RECEIVED
2003 FEB 13 A 8:30

IN THE COURT OF COMMON PLEAS
LUCAS COUNTY, OHIO

FILED
LUCAS COUNTY
2003 FEB -5 P 4:35
COMMON PLEAS COURT
BERNIE QUILTER
CLERK OF COURTS

State of Ohio, *ex rel.*
Jim Petro,
Attorney General Of Ohio,

Plaintiff,

v.

DaimlerChrysler Corporation,
f/k/a Chrysler Corporation,
and the City of Toledo, Ohio,

Defendants.

and

DaimlerChrysler Corporation,
f/k/a Chrysler Corporation,
and the City of Toledo, Ohio,

Third-Party Plaintiffs,

v.

The Ohio Department of Transportation,

Third Party Defendant.

Case No. 96-2141

Judge James D. Jensen

CONSENT ORDER

TABLE OF CONTENTS

I.	DEFINITIONS	1
II.	BACKGROUND	5
III.	OBJECTIVES OF PARTIES AND PURPOSE OF CONSENT ORDER	6
IV.	JURISDICTION	6
V.	PARTIES BOUND	6
VI.	DESIGNATIONS OF SITE COORDINATORS	7
VII.	SITE ACCESS RESTRICTIONS	9
VIII.	REMEDIAL DESIGN/REMEDIAL ACTION	9
IX.	PERIODIC REVIEW TO ASSURE PROTECTION OF HUMAN HEALTH AND THE ENVIRONMENT	11
X.	ADDITIONAL WORK	12
XI.	REVIEW OF SUBMITTALS	13
XII.	DOCUMENT SUBMITTAL	15
XIII.	DEFENDANTS' MONTHLY PROGRESS REPORTS	17
XIV.	ACCESS TO INFORMATION AND RECORDS RETENTION	18
XV.	SITE ACCESS	19
XVI.	SAMPLING AND DATA AVAILABILITY	21
XVII.	NOTICE OF CONVEYANCE AND DEED NOTICE	21
XVIII.	FINANCIAL ASSURANCE	22
XIX.	POTENTIAL FORCE MAJEURE	23
XX.	REIMBURSEMENT OF COSTS	24
XXI.	STIPULATED PENALTIES	26
XXII.	INDEMNITY	27
XXIII.	DISPUTE RESOLUTION	27
XXIV.	TERMINATION OF CONSENT ORDER FOR PRELIMINARY INJUNCTION AND TERMINATION OF THIS CONSENT ORDER	29
XXV.	CONTRIBUTION PROTECTION	30
XXVI.	COVENANT NOT TO SUE	30
XXVII.	RESERVATION OF RIGHTS	30
XXVIII.	OTHER CLAIMS	32
XXIX.	APPENDICES	32
XXX.	MODIFICATION	33
XXXI.	RETENTION OF JURISDICTION	33
XXXII.	COURT COSTS	33
XXXIII.	SIGNATORIES	33
XXXIV.	ENTRY OF CONSENT ORDER AND FINAL JUDGMENT BY CLERK	33

APPENDICES

A. RD/RA STATEMENT OF WORK
B. LIST OF GUIDANCE DOCUMENTS
C. DECISION DOCUMENT
D. NORTH COVE APPROVED RD/RA STATEMENT OF WORK

Plaintiff, State of Ohio, ex rel. Jim Petro, Attorney General of Ohio, at the written request of the Director of the Ohio Environmental Protection Agency, together with Defendants DaimlerChrysler Corporation, f/k/a Chrysler Corporation ("Chrysler") and the City of Toledo, Ohio ("Toledo") and Third Party Defendant Ohio Department of Transportation ("ODOT") hereby consent to the entry of this Consent Order.

NOW, THEREFORE, without trial of any issues of fact, without admission of liability or fault, and upon the consent of the Parties hereto, it is ORDERED, ADJUDGED AND DECREED as follows:

I. DEFINITIONS

1. As used in this Consent Order, the following terms, words, and abbreviations shall have the meanings provided below:

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

B. "Consent Order" shall mean this Consent Order.

C. "Contractor" shall mean a qualified contractor retained by the Defendants pursuant to this Consent Order, and any subcontractor, representative, agent, employee, or designee thereof.

D. "COPI" shall mean the Consent Order for Preliminary Injunction previously entered by the Court in this matter.

E. "Days" shall mean calendar days, including weekends and holidays.

F. "Decision Document" shall mean the document identifying the remedy selected by Ohio EPA that is attached as Appendix C.

G. "Defendants" shall mean Defendants Chrysler and Toledo and Third-Party Defendant ODOT, individually and collectively, unless otherwise indicated.

H. "Director" shall mean the Director of the Ohio Environmental Protection Agency and the Director's duly authorized representatives.

I. "Document" shall mean any record, report, photograph, videotape, 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 the treatment, storage, or disposal, and concerning the investigation and remediation of Waste Material at the Site. "Document" shall be construed broadly to promote the effective sharing between Defendant(s) and Ohio EPA of information and views concerning the work to be performed pursuant to this Consent Order.

J. "Effective Date" shall mean the date that the Lucas County Court of Common Pleas enters this Consent Order.

K. "Feasibility Study" ("FS") shall mean the development, evaluation, and analysis of remedial alternatives for the Site in accordance with state and federal environmental laws and with this Consent Order.

L. "NCP" shall mean 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, as amended.

M. "North Cove Approved RD/RA Statement of Work" shall mean the site specific Statement of Work submitted by the Defendants and approved by the Ohio EPA and attached as Appendix D. The Parties agree that the North Cove Approved RD/RA Statement of Work fully implements and is consistent with the Decision Document.

N. "OEPA" or "Ohio EPA" shall mean the Ohio Environmental Protection Agency or its Director and his/her designated representatives as the context or other law or regulation may require, or successor agencies.

O. "Operation and Maintenance" ("O&M") shall mean all activities that ensure and maintain the effectiveness of the Remedial Action as required by this Consent Order, the approved O & M Plan and the RD/RA Statement of Work.

P. "Oversight Costs" shall mean all direct and indirect costs of oversight incurred by the State of Ohio in verifying the Work to be performed by Defendants pursuant to the COPI or this Consent Order, or otherwise implementing or enforcing the COPI or this Consent Order, including without limitation the costs of payroll, fringe benefits, contractors, travel, oversight, samples, laboratory analysis, data management, safety and general equipment, supplies, general maintenance, reviewing or developing work plans, reports, or other items pursuant to the COPI or this Consent Order.

Q. "Paragraph" shall mean a portion of the Consent Order identified by an Arabic numeral or an upper case letter.

R. "Parties" shall mean the State of Ohio and the Defendants.

S. "Performance Standards" shall mean the cleanup standards and other measures of achievement of the goals of the Remedial Action, set forth in Section 2.0 (Description of the Selected Remedy) of the Decision Document as embodied in the North Cove Approved RD/RA Statement of Work (Appendix D).

T. "Remedial Action" ("RA") shall mean those activities, except for Operation and Maintenance, to be undertaken by Defendants to implement the approved Remedial Design, and other plans approved by Ohio EPA, in accordance with the Decision Document, the North Cove Approved RD/RA Statement of Work, the RD/RA Statement of Work, and the approved RD/RA Workplan.

