UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

State of Ohio, ex rel. Richard Cordray, Ohio Attorney General	:	
	:	**Case No. 2:10 cv 981**
Plaintiff.	:	
v.	:	**Judge Sargus**
	:	**Magistrate Kemp**
Cyprus Amax Minerals Company, et al.	:	
Defendants.	:	

CONSENT ORDER FOR PRELIMINARY INJUNCTION TO CONDUCT A REMEDIAL INVESTIGATION AND FEASIBILITY STUDY AND TO PAY RESPONSE COSTS

Plaintiff, State of Ohio, ex rel. Richard Cordray, Ohio Attorney General ("Plaintiff"), has filed the Complaint in this action, at the written request of the Director of the Ohio Environmental Protection Agency, under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601, et seq. ("CERCLA"). Plaintiff and Defendants, Cyprus Amax Minerals Company and Chemetall Foote Corp., have agreed to the entry of this Consent Order for Preliminary Injunction for Remedial Investigation and Feasibility Study ("COPI");

Now therefore, without trial of any issue of law or fact, without admission of any issues of law or fact, and upon consent of the parties hereto, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

I. JURISDICTION AND VENUE

1. The Court has both personal jurisdiction over the parties to this action and subject matter jurisdiction over the case. The Complaint states a claim upon which relief can be granted against Defendants. Venue is proper in this Court.

II. PERSONS BOUND

2. The terms and provisions of this COPI shall apply to and be binding upon the Plaintiff and the terms and provisions of this COPI that apply to a particular Defendant, shall be binding upon the Defendant's agents, officers, employees, assigns, successors in interest, and any other person acting in concert and/or privity with any of them pursuant to Federal Rule of Civil Procedure 65(d).

3. No change in ownership or corporate status of any Defendant including, but not limited to, any transfer of assets or real or personal property shall in any way alter that Defendant's obligations under this COPI.

III. DEFINITIONS

4. Unless otherwise expressly provided herein, all terms used in this COPI or in any appendices shall have the same meaning as defined in CERCLA. Whenever the terms listed below are used in this COPI or in any appendices, attached hereto and incorporated herein, the following definitions shall apply:

a. "Day" means a calendar day unless expressly stated to be a business day. "Business day" means a day other than a Saturday, Sunday, or state holiday. In computing any period of time under this COPI, where the last day would fall on a Saturday, Sunday, or state holiday, the period shall run until the close of the next Business Day.

b. "Complaint" shall mean that certain complaint filed on October 29, 2010 in the United States District Court, Southern District of Ohio, known as *State of Ohio, ex rel. Richard Cordray, Ohio Attorney General v. Cyprus Amax Minerals Company, et al.*, Case No. 2:10 CV 981.

c. "Defendants" means Cyprus Amax Minerals Company ("Cyprus Amax") and Chemetall Foote Corp. ("Chemetall").

d. "Effective Date" is the date this COPI is entered by the Court.

e. "Feasibility Study" ("FS") means those activities to be undertaken by Cyprus Amax on behalf of Defendants to develop and evaluate remedial alternatives for the cleanup of the Site.

f. "Future Response Costs" means all costs related to the Work that are incurred by Ohio EPA after July 31, 2010 including, but not limited to, payroll costs, contractor costs, travel costs, direct costs, overhead costs, administrative costs, legal and enforcement related costs, oversight costs, laboratory costs, and the costs of reviewing or developing plans, reports, and other items pursuant to this COPI, verifying the Work, or otherwise implementing or enforcing this COPI.

g. "NCP" means the National Oil and Hazardous Substances Pollution Contingency Plan, codified at 40 C.F.R. Part 300 (1990), as amended.

h. "Ohio EPA" means the Ohio Environmental Protection Agency and its designated representatives.

i. "Paragraph" means a portion of this COPI identified by an arabic numeral or an uppercase or lowercase letter.

j. "Parties" means the Defendants and the State.

k. "Past Response Costs" means $292,725.93 which Defendants are required by Section XIV, Reimbursement of Costs to pay Ohio EPA and the Ohio Attorney General's Office.

l. "PER" shall mean the Preliminary Evaluation Report required by the SOW.

m. "Remedial Investigation" ("RI") means those activities to be undertaken by Cyprus Amax on behalf of Defendants to determine the nature and extent of the contamination at the Site caused by the disposal, discharge, or release of Waste Materials.

n. "Remedial Investigation and Feasibility Study Work Plan" ("RI/FS Work Plan") means the document submitted by Cyprus Amax on behalf of the Defendants and approved by Ohio EPA pursuant to the Performance of Work Section of this COPI.

o. "Section" means a portion of this COPI identified by a Roman numeral.

p. "Site" means the approximately 333.5 acre parcel of land, including an abandoned ferro-alloy facility formerly owned and operated by Vanadium Corporation of America and Satralloy, Inc., located on County Road 74 in Cross Creek Township, Jefferson County, Ohio, and defined more particularly in the attached legal descriptions contained in Appendix C (the "326 Acre Parcel", the "6 Acre Parcel" and the "1.5 acre Rail Spur Parcels", together the "333.5 Acre Parcel"), and also includes any geographic area in, on or about the 333.5 Acre Parcel where Waste Material or constituents derived therefrom attributable to activities occurring on the 333.5 Acre Parcel was released, discharged, migrated or disposed to the environment or has otherwise come to be located.

