official documents as filed in the records of the Ohio
Environmental Protection Agency.

Niki Maciej Date 3/20/92

and,

JEOP EAGLE CORPORATION
Successor in Interest to Jeep
Corporation, Kaiser-Jeep
Corporation, and Kaiser
Manufacturing Corp. and Willys
Corporation, c/o CF Corporation
System, Statutory Agent
815 Superior Avenue, N.E.
Cleveland, Ohio 44114

and,

ENVIROSAFE SERVICES OF OHIO, INC.
. 1600 Madison Avenue
Toledo, Ohio 43624

and,

ROYSTER COMPANY
P.O. Drawer 1940
Norfolk, Virginia 23501

Respondents.

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("OEPA") under sections 3734.13, 3734.20, and 6111.03 of the Ohio Revised Code. ("ORC").

II. PARTIES

These Orders shall apply and be binding upon the following: City of Toledo; Allied-Signal, Inc.; U.S. Reduction Company; R. H. Oberly Company, Inc.; Mather Seal Company; Toledo Blade Company; Vallet Paint Service Co.; Browning-Ferris Industries of Ohio and Michigan, Inc.; Owens-Illinois, Inc.; Libbey Glass, Inc.; Paul R. Jeffers, Inc.; Refiners Transport & Terminal Corporation; Gencorp, Inc.; E. I. Dupont De Nemours & Company, Inc.; Toledo Edison Company; Sun Refining and Marketing Company; Leaseway Transportation Corp.; Jeep Eagle Corporation; and Envirosafe Services of Ohio, Inc.; and Royster Company; hereinafter collectively as "Respondents," their officers, directors, agents, servants, employees, assigns and successors in interest.

I certify this to be a true and accurate copy of the original as it appears in the records of the Ohio Environmental Protection Agency.

By: Gilbert Mackey Date 3/28/92

APPROVED: _____
DATE: _____
DIRECTOR'S OFFICE

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

1. The Dura Avenue Landfill (Site) is a former municipal landfill, portions of which are owned by the City of Toledo. The Site covers approximately seventy acres and is situated south of Dura Avenue, north and west of the Ottawa River and North of Sibley Creek in Toledo, Lucas County, Ohio. The Southeast Chemical Disposal Area (SEFDA) of the Site is owned by the Royster Company.
2. Between 1952 and 1968, the SEFDA was used for disposal of industrial, commercial, and municipal wastes including bulk liquid, solid, and drummed industrial wastes by and from Respondents. The SEFDA was leased to and operated by and/or under the control of Respondent, City of Toledo, during the times these wastes were disposed at the SEFDA. Disposal activity resulted in portions of the Ottawa River and associated wetlands being covered with industrial waste materials. These areas now lie buried beneath the fill.
3. Respondent, City of Toledo, has voluntarily conducted investigations into the contamination problems at the SEFDA, first, with informal oversight by OEPA, and currently, pursuant to an understanding with OEPA. Respondent, City of Toledo, provided OEPA with a Draft Remedial Investigation ("RI") in September 1989, and a Draft Feasibility Study ("FS") in January 1990.
4. Pursuant to the agreement with OEPA, Respondent City of Toledo has agreed to provide technical documents and to present a Final FS Report to OEPA to address cleanup and remediation of the Site.
5. Analysis of shallow ground water and leachate samples reported in the Draft RI and in the supplemental investigation of the SEFDA conducted in 1991 indicated the presence of a wide variety of contaminant compounds including priority pollutants in the following analytical groups.
 - a) volatile organic compounds (VOCs) including, among others, methylene chloride, benzene, xylene, chlorobenzene, ethylbenzene, and toluene;
 - b) semi-volatile organic compounds including, among others, naphthalene, polynuclear aromatic hydrocarbons, and bis(2-ethylhexyl) phthalate;
 - c) pesticides including, among others, 4,4,-DDD;
 - d) polychlorinated biphenyls (PCBs), including Aroclor 1242 and 1260;
 - e) heavy metals including, among others, arsenic, barium, beryllium, cobalt, mercury, zinc, vanadium, and lead; and

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By: John Mackey Date 3/26/92