U. "Remedial Design" ("RD") shall mean the design, in accordance with Ohio law and this Consent Order, of detailed engineering plans, specifications, construction drawings and other plans deemed by Ohio EPA to be sufficient to implement the remedy selected by Ohio EPA in the Decision Document, in accordance with the North Cove Approved RD/RA Statement of Work, the RD/RA Statement of Work, the final Remedial Design and Remedial Action Workplan and other plans approved by Ohio EPA.

V. "Remedial Design/Remedial Action" ("RD/RA") shall mean the Remedial Design and the Remedial Action together.

W. "RD/RA Statement of Work" ("RD/RA SOW") shall mean the Model Statement of Work for implementation of the Remedial Design, Remedial Action, and Operation and Maintenance at the Site, as set forth in Appendix A to this Consent Order and any modifications made in accordance with this Consent Order.

X. "Remedial Investigation" ("RI") shall mean the investigation conducted in accordance with state and federal environmental laws and the COPI by Defendants 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.

Y. "Remedial Investigation/Feasibility Study" ("RI/FS") shall mean the Remedial Investigation and Feasibility Study together.

Z. "Response Costs" shall mean all costs incurred by the State of Ohio pursuant to the COPI, pursuant to Ohio EPA's preparation and issuance of the Preferred Plan and Decision Document, and pursuant to this Consent Order. Such costs include the costs of preparation and issuance of the Preferred Plan and Decision Document and verifying the Work, doing the Work or otherwise implementing or enforcing this Consent Order, including without limitation payroll costs, fringe benefits, contractor costs, travel costs, direct costs, indirect costs, legal

and enforcement related costs, Oversight Costs, laboratory costs and the costs of reviewing or developing plans, reports, and other items.

AA. "Section" shall mean a portion of this Consent Order identified by a roman numeral.

BB. "Site" shall mean the former North Cove Landfill located west of Jeep Parkway (fka North Cove Boulevard) and east of Willys Parkway in Toledo, Lucas County, Ohio, as described and depicted in more detail in the RI/FS Study; the "Site" does not include the Ottawa River, nor the sediments contained therein.

CC. "State" or "State of Ohio," for purposes of this Consent Order, shall mean the Ohio Environmental Protection Agency by and through the Attorney General and shall not include Third-Party Defendant Ohio Department of Transportation.

DD. "Waste Material" shall mean (1) any "hazardous waste" as that term is defined under R.C. Section 3734.01(J); (2) any "solid waste" as that term is defined under R.C. Section 3734.01(E); (3) any "industrial waste" as that term is defined under R.C. Section 6111.01(C); (4) any "other waste" as that term is defined under R.C. Section 6111.01(D); (5) any "hazardous substances" as that term is defined under Section 101(14) of CERCLA, 42 USC 9601(14); and, (6) any "hazardous constituent" as that term is defined under Rule 3745-50-10(A) of the Ohio Administrative Code ("OAC").

EE. "Work" shall mean all activities pertaining to the Site that Defendants are required to perform under this Consent Order.

FF. "Workplans" shall mean those documents which are to be submitted to Ohio EPA by Defendants pursuant to this Consent Order detailing the requirements for support of the RD/RA, O&M, Additional Work and other Work required under this Consent Order. Each required workplan shall include a detailed description of the proposed design and/or implementation activities; a time schedule for conducting those activities; and personnel and equipment needs.

2. Except as otherwise defined above, the terms used in this Consent Order shall have the same meaning as used in Ohio Revised Code Chapters 3734 and 6111 and the regulations promulgated thereunder.

II. BACKGROUND

3. The State of Ohio's Complaint seeks an injunction for Defendants to investigate, to abate and to prevent migration of alleged pollution and contamination and to take other actions at the North Cove Landfill Site and alleges violations of Ohio solid waste, hazardous waste, and water pollution and other laws at the Site.

4. The State filed its Complaint against Chrysler and Toledo. Chrysler and Toledo filed a Third-Party Complaint against ODOT in this case.

5. Defendants Chrysler, Toledo and ODOT entered into a Consent Order for Preliminary Injunction ("COPI") with the State of Ohio which the Court issued on July 10, 1996.

6. The COPI provided for the Defendants to complete a Remedial Investigation and Feasibility Study ("RI/FS") for the Site, the objectives of which were: (1) to complete a remedial investigation of the Site to determine the nature and extent of alleged contamination at the Site; and (2) to develop and evaluate an appropriate response to the alleged contamination employing sound scientific, engineering and construction practices.

7. Ohio EPA has approved Defendants' RI/FS report for the Site.

8. Ohio EPA has issued a Preferred Plan that sets forth Ohio EPA's preferred alternative for remediation at the Site, and issued public notice of the Preferred Plan to solicit public comments.

9. Ohio EPA has conducted a public meeting in order to provide information to and answer questions from the general public about the Preferred Plan, and to receive both oral and written comments from the public about the Preferred Plan.

10. Ohio EPA has issued a Decision Document that selects the remedy for the Site, based on the analysis presented in the Preferred Plan and RI/FS report and comments and information received during the public comment period (the Decision Document is Appendix C to this Consent Order).

III. OBJECTIVES OF PARTIES AND PURPOSE OF CONSENT ORDER

11. The objectives of this Consent Order include protecting human health and the environment through the implementation of a Remedial Design ("RD") and Remedial Action ("RA") (collectively "RD/RA") and performing Operation and Maintenance ("O&M") as set forth in Section 2 (Discussion of Selected Remedy) of the Decision Document as embodied in the North Cove Approved RD/RA Statement of Work (Appendix D), and reimbursing the State for its Response Costs. This Consent Order reserves to the State rights concerning the Ottawa River and its sediments as set forth herein.

IV. JURISDICTION

12. The Court has jurisdiction over the Parties and the subject matter of the Complaint pursuant to Ohio Revised ("R.C.") Chapters 3734 and 6111. Venue is proper in this Court for purposes and duration of this Consent Order. The Complaint states a claim upon which relief can be granted and Defendants are proper parties to this action.

V. PARTIES BOUND

13. The provisions of this Consent Order shall apply to and be binding upon the Defendants, their successors in interest, assigns, and others to the extent provided by Civil Rule 65(D).

14. No change in corporate ownership or status of Defendants, including without limitation any transfer of assets of real or personal property, shall in any way alter Defendants'

obligations under this Consent Order. Defendants shall provide a copy of this Consent Order to any subsequent owner(s) or successor(s) prior to the transfer of the Defendants' ownership rights.

15. Defendants shall include a copy of this Consent Order in each bid and specification package provided to general contractors employed to perform any Work itemized or referenced herein. A copy of this Consent Order shall also be provided to each Project Manager. Defendants shall ensure that any agreements with their contractors and subcontractors to perform the Work contemplated herein, expressly provide that the Work must be performed in accordance with this Consent Order. A contractor's or subcontractor's failure to perform Work in accordance with this Consent Order shall not relieve the Defendants from completing the Work as provided hereunder.

VI. DESIGNATIONS OF SITE COORDINATORS

16. Defendants shall designate a single site coordinator and an alternate site coordinator to oversee and implement all work required by this Consent Order and to coordinate with the Ohio EPA site coordinator. Each Defendant also may designate a project manager for that respective Defendant.

17. Within ten (10) days of the Effective Date of this Consent Order, Defendants shall notify Ohio EPA in writing of the name, address, and telephone number of their designated site coordinator and alternate site coordinator. If a designated site coordinator or alternate site coordinator is changed, the identity of the successor will be given to the other Party at least (5) days before the changes occur, unless impracticable, but in no event later than the actual day the change is made.