q. "State" means the State of Ohio by and through its Attorney General on behalf of the Ohio Environmental Protection Agency.

r. "Statement of Work" ("SOW") means the statement of work for the implementation of the RI/FS at the Site, as set forth in Appendix A to this COPI. The SOW is not specific to this Site, and shall be used as an outline in developing Site-specific work plans.

s. "Transferee" means any future owner of any interest in the Site, including but not limited to, owners of an interest in fee simple, mortgagors, easement holders, and lessees.

t. "Waste Material" means (1) any "hazardous waste" under Ohio Rev. Code § 3734.01(J); (2) any "solid wastes" under Ohio Rev. Code § 3734.01(E); (3) any "industrial waste" under Ohio Rev. Code § 6111.01(C); (4) any "hazardous substances" as that term is defined under 101(14) of CERCLA, 42 U.S.C. § 9601(14) and (5) any "other wastes" under Ohio Rev. Code § 6111.01(D).

u. "Work" means all activities Defendants are required to perform under the Remedial Investigation and Feasibility Study (RI/FS) (Section V), Interim Action (Section VI), Additional Work (Section VII) and Natural Resource Damages Sections (Section XXIII) of this COPI.

IV. STATEMENT OF PURPOSE

5. In entering into this COPI, the mutual objectives of the Parties include (1) completion of a RI/FS by Cyprus Amax; (2) the grant of access to the 6 Acre Parcel and the 1.5 acre Rail Spur Parcels by Chemetall to the State and Cyprus Amax; (3) establishment and completion of interim action requirements by Cyprus Amax; (4) payment of Past and Future Response Costs by Cyprus Amax on behalf of the Defendants as required by this COPI; (5) a stay of litigation as to Defendants until the RI/FS is completed and approved by Ohio EPA, and Ohio EPA selects the remedy for the Site; and (6) the requirement of a good faith meeting and conference for the negotiation of a final Consent Order after this COPI is terminated.

V. REMEDIAL INVESTIGATION AND FEASIBILITY STUDY (RI/FS)

6. Cyprus Amax, on behalf of Defendants, shall perform the Work in accordance with this COPI including but not limited to the SOW for RI/FS, all relevant guidance documents, and all standards, specifications, and schedules set forth in or developed and approved by Ohio EPA. Cyprus Amax shall reimburse Ohio EPA for all Response Costs and perform all other obligations of this COPI as set forth in Section XIV.

7. Compliance With Law

a. All activities undertaken by Defendants pursuant to this COPI shall be performed in accordance with the requirements of all applicable federal, State and local laws and regulations, and in a manner consistent with the NCP.

b. Ohio EPA believes that activities conducted pursuant to this COPI, if approved by Ohio EPA, would be considered necessary and consistent with the NCP.

c. Where any portion of the Work requires a permit, license or other authorization from Ohio EPA or any other state, federal or local government agency, subject to

Section XVIII hereof, Cyprus Amax shall submit applications in a timely manner and take all other actions necessary to obtain such permits, license or other authorization. This COPI is not, and shall not be construed to be, a permit, license or other authorization issued pursuant to any statute, rule or regulation.

8. Supervising Contractor

All Work performed pursuant to this COPI shall be under the direction and supervision of a contractor with expertise in hazardous substance site investigation and remediation. Prior to the initiation of the Work, Cyprus Amax shall notify Ohio EPA in writing of the name of the supervising contractor and any subcontractor to be used in performing the Work under this COPI.

9. Submittal of COPI to those persons hired by Cyprus Amax to perform the Work

Cyprus Amax shall provide a copy of the COPI to each key employee, engineer, facility operator, general contractor and/or other key person hired or employed to perform any and all work or services itemized herein. Cyprus Amax shall provide in any agreement with any person that it employs to conduct any activities or remedial activity at or upon the Site, as that term is defined herein, that the services or Work to be performed must be in accordance with the terms and conditions of this COPI.

10. Remedial Investigation and Feasibility Study (RI/FS)

a. Within fifteen (15) days of the Effective Date of this COPI, unless otherwise mutually agreed to by the Parties, Cyprus Amax shall meet with the Ohio EPA to discuss the requirements of the RI/FS Work Plan.

b. Within sixty (60) days of the Effective Date of this COPI, unless otherwise specified in writing by Ohio EPA, Cyprus Amax shall submit the RI/FS Work Plan for the Site to Ohio EPA. The RI/FS Work Plan shall provide for the determination of the nature and extent of the contamination at the Site caused by the disposal, discharge, or release of Waste Material at or from the 333.5 Acre

Parcel, and for the development and evaluation of remedial alternatives for the cleanup of the Site.