- f) inorganic compounds including, among others, cyanide.
6. The contaminants specified in Finding No. 5, above, were discharged, injected, dumped, deposited, stored, spilled, or otherwise placed upon and in the SECDA. The contaminants detected within the SECDA present a continuing source of surface water contamination through the percolation of surface water through the fill material.
 7. Methylene chloride, benzene, xylene, chlorobenzene, ethylbenzene, toluene, naphthalene, semi-volatile organic compounds, pesticides, PCBs, heavy metals, and inorganic compounds present at the SECDA are "industrial wastes" and/or "other wastes" as defined in ORC Section 6111.01(C) and/or "hazardous wastes" as defined in ORC Section 3734.01(J).
 8. Leachate is discharging into the Ottawa River from the SECDA in violation of ORC Section 6111.04.
 9. An OEPA 1990 Fish Tissue/Sediment study of the Ottawa River found high levels of PCBs in sediments along the SECDA and in fish caught near the SECDA. As a result of the 1990 study, a fish advisory was issued for a portion of the Ottawa River by the Ohio Department of Health. Such advisory remains in effect.
 10. Respondent, City of Toledo, has taken several measures for the SECDA which include installation of an oil boom in the Ottawa River to contain PCB-contaminated oil discharging from the SECDA in the Ottawa River.
 11. The unpermitted discharge of industrial waste, other wastes and/or hazardous wastes or substances into "waters of the State" is prohibited by ORC Section 6111.04, and constitutes "disposal" of hazardous wastes as defined in ORC Section 3734.01(F). Any site at which such disposal occurs is a "facility" as that term is defined by ORC Section 3734.01(N).
 12. The discharging, depositing, injecting, dumping, leaking, spilling, or placing of the above chemicals and compounds into or on the soil at the SECDA constitutes "disposal" of hazardous waste as defined in ORC 3734.01(F). Any site at which such disposal occurs is a "facility" as that term is defined in ORC 3734.01(N).
 13. The SECDA is a "facility" as that term is defined in ORC Section 3734.01(N).
 14. The release or disposal of industrial waste and/or hazardous waste from the SECDA constitutes a significant threat to public health or safety or is causing or contributing to or threatening to cause or contribute to water pollution within the meaning of ORC Section 6111.01(A), and soil contamination with the meaning of ORC Section 3734.20(B).

15. Respondents disposed of and/or arranged for disposal or transportation for disposal of industrial wastes, other wastes, or hazardous wastes at the SECCA.
16. Respondents are "persons" as defined in ORC Section 3734.01.
17. The Director finds that the issuance of these Orders furthers the intent of the General Assembly, and that actions required by these Orders are reasonable and shall prevent or abate pollution of the environment for the health, safety and welfare of the people of the State of Ohio.
18. Based upon information available to the Director as set forth in these Findings of Fact, Determinations, and Conclusions of Law, the Director has determined that the work required by these Orders, set forth below, is necessary and consistent with the National Contingency Plan ("NCP" 40 CFR Part 300) and is interim in nature and designed to contain, abate, and mitigate contamination resulting from the leachate generated at the SECCA. The Director anticipates that, in addition to the work required pursuant to these Orders, further action will be taken at the SECCA.
19. The Director has given consideration to and based his determination upon evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and upon evidence relating to conditions calculated to result from compliance to these Orders and upon the benefits to the people of the State of Ohio to be derived from such compliance in accomplishing the purpose of ORC Chapters 3734. and 6111.

IV. ORDERS

The Director hereby orders the performance of the following work:

1. Respondents shall implement the following measures to mitigate, contain and abate the flow of leachate from the SECCA into the Ottawa River in accordance with the following provisions:
 - a) Develop and submit a Workplan to OEPA within thirty (30) calendar days following the effective date of these Orders detailing a proposal to mitigate and reduce the discharge of leachate from the SECCA into the Ottawa River. The Workplan shall include a Design and Construction Plan, a Health and Safety Plan, Quality Assurance Plan, Quality Control Plan, and a proposal for evaluating the effectiveness of measures contained in the Design and Construction Plan, and a schedule for Completion of the Work.

I certify this to be a true and accurate copy of the
 above document as it is in the records of the Ohio
 Environmental Protection Agency.

By: Edith Mackey Date 3/28/92

MAY 25 1992
 OHIO ENVIRONMENTAL PROTECTION AGENCY

- b) OEPA shall review the Workplan and prepare comments, if necessary, and notify Respondents of needed revisions. In the event that OEPA determines that revisions to the Workplan are needed, Respondents shall submit a revised Workplan, incorporating the changes or modifications designated by OEPA, within fifteen (15) calendar days of receipt of OEPA's comments. Failure to adequately address OEPA's comments within the required time shall be deemed a violation of Section IV. 1. (a) and (b) of these Orders.
- c) In the event Respondents fail to timely submit the revised Workplan or if the revised Workplan submitted by Respondents is determined by OEPA to be insufficient to mitigate, contain, abate, and sufficiently reduce the flow of leachate from the SECTA to be protective of public health and safety and the environment, the submitted Workplan shall be disapproved and deemed as not submitted and a violation of paragraph 1. (a) and (c) of Section IV. of these Orders.
- d) Within twenty (20) calendar days of OEPA written approval of the Workplan, Respondents shall initiate implementation the Workplan.
- e) Respondents shall implement the approved Workplan pursuant to the approved schedules contained therein. In addition, Respondents shall submit to OEPA, at a minimum, reports, data logs, and other documentation which:
- i. describe and estimate the percentage of interim actions completed pursuant to the Workplan;
 - ii. summarizes all changes made in the approved actions during the reporting period;
 - iii. summarizes all problems or potential problems encountered during the reporting period;
 - iv. describe actions being taken in order to rectify the problem(s); and
 - v. describe changes in key personnel occurring during the reporting period.

Documents shall be submitted weekly or as otherwise specified by OEPA.

2. Respondents shall implement the following to contain light non-aqueous phase liquid (LNAPL) leachate from the SECTA into the Ottawa River:

- a) Starting no later than thirty (30) calendar days of the effective date of these Orders, Respondents shall conduct a daily maintenance program that includes daily removal and proper disposal of the LNAPL.