18. To the maximum extent practicable, except as specifically provided in this Consent Order, communications between the Parties regarding the implementation of this Consent Order shall be made between the Defendants' site coordinator and the Ohio EPA site coordinator, with copies to the alternate site coordinator. Defendants' site coordinator or alternate shall be available, including for communication with Ohio EPA, for the duration of this Consent Order. Each Party's site coordinator shall be responsible for assuring that all communications from the other Party are appropriately disseminated and processed. Defendant's site coordinator or alternate shall be present on the Site or on call during all hours of work at the Site. The absence of the Ohio EPA site coordinator shall not be cause for the stoppage of work unless otherwise provided by Ohio EPA in writing.

19. The site coordinators shall, whenever possible, operate by consensus to resolve issues arising under or concerning implementation of this Consent Order. In seeking to reach a consensus, the Defendants' site coordinator may seek to involve each Defendant's project manager to the extent reasonable and appropriate.

20. Without limiting any authority conferred by law on Ohio EPA, the authority of the Ohio EPA site coordinator includes, but is not limited to:

A. Taking samples and, in consultation with the Defendants' site coordinator, determining the type, quantity and location of samples to be taken by Defendants pursuant to an approved Workplan;

B. Observing, taking photographs, or otherwise recording information related to the implementation of this Consent Order, including the use of any mechanical or photographic device;

C. Conducting investigations and tests related to the implementation of this Consent Order;

D. Inspecting and copying records, operating logs, contracts and/or other documents related to the implementation of this Consent Order subject to

Section XIV. ACCESS TO INFORMATION AND RECORDS RETENTION;

E. Conducting inspections at any time of all areas of the Site (see Section XV. SITE ACCESS herein);

F. Directing that Work stop whenever the site coordinator for Ohio EPA determines that the activities at the Site may create or exacerbate a substantial threat to public health or safety, or threaten to cause or contribute to air or water pollution or soil contamination;

G. Directing actions taken at the Site pursuant to this Consent Order;

H. Acting on behalf of Ohio EPA under Section XI. REVIEW OF SUBMITTALS including reviewing and approving or disapproving all Workplans, reports, studies and other documents that Defendants are required to submit pursuant to this Consent Order.

VII. SITE ACCESS RESTRICTIONS

21. Defendants shall maintain in place the necessary restrictions to Site access, consistent with the Decision Document as embodied in the North Cove Approved RD/RA Statement of Work. Defendants shall implement such additional means of restricting public access as are reasonable and necessary during the performance of Work required under this Consent Order, taking into account the existing use of a portion of the Site as an interstate highway. This Section does not limit the right of the State of Ohio to access the Site under Section XV. SITE ACCESS.

VIII. REMEDIAL DESIGN/REMEDIAL ACTION AND OPERATION AND MAINTENANCE

22. Defendants shall implement Remedial Design/Remedial Action ("RD/RA") and Operation and Maintenance ("O&M") for the Site pursuant to the terms of this Consent Order. All Work performed pursuant to this Consent Order shall be under the direction and supervision of a qualified individual with expertise in the investigation and remediation of

environmental contamination. Defendants shall notify Ohio EPA in writing of the name of the supervising contractor and any and all subcontractors to be used in carrying out the terms of this Consent Order.

A. Within twenty-one (21) days of the Effective Date of this Consent Order, Defendants shall meet with the Ohio EPA to discuss the requirements of this Section, unless otherwise mutually agreed upon by the Parties.

B. Within sixty (60) days of the Effective Date of this Consent Order, Defendants shall submit to Ohio EPA for review and approval pursuant to Section XI. REVIEW OF SUBMITTALS a Workplan for the implementation of the Remedial Design and Remedial Action for the Site ("Remedial Design and Remedial Action Workplan" or "RD/RA Workplan"). The RD/RA Workplan shall provide for the design and implementation of the remedial action set forth in Section 2 (Discussion of Selected Remedy) of the Decision Document as embodied in the North Cove Approved RD/RA Statement of Work (Appendix D).

C. By Sixty (60) days prior to the expected completion date of the Remedial Action as specified in the approved RD/RA Workplan, Defendants shall submit to Ohio EPA for review and approval, pursuant to Section XI. REVIEW OF SUBMITTALS, a plan for implementation of Operation and Maintenance at the Site ("O&M Workplan").

D. The RD/RA and O&M Workplans shall be developed and will be reviewed in conformance with this Consent Order, the RD/RA SOW (Appendix A), the most current version of applicable guidance documents set forth in the List of Guidance Documents (Appendix B), the National Contingency Plan and R.C. Chapters 3734 and 6111. If Ohio EPA determines that any additional or revised guidance documents affect the Work to be performed in implementing the RD/RA Workplan and/or the O&M Workplan, Ohio EPA will notify Defendants, and Defendants shall modify the RD/RA Workplan, O&M Workplan and other affected documents accordingly.

E. Upon approval of the RD/RA Workplan by Ohio EPA, Defendants shall implement the Work detailed therein in accordance with the schedule contained in the approved RD/RA Workplan. Upon approval of the O&M Workplan by Ohio EPA, Defendants shall implement the Work detailed therein in accordance with the schedule contained in the approved O&M Workplan. Defendants shall submit all plans, reports, or other deliverables required under the approved RD/RA Workplan and under the approved O&M Workplan, in accordance with the approved

schedule, for review and approval pursuant to Section XI. REVIEW OF SUBMITTALS of this Consent Order.

IX. PERIODIC REVIEW TO ASSURE PROTECTION OF HUMAN HEALTH AND THE ENVIRONMENT

23. If the Work performed by Defendants pursuant to this Consent Order results in any Waste Material remaining at the Site, Ohio EPA may review the Work to evaluate whether the Remedial Action continues to be protective of human health and the environment.

24. Defendants shall conduct such studies and investigations as requested in writing by Ohio EPA, in accordance with section 3.5 of the RD/DA Statement of Work, to assist in the review of whether the Remedial Action continues to be protective of human health and the environment. Defendants shall submit such studies and investigations to Ohio EPA pursuant to Section XI. REVIEW OF SUBMITTALS.

25. If Ohio EPA determines that further response action is appropriate for protection of human health and the environment at the Site, consistent with Section III. OBJECTIVES OF PARTIES AND PURPOSE OF CONSENT ORDER, then Ohio EPA may take any appropriate action, including any of the following actions: 1) initiate Additional Work under Section X. ADDITIONAL WORK; 2) exercise any lawful authority under this Consent Order or in any other proceeding, including issuance of an administrative order or initiation of judicial proceedings, to compel Defendants and/or any other person to perform additional response action to ensure protection of human health and the environment; and/or 3) institute proceedings against Defendants to recover the State of Ohio's costs of doing remediation activities or Work at the Site.