c. The RI/FS Work Plan shall be developed in conformance with the applicable requirements of the SOW contained in Appendix A based on the PER, and the applicable guidance documents listed in Appendix B of this COPI, unless otherwise mutually agreed to by the Parties. The RI/FS Work Plan shall include a proposed schedule for the completion of each task. If Ohio EPA determines that any additional or revised guidance documents affect the Work to be performed in implementing the RI/FS Work Plan, Ohio EPA will notify Cyprus Amax, and the RI/FS Work Plan and other affected documents shall be modified accordingly, subject to Cyprus Amax's opportunity to invoke Dispute Resolution under Section XIII herein. Tasks which have already been materially implemented in accordance with the RI/FS Work Plan shall not be required by this COPI to be redone pursuant to any revised or additional guidance documents without the consent of Cyprus Amax, which consent shall not be unreasonably withheld.

d. Should Cyprus Amax identify any inconsistency between any of the laws and regulations and guidance documents, including any additional or revised guidance documents, which they are required to follow by this COPI, Cyprus Amax shall notify Ohio EPA in writing of each inconsistency and the effect of the inconsistencies upon the Work performed. Cyprus Amax shall also recommend along with a supportable rationale justifying each recommendation, the requirement Cyprus Amax believes should be followed. In the event that Ohio EPA and Cyprus Amax cannot agree as to whether there are inconsistencies or the meaning of any inconsistencies, Cyprus Amax has the option of exercising the Dispute Resolution process set forth in Section XIII herein. Otherwise, Cyprus Amax shall implement the affected Work as directed in writing by Ohio EPA.

e. Ohio EPA will review the RI/FS Work Plan pursuant to the procedures set forth in the Review of Submittals Section of this COPI. Upon approval of the RI/FS Work Plan by Ohio EPA, Cyprus Amax shall implement the RI/FS Work Plan. Cyprus Amax shall submit all plans, reports, or other deliverables required under the approved RI/FS Work Plan, in accordance with the approved schedule, for review and approval pursuant to the Review of Submittals Section of this COPI.

11. Health and Safety Plan

Within sixty (60) days of the Effective Date of this COPI, unless otherwise mutually agreed to by the Parties, Cyprus Amax shall submit to Ohio EPA for review and comment a health and safety plan developed in conformance with the guidance listed in Appendix B.

VI. INTERIM ACTION

12. Access Controls for Site

a. Within forty-five (45) days of the Effective Date of this COPI, unless otherwise specified in writing by Ohio EPA, Cyprus Amax shall submit to Ohio EPA an Interim Action Work Plan for securing from public access ("Site Security IA Work Plan") the portion of the Site which includes the mill buildings, administrative offices, water and wastewater treatment plants, as well as the rail dumping bins. The portion of the Site in question is more particularly defined on the attached map contained in Appendix D.

b. The Site Security IA Work Plan shall describe measures to be taken at the Site including the following: sufficient details with regard to the measures to prevent unauthorized access to the Site, description of the signage to be placed every one hundred (100) feet to warn persons of the dangers of entry, description of the inspection and maintenance procedures and schedule to ensure the effectiveness of the measures is maintained and a proposed schedule for implementation of all tasks.

c. Ohio EPA will review the Site Security IA Work Plan pursuant to the procedures set forth in the Review and Submittals Section of this COPI. Upon approval of the Site Security IA Work Plan by Ohio EPA, Cyprus Amax shall implement the Site Security IA Work Plan in accordance with the approved schedule.

d. Cyprus Amax shall maintain the access control measures in such a condition to fulfill the purpose as stated in Paragraph (a) above until it is agreed by the Parties that the access control measures are no longer needed for the protection of public health or safety.

13. Baghouse Dust

a. Within fifteen (15) days of the Effective Date of this COPI, Cyprus Amax shall meet with Ohio EPA to discuss the requirements of the Baghouse Dust IA Work Plan unless otherwise mutually agreed by the Parties.

b. Within forty-five (45) days of the Effective Date of this COPI, Cyprus Amax shall submit to Ohio EPA an Interim Action Work Plan outlining Cyprus Amax's plan for restricting the access of human and ecological receptors to the baghouse dusts found in, on, under and adjacent to the three baghouses located behind the North and South mill buildings ("Baghouse Dust IA Work Plan") as well as similar dusts contained within the North and South mill buildings.

c. The Baghouse Dust IA Work Plan shall describe any and all measures Cyprus Amax intends to use to restrict access to these materials and prevent the migration of these materials to waters of the State of Ohio. These measures may include, but are not limited to: covering the material with heavy tarps, erecting fences, etc.

d. Ohio EPA will review the Baghouse Dust IA Work Plan pursuant to the procedures set forth in Section XII, Review of Submittals. Upon approval of the Baghouse Dust 1A Work Plan by Ohio EPA, Cyprus Amax shall implement the Baghouse Dust IA Work Plan. Cyprus Amax shall submit all plans, reports, or other deliverables required under the approved Baghouse Dust IA Work Plan, in accordance with the approved schedule, for review and approval, pursuant to Section XII, Review of Submittals.

VII. ADDITIONAL WORK

14. Ohio EPA or Cyprus Amax may determine that, in addition to the tasks defined in the approved RI/FS Work Plan, additional Work may be necessary to accomplish the mutual objectives of the Parties as provided in the Statement of Purpose Section of this COPI and the applicable requirements of the SOW based on the PER and the guidance documents identified in Appendices A and B.