- b) Periodically replace the boom at a frequency to maintain its effectiveness for containing the flow of leachate from the SECDA.
- c) Submit monthly reports of daily inspections of LNAPL removal within fifteen (15) calendar days following the close of the month in which the inspections are conducted unless otherwise directed by OEPA. Monthly reports submitted pursuant to this paragraph shall include at a minimum:
 - i. completion of daily progress reports which include volume of LNAPL collected; and
 - ii. disposal or manifest information on LNAPL disposal.
3. Respondents shall submit a report that evaluates the effectiveness of the actions taken to comply with Order No. 1 above in accordance with the approved Workplan.
4. Upon request of Ohio EPA, the Respondents shall require all laboratories and/or contractors to simultaneously deliver all raw monitoring and analytical data to the Ohio EPA and Respondent. Raw data shall include, but not be limited to: copies of chromatograms, all analyses of either initial calibration or continuing calibration samples, and all trip blanks, reagent blanks, and matrix spike/duplicates.

V. DESIGNATED SITE COORDINATOR

- A. Respondents collectively, and OEPA shall each designate a Site Coordinator and alternate for the purpose of overseeing the implementation of these orders. To the maximum extent possible, except as specifically provided in these orders, communications between Respondents and OEPA concerning the implementation of these Orders shall be made between the designated Site Coordinators. Each designated Site Coordinator shall be responsible for assuring that all communications from the other Site Coordinator are appropriately disseminated and processed.
- B. Without limitation of any authority conferred on OEPA by statutes or regulations, OEPA Site Coordinator's authority includes, but is not limited to: (1) taking samples or, in accordance with the terms of any workplan, directing the type, quantity and location of samples to be taken by Respondents; (2) observing, taking photographs of, and making reports on the progress of the work as deemed appropriate; (3) directing that work stop, whenever the OEPA Site Coordinator determines that activities at the Site may increase or create a threat to public health or welfare or the environment; and (4) reviewing records, files and documents relevant to the implementation of these Orders.

- C. Respondents' designated Site Coordinator or alternate shall be present on-site during all hours of work at the Site and shall make herself/himself available for the pendency of these Orders. The absence of the OEPA Site Coordinator from the Site shall not be cause for stoppage of work unless otherwise directed by OEPA.
- D. Each party may change its respective Site Coordinator or alternata by notifying the other party in writing at least five (5) days prior to the change.

VI. OTHER CLAIMS

Nothing in these orders shall constitute or be construed as a release from any claim of action or demand in law or equity against any person, firm, partnership, or corporation not subject to these Orders for any liability arising out of or relating to the operation of the facility.

VII. OTHER APPLICABLE LAWS

All work required to be taken pursuant to these Orders shall comply with the requirements of applicable state and federal environmental laws and regulations and shall be consistent with the NCP. Nothing in these Orders shall be construed as waiving or compromising in any way the applicability and enforcement of any other State or federal environmental statutes or regulations applicable to Respondents.

VIII. NOTICE

All documents demonstrating compliance with these Orders and other documents, including Workplans, required under these Orders to be submitted to OEPA shall be addressed to:

Ohio Environmental Protection Agency
 Northwest District office
 Attn: Todd Kelleher (or successor), Site Coordinator
 347 N. Dunbridge Road
 P. O. Box 466
 Bowling Green, Ohio 43402-0466

and

Ohio Environmental Protection Agency
 1800 WaterMark Drive
 P. O. Box 1049
 Columbus, Ohio 43266-0149
 Attn: Technical Support Unit, DERR.

unless otherwise specified in these Orders or to such persons and addresses as may hereafter be otherwise specified by OEPA in writing.

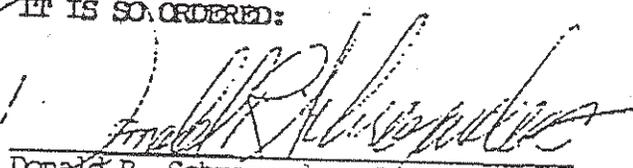
IX. RESERVATION OF RIGHTS

- A. Nothing contained herein shall be construed to prevent OEPA from (1) seeking legal or equitable relief to enforce the terms of these Orders including penalties against Respondents for noncompliance or claims for natural resources damages; or (2) completing any work described in these Orders. 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; or (3) taking any action in addition to the Work required by these Orders.
- B: OEPA reserves the right to perform or require Respondents or any other person to perform additional investigation, removal, or remediation (including but not limited to ground water investigation or remediation) pursuant to ORC Chapters 3734 or 6111 or other authority for these or any other conditions at the SECTA.

X. TERMINATION

- A. These Orders shall terminate upon Respondents' receipt of written notice from OEPA that Respondents have demonstrated, to the satisfaction of OEPA, completion of all obligations of these Orders.

IT IS SO ORDERED:



Donald R. Schregardus, Director

MAR 20 1992

Date

certify this to be a true and accurate copy of the
total document as filed in the records of the Ohio
Department of Natural Resources Agency.

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Olivia Mackey Date 3/20/92