X. ADDITIONAL WORK

26. In the event that Ohio EPA determines that additional Work is necessary to achieve the objectives of this Consent Order as set forth in Section III. OBJECTIVES OF PARTIES AND PURPOSE OF CONSENT ORDER, Ohio EPA will notify Defendants in writing of the need for such additional Work. Within ten (10) days of receipt of such written notice from Ohio EPA, or by such later time as may be agreed by the Parties, Defendants shall prepare and submit to Ohio EPA a Workplan for the performance of the additional Work ("Additional Work Workplan") pursuant to Section XI. REVIEW OF SUBMITTALS. Defendants shall develop the Additional Work Workplan in conformance with this Consent Order, the RI/FS SOW or RD/RA SOW as applicable, the National Contingency Plan, the List of Guidance Documents (Appendix B) and R.C. Chapters 3734 and 6111. For any required Additional Work Workplan that includes sampling as an element, the Workplan shall include a sampling plan together with a rationale for the sampling activities, locations, quantity and frequency of sampling, constituents for analysis and quality control/quality assurance procedures. Upon approval of the Additional Work Workplan by Ohio EPA pursuant to Section XI. REVIEW OF SUBMITTALS, Defendants shall implement such workplan in accordance with the schedules contained therein.

27. In the event that Defendants determine that additional Work is necessary to achieve the purposes of this Consent Order as set forth in Section III. OBJECTIVE OF PARTIES AND PURPOSE OF CONSENT ORDER, Defendants shall submit a written request for approval to Ohio EPA explaining the need for and detailing the nature of the additional Work prior to performing the additional Work. Upon agreement by Ohio EPA of Defendants' request, Defendants shall develop an Additional Work Workplan in conformance

with this Consent Order, the applicable SOW, National Contingency Plan, the List of Guidance Documents (Appendix B), and R.C. Chapter 3734 and 6111. Upon approval of the Additional Work Workplan by Ohio EPA pursuant to Section XI. REVIEW OF SUBMITTALS. Defendants shall implement the Additional Work Workplan in accordance with the schedules contained therein.

28. In the event that additional Work is necessary for any task described in this Consent Order, the deadline for completing such task(s) shall be extended by the amount of time required to perform the additional Work required, including the period for time required to plan and/or obtain approval from Ohio EPA for performance of such Work.

XI. REVIEW OF SUBMITTALS

29. Ohio EPA agrees to review any Workplan, report, study, or other document submitted to it pursuant to this Consent Order, and to conduct such review in accordance with this Consent Order, applicable policies and guidelines and appropriate state and federal laws. Upon review of any initial submittal, Ohio EPA may:

A. Approve the submission, in whole or in part;

B. Approve the submission upon specified conditions;

C. Modify the submission or direct Defendants to modify the submission;

D. Disapprove the submission in whole or in part, notifying Defendants of the deficiencies; or

E. Any combination of the above.

30. Upon approval, approval upon condition, or modification by Ohio EPA of a submission, Defendants shall take any action required by the submission as approved, conditionally approved or modified by Ohio EPA.

31. In the event that Ohio EPA initially disapproves a submission, in whole or in part, and notifies Defendants of the deficiencies in writing, Defendants shall within thirty (30) days, or such longer period of time as specified by the Ohio EPA in writing, correct the deficiencies and resubmit to Ohio EPA for approval a revised submission. By agreement of the site coordinators, the Defendants may be permitted to resubmit only such portions as pertain to the notice of deficiency. The revised submission shall incorporate all of the changes, additions, and/or deletions specified by Ohio EPA in its notice of deficiency.

32. In the event that Ohio EPA disapproves a revised submission, in whole or in part, Ohio EPA may again require Defendants to correct the deficiencies and incorporate all changes, additions, and/or deletions within fourteen (14) days, or such period of time as specified by Ohio EPA in writing. In the event that Defendants fail to correct deficiencies to the satisfaction of OEPA after being given an opportunity to do so as described in this paragraph, then Ohio EPA retains all rights under this Consent Order, including the right to perform any or all of the Work required under this Consent Order and recover all costs associated with such Work not inconsistent with the NCP.

33. All Workplans, reports, or other items required to be submitted to Ohio EPA under this Consent Order shall, upon approval by Ohio EPA, be deemed to be incorporated in and made an enforceable part of this Consent Order. In the event that Ohio EPA approves a portion of a Workplan, report, or other item, the approved portion shall be deemed to be incorporated in and made an enforceable part of this Consent Order.

34. The Defendants' and Ohio EPA's site coordinators may jointly agree to minor field changes to be made by the Defendants to any document, workplan, report, or study approved by the Ohio EPA. Defendants shall notify Ohio EPA's site coordinator of the nature

of and reasons for any desired modification by Defendants. Within five (5) days of agreement by Ohio EPA's and the Defendants' site coordinators, or longer if the site coordinators agree, the Defendants' site coordinator shall submit written notification describing the agreed minor field changes to Ohio EPA's site coordinator for review and approval. Ohio EPA agrees to document such an agreement by letter to the Defendants' site coordinator setting forth the nature and extent of the minor field changes to be made.

35. In the event that Ohio EPA and Defendants are unable to agree on revisions to a submittal which has been conditionally approved, modified, or disapproved by Ohio EPA, then the dispute resolution provisions of this Consent Order shall apply, provided that no issue that has previously been the subject of Dispute Resolution shall be disputed again.

XII. DOCUMENT SUBMITTAL

36. Unless otherwise provided in this Consent Order, all documents required to be submitted pursuant to this Consent Order shall be sent by certified mail return receipt requested, or equivalent, to the following addresses:

Site Coordinator, North Cove Landfill
Division of Emergency and Remedial Response
Ohio Environmental Protection Agency
Northwest District Office
347 North Dunbridge Rd.
Bowling Green, Ohio 43402

and

DERR Records Officer
Division of Emergency and Remedial Response
Ohio Environmental Protection Agency
Lazarus Government Center
122 South Front St.
Columbus, Ohio 43215
ATTN: Manager, TPSS, DERR

Defendants shall provide the State of Ohio with additional copies of documents upon request.

37. Unless otherwise provided in the relevant Section, all notices and correspondence to Defendants pursuant to Sections X. ADDITIONAL WORK, XI. REVIEW OF SUBMITTALS, XX. REIMBURSEMENT OF COSTS, XXII. INDEMNITY and XXIII. DISPUTE RESOLUTION will be directed to the following addresses:

As to Defendant ODOT:

Lisa Conomy
Chief Legal Counsel
Ohio Department of Transportation
1980 West Broad Street
Columbus, Ohio 43223
Phone: 614-466-3664
Fax: 614-644-6053; and

Thomas E. Linkous
Waste Management Coordinator
Ohio Department of Transportation, Office of Environmental Services
1980 West Broad Street
Columbus, Ohio 43223
Phone: 614-466-5075
Fax: 614-728-7368; and

Gary Weinandy
Highway Management Administrator
Ohio Department of Transportation, District 2
317 East Poe Road
Bowling Green, Ohio 43402-1330
Phone: 419-353-8131
Fax: 419-353-1468

As to Defendant Toledo:

Director Of Law
Law Department, City of Toledo
One Government Center, Suite 2250
Toledo,Ohio 43614
Phone: 419-245-1020
Fax: 419-353-1468; and

Commissioner of Solid Waste
Solid Waste Division, City of Toledo
2411 Albion Street
Toledo, Ohio 43606
Phone: 419-936-2510
Fax: 419-936-2578

As to Defendant DaimlerChrysler

Kathleen M. Hennessey
DaimlerChrysler Corporation
CIMS 485-13-62
1000 Chrysler Drive
Auburn Hills, MI 48236-2808
Phone: 248-512-4116
Fax: 248-512-0926