15. Within sixty (60) days of receipt of written notice from Ohio EPA that additional

Work is necessary, unless otherwise specified in writing by Ohio EPA, Cyprus Amax shall submit a Work Plan and schedule for the performance of the additional Work. In addition, Cyprus Amax shall submit revisions to any other schedules impacted by the additional Work. If Cyprus Amax disputes the necessity of additional Work, Cyprus Amax shall initiate the procedures for dispute resolution set forth in the Dispute Resolution Section of this COPI, Section XIII, within fourteen (14) days after receipt of Ohio EPA's notification of the need for additional Work. The Additional Work Plan shall conform to the applicable standards and requirements set forth in the documents attached to this COPI as Appendices A and B (SOW and list of relevant guidance documents) based on the PER. Upon approval of the Additional Work Plan and schedule by Ohio EPA pursuant to the Review of Submittals Section of this COPI, Cyprus Amax shall implement the approved Additional Work Plan in accordance with the revised schedules contained therein.

16. If Cyprus Amax determines that additional Work is necessary, Cyprus Amax shall submit a proposal to Ohio EPA to explain what the additional Work is, why the additional Work is necessary, and what impact, if any, the additional Work will have on the RI/FS Work Plan and schedule. If Ohio EPA concurs with the request to perform additional Work, Cyprus Amax shall submit an Additional Work Plan and schedule for the performance of additional Work. The Additional Work Plan shall conform to the standards and requirements set forth in the documents attached to this COPI as Appendices A and B based on the PER. Upon approval of the Additional Work Plan and schedule by Ohio EPA pursuant to the Review of Submittals Section of this COPI, Cyprus Amax shall implement the approved Additional Work Plan in accordance

with the schedules contained therein.

VIII. SAMPLING AND DATA AVAILABILITY

17. Unless otherwise mutually agreed to by the Parties, Cyprus Amax shall notify Ohio EPA not less than fifteen (15) days in advance of all sample collection activity. Upon request, Cyprus Amax shall allow split and/or duplicate samples to be taken by Ohio EPA or its designated contractor. Ohio EPA shall also have the right to take any additional samples it deems necessary. Upon request, Ohio EPA shall allow Cyprus Amax to take split and/or duplicate samples of any samples Ohio EPA takes as part of its oversight of Cyprus Amax's implementation of the Work.

18. Unless otherwise mutually agreed to by the Parties, within seven (7) days of Cyprus Amax's receipt of a request for sampling, test information or data by Ohio EPA, Cyprus Amax shall submit to Ohio EPA copies of the results of all requested information, including raw data and original laboratory reports, generated by or on behalf of Cyprus Amax with respect to the Site and/or the implementation of this COPI. Cyprus Amax may provide the requested information via electronic delivery or paper (hard copy) at their discretion. If laboratory reports have not been certified, the report will clearly indicate that the data is in draft form. Cyprus Amax shall provide a copy (hard or via scan) of the certification signature page for all laboratory data submitted electronically within ten (10) days of the receipt thereof. Cyprus Amax may submit to Ohio EPA any interpretive reports and written explanations concerning the raw data and original laboratory reports. Such interpretive reports and written explanations shall not be submitted in lieu of original laboratory reports and raw data. Should Cyprus Amax subsequently

discover an error in any report or raw data, Cyprus Amax shall promptly notify Ohio EPA of such discovery and provide the correct information.

IX. ACCESS

19. Ohio EPA and its contractors shall have access at all reasonable times to the Site and any other property to which access is required for the implementation of this COPI. Access under this COPI shall be for the purposes of conducting any activity related to this COPI including but not limited to the following:

a. Monitoring the Work;

b. Conducting sampling;

c. Inspecting and copying records, operating logs, contracts, and/or other documents related to the implementation of this COPI;

d. Conducting investigations and tests related to the implementation of this COPI; and

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

20. To the extent that the Site or any other property to which access is required for the implementation of this COPI is owned or controlled by persons other than any of the Defendants, Cyprus Amax shall use its best efforts to secure from such persons access for Defendants and Ohio EPA and their contractors as necessary to effectuate this COPI. Copies of all access agreements obtained by any of the Defendants shall be provided to Ohio EPA upon request. If any access required to implement this COPI is not obtained within ninety (90) days of the entry of this COPI, or within sixty (60) days of the date Ohio EPA notifies any of the Defendants in writing that additional access beyond that previously secured is necessary, Cyprus Amax shall

promptly notify Ohio EPA in writing of the steps it has taken to attempt to obtain access. Ohio EPA may, as it deems appropriate, assist Defendants in obtaining access.

21. By its signature hereto, Chemetall grants access to Cyprus Amax, its agents, contractors and subcontractors and Ohio EPA to the 6 Acre Parcel and the 1.5 acre Rail Spur Parcels for all purposes hereunder.

22. Notwithstanding any provision of this COPI, the State retains all of its access rights and authorities, including enforcement authorities related thereto, under any applicable statute or regulation including but not limited to Ohio Rev. Code §§ 3734.07, 3734.20, and 6111.05.