Patricia Beaujon
DaimlerChrysler Corporation
CIMS 482-00-51
800 Chrysler Drive
Auburn Hills, MI 48326-2757
Phone: 248-576-7360
Fax: 248-576-7369

Susan E. Padley
Howard & Howard Attorneys, PC
39400 Woodward, Suite 101
Bloomfield Hills, MI 48304-5151
Phone: 248-723-0331
Fax: 248-645-1568

XIII. DEFENDANTS' MONTHLY PROGRESS REPORTS

38. Unless otherwise directed by Ohio EPA, Defendants shall submit a written progress report to Ohio EPA by the twentieth (20th) day of every month that describes the activities undertaken in the previous month, and activities that are scheduled for the next month. These reports shall:

A. Identify the Site and activity;

B. Describe the status of the Work and progress to date;

C. Demonstrate the percentage of Work completed;

D. Describe any difficulties encountered during the reporting period;

E. Describe actions taken to rectify problems;

F. Describe activities planned for the next month;

G. Identify changes in key personnel;

H. List target and actual completion dates for each element of activity, including project completion;

I. Provide an explanation of any deviation from the milestones in the Workplan schedules and actions taken to correct such deviations;

J. Provide the analytical and/or physical measurement data collected during the reporting period; and

K. Identify by media, quantity, and location, wastes that were generated, treated and or disposed.

XIV. ACCESS TO INFORMATION AND RECORDS RETENTION

39. Upon request, Defendants shall provide to Ohio EPA copies of all documents and information within their possession or control, or within the possession or control of their contractors or agents, relating to events or conditions at the Site including without limitation manifests, reports, correspondence or other documents, photos, audiovisuals or other information related to the Site.

40. Unless at the time of submittal Defendants show that a document or other information submitted to Ohio EPA pursuant to this Consent Order is confidential under the provisions of OAC 3745-50-30(A) or R.C. 6111.05(A), Ohio EPA may release the document or other information to the public without notice to Defendants.

41. If Defendants assert that certain documents or other information are privileged and/or confidential under state law, Defendants shall provide Ohio EPA with the following:

A. The title of the document or information;

B. The date of the document or information;

C. The name and title of the author of the document or information;

D. The name and title of each addressee and recipient;

E. A general description of the contents of the documents or information; and,

F. The privilege or basis of confidentiality being asserted by Defendants and the basis for the assertion.

42. No claim of confidentiality or privilege, including without limitation claims under R.C. Sections 3745.70 through 3745.73, shall be made with respect to any data, including without limitation all sampling, analytical, monitoring or laboratory or technical interpretative reports.

43. Defendants, during the pendency of this Consent Order and for a period of seven (7) years after its termination, shall preserve and maintain in a readable format at least one copy of all documents and other information now or hereafter within the possession or control of themselves or their contractors or agents, that in any way relates to the Work under this Consent Order, or Work under the COPI, notwithstanding any document retention policies to the contrary. Defendants shall require that all contracts and agreements for Work provide that the contractor, subcontractor or agent submit to Defendants one copy of all documents, records and information of whatever kind related to the Work or the Site. Defendants may preserve such documents by microfiche or other electronic or photographic device.

XV. SITE ACCESS

44. Ohio EPA, its employees, contractors and agents shall have access to the Site at all times without warrant for implementation of this Consent Order. Access under this

Consent Order shall be for conducting any activity related to this Consent Order including without limitation:

A. Monitoring the work;

B. Conducting sampling;

C. Inspecting and copying records, operating logs, contracts, and/or other documents related to implementation of this Consent Order in accordance with the provisions of Section XIV. ACCESS TO INFORMATION AND RECORDS RETENTION:

D. Conducting investigations and tests related to the implementation of this Consent Order.

E. Verifying any data and/or other information submitted to Ohio EPA; and

F. Doing Work or other remediation activities at the Site.

45. No provision of this Consent Order shall be construed to eliminate or restrict any right of the State to access or to seek access to the Site that the State may otherwise have under state or federal law.

46. To the extent that the Site or any other property to which access may be needed for implementation of this Consent Order is owned or controlled by persons other than Defendants, Defendants shall use their best efforts, including the payment of reasonable sums in consideration of access, to secure from such persons access for Defendants and Ohio EPA as necessary to effectuate this Consent Order. Copies of all access agreements obtained by Defendants shall be submitted to Ohio EPA within ten (10) days of receipt by Defendants. If any access required to effectuate this Consent Order is not obtained within thirty (30) days of the Effective Date of this Consent Order, or within thirty (30) days of the date that Ohio EPA notifies Defendants in writing that additional access beyond that previously secured is necessary, Defendants shall promptly notify Ohio EPA in writing of the steps Defendants have

taken to obtain access. Ohio EPA may, as it deems appropriate, assist Defendants in obtaining access.

XVI. SAMPLING AND DATA AVAILABILITY

47. Defendants shall allow split or duplicate samples to be taken by Ohio EPA of all samples collected by Defendants. Accordingly, Defendants shall notify the Ohio EPA Site coordinator not less than fourteen (14) days in advance of any sample collection called for under this Consent Order.

48. Defendant shall submit upon the request of the Ohio EPA Site Coordinator, the results of all sampling, test data (including raw data), original reports of analytical procedures, written explanations concerning raw data and original laboratory reports and non-privileged interpretative reports, generated by them or on their behalf related to the Site. Defendants' submittal shall be indexed or organized in such a manner that the information and documents contained therein can be readily obtained by the Ohio EPA. Further, Defendants must comply with the requirements of Section XIV. ACCESS TO INFORMATION AND RECORDS RETENTION as to any document withheld under a claim of privilege.

49. Should Defendants, following submission of any report or document pursuant to this Consent Order, discover any error in any report or raw data, Defendants shall within twenty (20) days of discovery, notify Ohio EPA of such discovery and provide to the Ohio EPA the basis for the error, and the corrected information.

XVII. NOTICE OF CONVEYANCE AND DEED NOTICE

50. Within thirty (30) days of approval of the Remedial Design under Section VIII. REMEDIAL DESIGN/REMEDIAL ACTION AND OPERATION AND MAINTENANCE of this Consent Order, Defendants shall place a deed restriction on the deed(s) for the Site

property(s) with the County Recorders Office for Lucas County, Ohio. The deed restriction shall describe this Consent Order and any monitoring or containment devices and/or development or use restriction on the Site. The deed restriction shall be developed in accordance with the RD/RA Statement of Work (Appendix A) and O&M Workplan and approved by Ohio EPA.

51. A Defendant shall not convey any title, easement or other interest in the property that is part of the Site that could affect the goals of this Consent Order without a provision in the deed requiring continued compliance with this Consent Order. Any conveyance of any title, easement or other interest in the Site shall not relieve any Defendant of its obligations under this Consent Order.

52. Defendants shall not remove, alter or terminate the deed restriction in the property which is part of the Site without prior approval of Ohio EPA.

53. No portion of the Site shall be used in any manner that could adversely affect the integrity of any Response Action implemented pursuant to this Consent Order.

XVIII. FINANCIAL ASSURANCE

54. Within thirty (30) days of the effective date of this Consent Order, Defendant DaimlerChrysler shall provide financial assurance for remediation of the Site as set forth in Section 2.0 (Description of the Selected Remedy) of the Decision Document as embodied in the North Cove Approved RD/RA Statement of Work in the amount of $415,000 for capital costs in accordance with OAC Rule 3745-66-43. Each year by the anniversary date of the effective date of this Consent Order, Defendant DaimlerChrysler shall perform an annual review and adjustment of such financial assurance in accordance with OAC Rules 3745-66-42

and 3745-66-43. Defendant ODOT shall be exempt from this requirement pursuant to OAC 3745-66-40(C).

55. Within thirty (30) days of the effective date of this Consent Order, Defendant Toledo shall provide financial assurance for Operation and Maintenance of the Site as set forth in Section 2.0 (Description of the Selected Remedy) of the Decision Document as embodied in the North Cove Approved RD/RA Statement of Work, in the amount of $122,000.00 in accordance with OAC Rule 3745-27-16(L). Each year by the anniversary date of the effective date of this Consent Order, Defendant Toledo shall perform an annual review and adjustment of such financial assurance in accordance with OAC Rule 3745-27-16(L). Defendant ODOT shall be exempt from this requirement pursuant to OAC 3745-66-40(C).

XIX. POTENTIAL FORCE MAJEURE

56. If any event occurs which causes or may cause a delay in Defendants' compliance with any requirement of this Consent Order, Defendants shall notify Ohio EPA in writing within fourteen (14) days from when a Defendant knew, or by the exercise of due diligence should have known, of the event, describing in detail the anticipated length of the delay, the precise cause or causes of delay, the measures taken and to be taken by Defendants to prevent or minimize the delay and the timetable by which those measures will be implemented. Defendants will adopt all reasonable measures to avoid or minimize any such delay.

57. In any action by the State of Ohio to enforce any of the provisions of this Consent Order, or in a dispute resolution under Section XXIII. DISPUTE RESOLUTION, Defendants may raise at that time the question of whether they are entitled to a defense that their conduct was caused by circumstances beyond their control such as, by way of example

and not by limitation, acts of God, strikes, acts of war, civil disturbances. While the State of Ohio does not agree that such a defense exists, it is, however agreed by Defendants and the State of Ohio that it is premature at this time to raise and adjudicate the existence of such a defense and that the appropriate time to raise and adjudicate the existence of such a defense is at the time, if ever, that a proceeding to enforce this Consent Order is commenced by the State or during dispute resolution pursuant to Section XXIII. DISPUTE RESOLUTION. At that time the burden of proving that any delay was or will be caused by circumstances beyond the control of Defendants shall rest with Defendants. Failure by Defendants to timely comply with the notice requirements of this Section shall constitute a waiver by Defendants of any right they may have to raise such a defense. Changes in Defendants' financial circumstances shall not in any event constitute circumstances beyond the control of Defendants.

XX. REIMBURSEMENT OF COSTS

Past Response Costs

58. Within thirty (30) days of the Effective Date of this Consent Order, Defendants shall pay to Ohio EPA, Sixty-Eight Thousand, Four Hundred Seventy-Six Dollars, Eighty Cents ($68,476.80). Payment shall be by check payable to "Treasurer, State of Ohio" and mailed to the following address: Fiscal Officer, Ohio EPA, P.O. Box 1049, Columbus, Ohio 43216-1049. Upon completion of this payment, Defendants obligation to pay past Response Costs, defined as Response Costs prior to January 1, 2002, related to the Site shall be satisfied.

Future Response Costs

59. Ohio EPA shall submit to Defendants an itemized statement of the Response Costs, defined as Response Costs on and from January 1, 2002, incurred by the State of Ohio.

Failure to submit Response Costs in a yearly statement does not preclude submission of such costs in a subsequent statement.

60. Defendants shall be entitled to request, within thirty (30) days of receipt of any itemized statement from Ohio EPA, supporting documentation for the itemized statement. Ohio EPA shall deliver such documentation to Defendants.

61. Defendants shall pay the Response Costs included in the itemized statement within sixty (60) days of receipt of such itemized statement.

62. As to payment of Response Costs, the provisions of Section XXIII. DISPUTE RESOLUTION shall apply only to whether such costs properly are "Response Costs" within the meaning of this Consent Order and the accuracy of such costs. The pendency of a dispute with respect to a portion of the Response Costs included in an itemized statement shall not affect Defendants' obligation to pay the remaining, undisputed Response Costs included in such itemized statement.

63. Defendants shall remit payments to the State of Ohio pursuant to this Section as follows:

A. Except as otherwise provided below, payment shall be made by certified check payable to "Treasurer, State of Ohio", and shall be forwarded to the Fiscal Officer, Ohio EPA, P.O. Box 1049, Columbus, Ohio 43216-1049.

B. For costs incurred by the Ohio Attorney General's office, payment shall be made by certified check; payable to "Treasurer, State of Ohio," and shall be delivered to Jena Suhadolnik, Administrative Assistant, or successor, Environmental Enforcement Section, Ohio Attorney General's Office, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428.

C. A copy of the transmittal shall be sent to the Fiscal Officer, DERR, Ohio EPA, P.O. Box 1049, Columbus, Ohio 43216-1049, ATTN: Patricia Campbell (or successor) and to the Site Coordinator, North Cove

Landfill, DERR, Ohio EPA Northwest District Office, 347 North Dunbridge Rd., Bowling Green, Ohio 43402.

XXI. STIPULATED PENALTIES

64. In the event that Defendants fail to comply with any requirement of this Consent Order, Defendants are liable for and shall immediately pay stipulated penalties for each failure to comply in accordance with the following schedule:

A. For each day of each failure to comply with a requirement or deadline of this Consent Order, up to and including fifteen (15) days -- Five Hundred Dollars ($500) per day for each requirement or deadline not met.

B. For each day of each failure to comply with a requirement or deadline of this Consent Order, from sixteen (16) days to thirty (30) days -- One Thousand Dollars ($1,000) per day for each requirement or deadline not met.

C. For each day of each failure to comply with a requirement or deadline of this Consent Order, from thirty-one (31) days to sixty (60) days -- Two Thousand Five Hundred Dollars ($2,500) per day for each requirement or deadline not met.

D. For each day of each failure to comply with a requirement or deadline of this Consent Order, over sixty-one (61) days -- Three Thousand Dollars ($3,000) per day for each requirement or deadline not met.

65. Any payment required to be made under the provisions of this Section of the Consent Order shall be made by delivering to Plaintiff, c/o Jena Suhadolnik, Administrative Assistant, or successor, Environmental Enforcement Section, Ohio Attorney General's Office, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428, a certified check or checks made payable to "Treasurer, State of Ohio," for the appropriate amount within forty-five (45) days from the date of the failure to meet the requirement or deadline of this Consent Order. The payment of the stipulated penalty shall be accompanied by a letter briefly describing the type of violation, deadline or requirement not met and date upon which the violation of this

Consent Order occurred. The payment of stipulated penalties by Defendants and the acceptance of such stipulated penalties by Plaintiff for specific violations pursuant to this Section shall not be construed to limit Plaintiff's authority to seek additional relief or to otherwise seek judicial enforcement of this Consent Order. The check will be deposited pursuant to R.C. 3734.28.

XXII. INDEMNITY

66. To the extent allowed by Ohio law, Defendants agree to indemnify, save, and hold harmless the State of Ohio from any and all claims or causes of action arising from, or related to, events or conditions at the Site, other than the willful misconduct of the State or its agents. The State agrees to provide notice to Defendants within (30) days of receipt of any claim which may be the subject of indemnity as provided in this Section, and to cooperate with Defendants in the defense of any such claim or action against the State. The State shall not be considered a party to and shall not be held liable under any contract entered into by Defendants in carrying out the activities pursuant to this Consent Order.