X. DESIGNATED SITE COORDINATORS

23. Cyprus Amax has designated the following as Site Coordinator:

Barb Nielsen
Manager, Remediation Division
Freeport McMoRan Copper & Gold, Inc.
333 North Central Avenue
Phoenix, AZ 85004
(602) 366-8270 (phone)
(602) 366-7307 (fax)
Barbara_nielsen@fmi.com

Ohio EPA has designated the following as Site Coordinator for Ohio EPA:

Michael D. Sherron
Ohio EPA - DERR
2195 Front Street
Logan, OH 43138
(740) 385-8501 (phone)
(740) 385-6490 (fax)
michael.sherron@epa.state.ohio.us

An Alternate Site Coordinator will be designated by Cyprus Amax within seven (7) days of the

entry of this COPI. If the designated Site Coordinator or Alternate Site Coordinator is changed, the identity of the successor will be given to the other Party at least seven (7) days before the changes occur, unless impracticable, but in no event later than the actual day the change is made.

24. To the maximum extent practicable, except as specifically provided in this COPI, communications between Cyprus Amax and Ohio EPA concerning the implementation of this COPI shall be made between the Site Coordinators. Cyprus Amax's Site Coordinator shall be available for communication with Ohio EPA regarding the implementation of this COPI for the duration of this COPI. Cyprus Amax's Site Coordinator shall be responsible for ensuring that all communications from Ohio EPA are appropriately disseminated and processed to Chemetall. Cyprus Amax's Site Coordinator or Alternate Site Coordinator shall be present on the Site or on call during all hours of Work at the Site.

25. Without limitation of any authority conferred on Ohio EPA by statute, rule or regulation, the Ohio EPA Site Coordinator's authority includes but is not limited to the following:

a. Directing the type, quantity and location of samples to be collected by Cyprus Amax pursuant to an approved Work Plan;

b. Collecting samples;

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

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

e. Conducting investigations and tests related to the implementation of this COPI;

f. Inspecting and copying records, operating logs, contracts and/or other documents related to the implementation of this COPI; and

g. Assessing Defendants' compliance with this COPI.

XI. PROGRESS REPORTS AND NOTICE

26. Unless otherwise directed by Ohio EPA, Cyprus Amax shall submit a written progress report to Ohio EPA by the tenth (10^{th}) day of every month, except upon mutual agreement of the Site Coordinators allowing reports to be submitted quarterly during any period of insignificant activity. At a minimum, the progress reports shall include:

a. A description of the Work performed during the reporting period including an estimate of the percentage of the RI/FS completed;

b. A list of all target and actual completion dates for each element of activity including project completion;

c. An explanation for any deviation from any applicable schedule;

d. Summaries of all findings and sampling during the reporting period;

e. Summaries of all changes made in the RI/FS Work Plan during the reporting period, evidencing consultation with Ohio EPA and the date of approval by Ohio EPA for those changes, when necessary;

f. Summaries of all contacts with representatives of the local community, public interest groups or government agencies during the reporting period;

g. Summaries of all problems or potential problems encountered during the reporting period, including those which delay or threaten to delay completion of project milestones with respect to the approved work plan schedule;

h. Summaries of actions taken or planned to rectify such problems;

i. Changes in key personnel during the reporting period;

j. Projected Work for the next reporting period;

k. Upon request, copies of daily reports, inspection reports, sampling data, and laboratory/monitoring data, etc.;

l. The quantity of media treated, removed, or contained pursuant to the reporting requirements, if any, set forth in the SOW;

m. The disposition of contaminated soil, sediments, and waste material that was treated on or off site, or the disposal location for any quantity of contaminated ground water and/or surface water that was pumped and treated or disposed, if any.

27. Progress reports (one copy only) shall be sent either by e-mail (first name.last name @epa.state.oh.us) or by U.S. Mail to the address listed below. All other documents (two copies) required to be submitted pursuant to this COPI to Ohio EPA or any of the Defendants shall be sent by U.S. mail to the following:

Michael D. Sherron, or his successor
Ohio EPA - DERR
2195 Front Street
Logan, Ohio 43138
michael.sherron@epa.state.oh.us

With a copy to:

Dennisse Hooper
Chemetall Foote Corp.
348 Holiday Inn Drive
Kings Mountain, North Carolina 28086

All written correspondence to Cyprus Amax shall be directed to:

Barb Nielsen
Manager, Remediation Division

Freeport McMoRan Copper & Gold Inc.
One North Central Avenue
Phoenix, AZ 85004
(602) 366-8270 (phone)
(602) 366-7313 (fax)
barbara_nielsen@fmi.com

A copy of all legal notices, notices regarding dispute resolution, or notices regarding stipulated penalties shall also be directed to:

L. Richards McMillan II
General Counsel
Freeport McMoRan Copper & Gold Inc.
333 North Central Avenue
Phoenix, AZ 85004

Ohio EPA and/or Cyprus Amax may designate an alternative contact name or address upon written notification to the other Party and in accordance with the Designated Site Coordinator Section of this COPI, if applicable.

XII. REVIEW OF SUBMITTALS

28. Ohio EPA shall review any work plan, report, or other item required to be submitted pursuant to this COPI. Upon review for conformance with the SOW and the guidance listed in Appendix A and B to this COPI, Ohio EPA may in its sole discretion: (a) approve the submission in whole or in part; (b) approve the submission upon specified conditions; (c) modify the submission; (d) disapprove the submission in whole or in part, notifying Cyprus Amax of deficiencies; or (e) any combination of the above. The results of Ohio EPA's review shall be in writing and provided to Defendants.