XXIII. DISPUTE RESOLUTION

67. In the event that Defendants have a good faith dispute involving the implementation of this Consent Order, the site coordinators shall have seven (7) days from the date the dispute arises to negotiate in good faith in an attempt to resolve the dispute. This seven (7) day period may be extended by mutual agreement of the Parties.

68. In the event the site coordinators are unable to reach consensus on the dispute, each site coordinator shall reduce his or her position to writing within seven (7) days of the end of the good faith negotiation period described in the preceding paragraph. Those written positions shall be immediately exchanged by the site coordinators. Following the exchange of

written positions, the site coordinators shall have an additional seven (7) days to resolve the dispute.

69. If Ohio EPA does not concur with the position of the Defendants, the Ohio EPA site coordinator will notify Defendants in writing. Upon receipt of such written notice, Defendants shall have seven (7) days to forward a request for resolution of the dispute, along with a written statement of the dispute, to the Chief of the Division of Emergency Response and Remediation (DERR) at Ohio EPA. The statement of dispute shall be limited to a concise presentation of the Defendants' position on the dispute. The Chief of DERR, or his or her designee, will resolve the dispute based upon and consistent with this Consent Order, applicable policies and guidance documents, and appropriate state and federal laws, and notify Defendants of the resolution within twenty-one (21) days of receipt of Defendants' request for dispute resolution. In considering the dispute, the Chief of DERR or the designee may consult with Ohio EPA staff.

70. Any Defendant may petition the Court within 14 days of receipt of the Chief of DERR's written notification of dispute resolution as described in the preceding paragraph. The Court shall affirm the Chief of DERR's resolution of the dispute unless the petitioning Defendant demonstrates that the resolution was unlawful or unreasonable within the meaning of R.C. Chapter 3745 or inconsistent with this Consent Order.

71. The pendency of dispute resolution set forth in this Section shall not affect the time period for completion of the Work to be performed under this Consent Order, unless otherwise agreed by the Parties.

72. Within thirty (30) days of resolution of any dispute, Defendants shall incorporate the resolution and final determination into the appropriate Workplan, schedule or

procedures and implement this Consent Order according to the amended Workplans, schedule or procedures as approved.

73. Unless otherwise expressly provided for in this Consent Order, the dispute resolution procedures of this Section shall be the exclusive mechanism for Defendants to resolve disputes arising under or with respect to this Consent Order.

74. In any dispute subject to dispute resolution, the Parties may, by written agreement, modify the procedures in the first three paragraphs of this Section.

XXIV. TERMINATION OF CONSENT ORDER FOR PRELIMINARY INJUNCTION AND TERMINATION OF THIS CONSENT ORDER

75. Upon payment of the past Response Costs set forth in paragraph 58 of this Consent Order, the COPI is terminated except as otherwise provided in Section XXV. TERMINATION of the COPI.

76. This Consent Order shall terminate upon approval of the Court, following completion of all activities, including Operation and Maintenance activities, required under this Consent Order, in accordance with the provisions of this Section. Once the Defendants have completed all requirements of this Consent Order, including Operation and Maintenance activities, Defendants shall notify the Ohio EPA, in writing, and expressly reference this provision. If the Ohio EPA concurs, in writing, that the Defendants have completed all activities, the Parties shall file a joint motion to terminate the Consent Order, in accordance with this Section. If the Ohio EPA disagrees that the Defendants have fully complied with the requirements of this Consent Order, Ohio EPA shall notify the Defendants, in writing, of the alleged compliance deficiencies. If any Defendant disagrees with the Ohio EPA's notice of deficiencies, it may invoke the dispute resolution provisions set forth in Section XXIII. This

Section, and the Sections of this Consent Order entitled RESERVATION OF RIGHTS, SAMPLING AND DATA AVAILABILITY, NOTICE OF CONVEYANCE AND DEED NOTICE, shall survive this termination provision.

XXV. CONTRIBUTION PROTECTION

77. To the extent provided for under the Ohio Revised Code and CERCLA, Defendants shall not be liable for claims for contribution regarding matters addressed in this Consent Order. The "matters addressed" in this Consent Order are the Work and the payment of Response Costs as required by this Consent Order. Entry of this Consent Order does not discharge the liability of any other person(s) liable under federal or state law.

XXVI. COVENANT NOT TO SUE

78. Except as provided under Section XXVII. RESERVATION OF RIGHTS, the State covenants not to sue Defendants under state or federal law for performance of the Work performed under this Consent Order and for recovery of past and future Response Costs. These covenants not to sue take effect only upon the complete and satisfactory performance of the Work and payment of Response Costs under this Consent Order. These covenants not to sue do not extend to persons other than Defendants.

XXVII. RESERVATION OF RIGHTS

79. This Consent Order shall not be construed to limit the authority of the State to seek relief for claims or conditions not alleged in the Complaint. The State reserves all rights it has against the Defendants for any violations or conditions which occur after the entry date of this Consent Order.

80. Nothing in this Consent Order shall be construed to limit the authority of the State to undertake any action against any entity, including Defendants, to eliminate or mitigate

conditions which may present a threat to the public health, welfare or environment and to seek cost reimbursement for any such action. Nothing in this Consent Order shall be construed to limit the authority of the State to seek relief for claims for damages to natural resources under CERCLA and/or any other legal theory. This reservation also explicitly includes any and all claims the State may have concerning any disposal of Waste Material by Defendants at any location other than the Site.

81. Nothing in the Complaint, this Consent Order, nor in the Decision Document, shall be construed as a release by the State or limitation on the authority of the State to undertake any action, against any entity including the Defendants, to eliminate, abate or mitigate conditions related to the Ottawa River or the sediments therein, including without limitation conditions related to any leachate leaving the Site which has caused contamination of the Ottawa River and its sediments.

82. The State reserves the right to seek legal and/or equitable relief to enforce the terms and conditions of this Consent Order, including penalties against Defendants for noncompliance with this Consent Order.

83. The State reserves the right to terminate this Consent Order and/or perform all or any portion of the Work or any other measures, including recovery of all response costs, in the event that the requirements of this Consent Order are not complied with within the time frames required by this Consent Order.

84. Entering into this Consent Order, the Consent Order itself, or the taking of any action in accordance with it does not constitute an admission by Defendants of any factual or legal matters or opinions set forth herein. Defendants do not admit liability under Ohio law or any other applicable law, rule or regulation for any purpose or admit any issues of fact or law,

any wrongdoing, or any responsibility with regard to Waste Material, releases or threatened releases of hazardous substances at or from the Site, or with regard to any contamination at or from the Site.

85. Nothing in this Consent Order, including SECTION XXVI. COVENANT NOT TO SUE, shall be construed as a limitation upon the State's reservation of rights set forth in this Section.

86. By entering into this Consent Order, Defendants do not waive any defenses which they may legally raise in any future action identified in this Section, nor do Defendants waive any claim or defenses amongst themselves or against any others not a party to this action. However, Defendants shall not assert, and may not maintain any defense or claim based upon Statute of Limitations or the principles of waiver, laches, res judicata, collateral estoppel, issue preclusion, claim splitting or other defense basis upon the contention that the claims brought by the State in a subsequent action were or should have been brought in the instant action.