29. In the event of approval, approval upon condition, or modification of any

submission by the Ohio EPA, Cyprus Amax shall proceed to take any action required by the submission as approved, conditionally approved, or modified by Ohio EPA. In the event that revisions requested by Ohio EPA to submittals delay the schedules set forth in the Work Plan, the schedules may be adjusted accordingly upon agreement between Ohio EPA and Cyprus Amax, which agreement shall not be unreasonably withheld by Ohio EPA.

30. In the event that Ohio EPA initially disapproves a submission, in whole or in part, or conditionally approves a submission and notifies Defendants in writing of the deficiencies, Cyprus Amax shall within thirty (30) days, or such longer period of time as specified by Ohio EPA in writing, correct the deficiencies and submit the revised submission to Ohio EPA for approval. The revised submission shall incorporate all of the changes, additions, and/or deletions specified by Ohio EPA in its notice of disapproval. Revised submissions shall be accompanied by a letter indicating how and where each of Ohio EPA's comments was incorporated into the submission. Any other changes made to the submission by Cyprus Amax shall also be identified in the letter. To the extent that Cyprus Amax disputes any changes, additions, and/or deletions specified by the Ohio EPA, Cyprus Amax shall initiate the procedures for dispute resolution set forth in the Dispute Resolution Section of this COPI, Section XIII, within fourteen (14) days after receipt of Ohio EPA's disapproval of a submission. Notwithstanding the disapproval, Cyprus Amax shall proceed to take any action required by an undisputed portion of the submission.

31. In the event that Ohio EPA disapproves a revised submission, in whole or in part, and notifies Cyprus Amax in writing of the deficiencies, Cyprus Amax shall within thirty (30) days, or such longer period of time as specified by Ohio EPA in writing, correct the deficiencies

and incorporate all changes, additions, and/or deletions, and submit the revised submission to Ohio EPA for approval. If Cyprus Amax fails to submit a revised submission incorporating all changes, additions, and/or deletions within thirty (30) days, or such period of time as specified by Ohio EPA in writing, Cyprus Amax shall be considered in breach and/or violation of this COPI. If Cyprus Amax is in breach and/or violation of this COPI, the State retains the right to seek termination of this COPI, perform any additional investigation, conduct a complete or partial Remedial Investigation or Feasibility Study and/or enforce the terms of this COPI as provided in the Reservation of Rights Section of this COPI.

32. All work plans, reports, or other items required to be submitted to Ohio EPA under this COPI, including any approved additional Work, shall, upon approval by Ohio EPA, be deemed to be incorporated in and made an enforceable part of this COPI. In the event that Ohio EPA approves a portion of a work plan, report, or other item, the approved portion shall be deemed to be incorporated in and made an enforceable part of this COPI. Delays in performance of Work covered by the COPI due to time taken for Ohio EPA review and approval shall not be considered a violation of this COPI.

XIII. DISPUTE RESOLUTION

33. The Site Coordinators shall, whenever possible, operate by consensus. In the event that there is a dispute about the adequacy of any work plan, report, or other item required to be submitted pursuant to this COPI or required to be submitted pursuant to the Additional Work Section of this COPI or if there is a dispute over the accuracy of Future Response Costs or whether Future Response Costs relate to the Work, Cyprus Amax's Site Coordinator shall have fourteen (14) days from the date the dispute arises to inform Ohio EPA of the dispute. Ohio

EPA and Cyprus Amax shall have fourteen (14) days for informal negotiations with respect to the dispute. This informal dispute period may be extended by agreement of Ohio EPA for up to a maximum of thirty (30) additional days. At the end of the informal dispute period, Cyprus Amax will have fourteen (14) days to institute the formal dispute resolution procedures of this Section by notifying Ohio EPA's Site Coordinator in writing.

34. Cyprus Amax's written notification instituting the formal dispute resolution procedure shall include the technical rationale supporting its position. If Cyprus Amax's written notice and technical rationale in support of the position are not received within fourteen (14) days from the end of the informal dispute period, the formal dispute resolution procedures may not be invoked for the disputed issue(s) and the dispute will be considered resolved. Ohio EPA shall have thirty (30) days from the date Cyprus Amax's formal written dispute position is received to reduce its position to writing. Ohio EPA's written position shall include the technical rationale supporting Ohio EPA's position. Following the exchange of written positions, the Site Coordinators shall have an additional fourteen (14) days to resolve the formal dispute. If Ohio EPA concurs with Cyprus Amax's position, then the work plan, report, or other items required to be submitted pursuant to this COPI shall be modified accordingly.

35. If Ohio EPA does not concur with Cyprus Amax's position, Ohio EPA shall notify Cyprus Amax in writing. Upon receipt of such written notice, Cyprus Amax shall have fourteen (14) days to forward the written statement of the dispute to a Division of Emergency and Remedial Response ("DERR") Manager and request a review of the decision regarding the dispute. If Cyprus Amax does not forward such a statement and request within fourteen (14) days, Ohio EPA will adopt its written position and the work plan, report, or other item required

to be submitted pursuant to this COPI, or any other item subject to the dispute resolution procedures of this Section shall be modified accordingly. If Cyprus Amax forwards such a statement and request within fourteen (14) days, a DERR Manager will resolve the dispute based upon and consistent with this COPI, the SOW, the RI/FS Work Plan, and other appropriate federal and State laws, rules and regulations.