XXVIII. OTHER CLAIMS

87. Nothing in this Consent Order shall constitute or be construed as a release by the State or by Defendants of any claim, cause of action, or demand in law or equity against any person, firm, partnership, or corporation, not a party to this Consent Order for any liability arising from, or related to, events or conditions at the Site.

XXIX. APPENDICES

88. All appendices to this Consent Order are incorporated by reference as if fully restated herein and are an enforceable part of this Consent Order. This Consent Order has the following appendices:

A. "Appendix A" is the Remedial Design/Remedial Action Statement of Work;

B. "Appendix B" is the List of Guidance Documents;

C. "Appendix C" is the Decision Document;

D. "Appendix D" is the North Cove Approved RD/RA Statement of Work.

XXX. MODIFICATION

89. Except as otherwise stated herein, no modification shall be made to this Consent Order without the written agreement of the Parties and the Court.

XXXI. RETENTION OF JURISDICTION

90. This Court shall retain jurisdiction of this matter for the purpose of overseeing compliance with this Consent Order.

XXXII. COURT COSTS

91. Defendants shall pay the court costs of this action.

XXXIII. SIGNATORIES

92. Each undersigned representative of each respective Defendant understands the terms and conditions of this Consent Order and certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Order and to execute and legally bind the respective Defendant to this document.

XXXIV. ENTRY OF CONSENT ORDER AND FINAL JUDGMENT BY CLERK

93. The Parties recognize that entry of this Consent Order will avoid the potential of prolonged and complicated litigation between the Parties. The Parties further recognize, and the Court by entering this Consent Order finds, that this Consent Order is fair, reasonable and in the public interest.

94. The parties agree and acknowledge that this Consent Order is being made available for public participation under state requirements and in a manner consistent with 40 C.F.R. 123(d)(1)(iii), by providing for notice of the lodging of this Consent Order, opportunity for public comment and the consideration of any public comment. The State of Ohio and each Defendant reserve the right to withdraw consent to this Consent Order upon filing with this Court notice of such withdrawal in the event that the Parties cannot agree to changes proposed by the State of Ohio to this Consent Order as a result of public comment. The right to withdraw consent as set forth in this paragraph shall only exist for thirty (30) days after Ohio EPA's notice to the Defendants regarding proposed changes to this Consent Order. The Parties may agree to a longer period for filing a withdrawal in a joint notice filed by the Parties with the Court.

95. Upon the signing of this Consent Order by the Court, the Clerk of Courts is hereby directed to enter it upon the journal. Within three (3) days of entering the judgment upon the journal, the Clerk is hereby directed to serve upon all parties notice of the judgment

and its date of entry upon the journal in the manner prescribed by Rule 5(B) of the Ohio Rules of Civil Procedure and note the service in the appearances docket.

EFFECTIVE UPON AND ENTERED THIS _____ DAY OF _____, 2003.

JUDGE JAMES D. JENSEN
COURT OF COMMON PLEAS
LUCAS COUNTY, OHIO

The Parties whose signatures appear below and on the attached signature pages hereby consent to the terms of this Consent Order.

JIM PETRO
ATTORNEY GENERAL OF OHIO

Timothy Kern

TIMOTHY J. KERN (00034629)
Assistant Attorney General
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43266-0410
(614) 466-2766

Attorney for Plaintiff, State of Ohio

The undersigned settling Defendant hereby consents to the foregoing Consent Order in State of Ohio v. DaimlerChrysler Corporation, et. al.

DAIMLERCHRYSLER CORPORATION
1000 Chrysler Drive
CIMS 485-13-62
Auburn Hills, MI 48326

By: _____
Kathleen M. Hennessey
Senior Staff Attorney

By: _____
Susan E. Padley
Attorney for Defendant
DaimlerChrysler

The undersigned settling Defendant hereby consents to the foregoing Consent Order in State of Ohio v. DaimlerChrysler Corporation, et. al.

CITY OF TOLEDO
One Government Center
Toledo, Ohio 43604-2293

By: _____
Jack Ford
Mayor, City of Toledo

Approved as to Form and Content, in accordance with City of Toledo Ordinance No. 275-00 (attached hereto).

_____
Barbara E. Herring
Director of Law

The undersigned settling Third-Party Defendant hereby consents to the foregoing Consent Order in State of Ohio v. DaimlerChrysler Corporation, et. al.

OHIO DEPARTMENT OF
TRANSPORTATION
25 South Front Street
Columbus, Ohio 43216-0899

By: Gordon Proctor /ksc

Gordon Proctor
Director of the Ohio Department of
Transportation

ORD. 275-00 Authorizing the Mayor and the Director of Law to enter into a Consent Order with the Ohio EPA regarding the North Cove Landfill; and declaring an emergency.

WHEREAS, Ordinance No. 588-95 authorized the Mayor and the Director of Law to enter into the "North Cove Site Participation Agreement" with Daimler-Chrysler Corporation and the Ohio Department of Transportation; and

WHEREAS, the "North Cove Site Participation Agreement" is a cooperative, joint, written delineation of responsibilities between the City of Toledo, Daimler-Chrysler Corporation and the Ohio Department of Transportation regarding the environmental assessment and remediation of the North Cove Landfill; and

WHEREAS, the "North Cove Site Participation Agreement" allocates costs and maintenance-oversight tasks among the three parties; and

WHEREAS, Ordinance No. 3-98 authorized the expenditure of a certain dollar amount, ($250,000.00) to be paid to Daimler-Chrysler Corporation, relative to the North Cove Landfill and the City's portion of the environmental remediation costs at that site;

WHEREAS, the Ohio EPA has finally selected its preferred remedy for implementation by the parties at the North Cove Landfill site; and

WHEREAS, the Ohio EPA and the three parties to the "North Cove Site Participation Agreement" are negotiating a Consent Order for finalization of the pending lawsuit and implementation of the preferred remedy at the site; and

WHEREAS, the Consent Order will not change the cost allocation or maintenance-oversight tasks already agreed to by the parties, pursuant to the "North Cove Site Participation Agreement", NOW, THEREFORE,

Be it ordained by the Council of the City of Toledo:

SECTION 1. That the Mayor is authorized, after review and approval by the Director of Law, to enter into the Consent Order negotiated to finalize the lawsuit filed by the Ohio EPA; i.e. State of Ohio, ex rel. Betty D. Montgomery v. Chrysler Corporation, et al., in Lucas County Common Pleas Court, No. 86-2141 (North Cove Landfill Site).

SECTION 2. That the Director of Law is authorized to sign the Consent Order negotiated after review and upon her approval of its form and content.

SECTION 3. That this Ordinance is hereby declared to be an

emergency measure and shall be in force and effect immediately upon its passage. The reason for the emergency lies in the fact that this Ordinance is necessary for the preservation of the public peace, health, safety and property. Likewise, the Ordinance must be immediately effective in order to finalize the pending lawsuit by the Ohio EPA and to implement the environmental remedy at the North Cove Landfill.

Vote on emergency clause: yeas 9, nays 0.

Passed: April 11, 2000, as an emergency measure: yeas 9, nays 0.

ATTEST:
MICHAEL J. BEAZLEY
Clerk of Council

PETER UJVAGI
President of Council

Approved: April 13, 2000
CARLETON S. FINKBEINER
Mayor