36. The pendency of a dispute under this Section shall extend only the time period for completion of the tasks related to the matters in dispute, except that upon mutual agreement of Ohio EPA and Cyprus Amax, any time period may be extended as is deemed appropriate under the circumstances. Such agreement shall not be unreasonably withheld by Ohio EPA. Elements of the Work not affected by the dispute shall be completed in accordance with applicable schedules and time frames. The opportunity to invoke dispute resolution under the Dispute Resolution Section shall not be available to Defendants unless otherwise expressly provided in this COPI.

XIV. REIMBURSEMENT OF COSTS

37. Within thirty (30) days of the Effective Date of this COPI, Cyprus Amax on behalf of Defendants shall remit a check to the Ohio EPA in the sum of $292,725.93 for Past Response Costs.

38. Within thirty (30) days of the Effective Date of this COPI, Cyprus Amax of behalf of Defendants shall remit a check to the Ohio Attorney General's Office in the sum of $5,000.00 for Past Response Costs.

39. For Future Response Costs incurred after July 31, 2010, Ohio EPA will submit to Cyprus Amax on behalf of Defendants on an annual basis an itemized invoice of its Response

Costs for the previous year. Within sixty (60) days of receipt of such itemized invoice, Defendants shall remit payment for all of Ohio EPA's Response Costs for the previous year. Should Cyprus Amax on behalf of Defendants contest the accuracy of the Future Response Costs set forth in an itemized statement, require additional support for such costs, or dispute whether the Future Response Costs are related to the Work, Cyprus Amax on behalf of Defendants may invoke the procedures of the Dispute Resolution Section within fourteen (14) days of receiving the itemized statement. Any Future Response Costs which Cyprus Amax on behalf of Defendants must pay as a result of dispute resolution shall be paid within thirty (30) days of the resolution of the dispute. Interest shall accrue on non-disputed Future Response Costs not paid within sixty (60) days and on Future Response Costs not paid as a result of Dispute Resolution within thirty (30) days. In any calendar year, Cyprus Amax on behalf of Defendants may request, but not more frequently than quarterly, an estimate of Future Response Costs incurred to that date, and Ohio EPA shall provide such estimate, which in no way shall limit any later comprehensive statement of costs of that calendar year.

40. All payment requirements set forth in Paragraphs 37 through 39 above shall be subject to the provisions of Section XVII below. Cyprus Amax on behalf of Defendants shall remit payments to Ohio EPA pursuant to this Section as follows:

a. Payment shall be made by bank check payable to "Treasurer, State of Ohio/Hazardous Waste Special Cleanup Account" and shall remit transmittals to the following addresses:

i.

Treasurer, State of Ohio/Hazardous Waste Special Cleanup Account
Office of Fiscal Administration, Attn: Mary Cavin
Ohio EPA, Lazarus Government Center

P.O. Box 1049
Columbus Ohio 43216-1049

ii. Copies of Correspondence and Check(s):

Terri McCloskey, DERR Fiscal Officer
Ohio EPA, Lazarus Government Center
P.O. Box 1049
Columbus, Ohio 43216-1049.

b. A copy of the transmittal letter and check shall be sent to the Ohio EPA, Site Coordinator and to the Assistant Attorney General assigned to this case.

41. Cyprus Amax on behalf of Defendants shall remit payments to Ohio Attorney General's Office pursuant to this Section as follows:

Payment shall be made by bank check payable to "Treasurer, State of Ohio" c/o Karen M. Pierson, Paralegal, or her successor, at the Office of the Ohio Attorney General, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215,

XV. ACCESS TO INFORMATION

42. Upon request, Defendants shall provide to Ohio EPA within thirty (30) days, copies of all documents and information within its possession or control, or that of its contractors or agents, relating to events or conditions at the Site including but not limited to manifests, reports, correspondence, or other documents or information related to the Work or any approved additional Work. This provision shall not be a limitation on any request for information to Defendants by Ohio EPA made under State or federal law for information relating to events or conditions at the Site.

43. Defendants may assert a claim that documents or other information submitted to Ohio EPA pursuant to this COPI are confidential under the provisions of Ohio Adm. Code 3745-

50-30(A) or Ohio Rev. Code § 6111.05(A). If no such claim of confidentiality accompanies the documents or other information when it is submitted to Ohio EPA, it may be made available to the public without notice to Defendants.

44. Defendants may assert that certain documents or other information are privileged under the attorney-client privilege or any other privilege recognized by State law. If Defendants make such an assertion, it shall provide Ohio EPA with the following: (1) the title of the document or information; (2) the date of the document or information; (3) the name and title of the author of the document or information; (4) the name and title of each addressee and recipient; (5) a general description of the contents of the document or information; and (6) the privilege being asserted by Defendants.

45. No claim of confidentiality shall be made with respect to any data or reports, including but not limited to laboratory or interpretive reports, and all sampling, analytical, and monitoring data.

46. Defendants shall preserve for the duration of this COPI and for a minimum of seven (7) years after termination of this COPI, all documents and other information within its possession or control, or within the possession or control of its contractors or agents, which in any way relate to the Work or any approved additional Work notwithstanding any document retention policy to the contrary. Defendants may preserve such documents by microfiche or other electronic or photographic device. At the conclusion of this document retention period, Defendants shall notify Ohio EPA at least sixty (60) days prior to the destruction of these documents or other information; and upon request, shall deliver such documents and other information to Ohio EPA.

47. To the extent not prohibited by statute, rule or regulation, upon request by the Defendants, Ohio EPA shall reasonably provide Defendants access to public documents related to the Site or to the Work to be performed under this COPI, including but not limited to any data or other information submitted to Ohio EPA by persons other than Defendants.

XVI. POTENTIAL FORCE MAJEURE

48. If any event occurs which causes or may cause a delay in Cyprus Amax's compliance with any requirement of this COPI, Cyprus Amax shall immediately notify the Ohio EPA Site Coordinator verbally and then in writing within fourteen (14) days from when Cyprus Amax knew, or by the exercise of reasonable due diligence should have known of the event, describing in detail the anticipated length of the delay, the cause or causes of the delay, and the measures taken or anticipated to be taken by Cyprus Amax to prevent or minimize the delay. Financial hardship and/or inability to pay, and any failure of any of Defendants to take actions necessary to carry out the requirements of this COPI because of financial hardship and/or inability to pay, shall not be considered force majeure events. If Cyprus Amax fails to give notice of a potential force majeure event to Ohio EPA as required under this Paragraph, Cyprus Amax may not assert a potential force majeure defense with respect to the event in question.

49. In any action by Plaintiff to enforce any of the provisions of this COPI, Cyprus Amax may assert the defense that its conduct was caused by circumstances beyond its control such as, by way of example and not limitation, acts of God, acts of war, and civil disturbances. While Plaintiff does not agree that such a defense exists, it is, however, agreed by Cyprus Amax and Plaintiff that it is premature at this time to raise and adjudicate the existence of such a

defense, and that the appropriate time to adjudicate the existence of such a defense is at the time Plaintiff initiates an action to enforce the provisions of this COPI.

XVII. STIPULATED PENALTIES

50. In the event that the Cyprus Amax on behalf of Defendants violates any of the requirements of this COPI, Ohio EPA may assess, and subject to Sections XVII and XVIII, Cyprus Amax shall pay, a stipulated penalty according to the following payment schedule.

a. For each day of each failure to meet a requirement, up to thirty (30) days – Two Hundred Fifty Dollars ($250.00) per day.

b. For each day of each failure to meet a requirement, from thirty-one (31) days to sixty (60) days - Five Hundred Dollars ($500.00) per day.

c. For each day of each failure to meet a requirement, from sixty-one (61) days to ninety (90) days - Seven Hundred Fifty Dollars ($750.00) per day.

d. For each day of failure to meet a requirement, over ninety (90) days – One Thousand Dollars ($1,000.00) per day.

51. Any payment required to be made under the provisions of Paragraph 50 of this COPI shall be made by delivering to Plaintiff's counsel a bank check or checks for the appropriate amounts, within fifteen (15) calendar days from the date the failure to meet the requirement of the COPI is cured, payable to the order of "Treasurer, State of Ohio" c/o Karen M. Pierson, Paralegal, or her successor, at the Office of the Ohio Attorney General, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215. Defendants shall also state in writing with the payment the specific violation of the COPI alleged by Ohio EPA and the date(s) of non-compliance. The payment of stipulated penalties by Defendants and the acceptance of such stipulated penalties for specific violations of this COPI shall not be construed to limit Plaintiff's authority to seek additional relief or to otherwise seek

judicial enforcement of this COPI.

52. All penalties shall begin to accrue on the day after the complete performance is due or a violation occurs, and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity.

XVIII. COPI REQUIREMENTS ARE JOINT AND SEVERAL

53. In connection with the 1998 sale of Cyprus Foote Mineral Company to Chemetall GMBH, Cyprus Amax indemnified Chemetall for environmental liabilities at the Site. Pursuant to this indemnity, Cyprus Amax has agreed to undertake the obligations of this COPI. Nevertheless, the obligations of Cyprus Amax on behalf of Defendants to perform the Work of this COPI and to pay the amounts owed to the State under this COPI are joint and several as to Cyprus Amax and Chemetall. In the event of the insolvency, bankruptcy, or other failure of Cyprus Amax to pay the amounts owed to the State and/or to implement the Work and/or requirements of this COPI, Chemetall shall complete all such payments and/or Work and/or other requirements.

XIX. MODIFICATIONS

54. This COPI may be modified by agreement of the Parties. Modifications shall be in writing, signed by the authorized representatives of Defendants and the State of Ohio and memorialized in an order executed and entered by the judge assigned to this proceeding. Any such modifications shall be effective on the date the court enters its order approving such modifications.

XX. INDEMNITY

55. 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, the implementation of this COPI, including any acts or omissions of Defendants, their officers, employees, receivers, trustees, agents, or assigns. Said indemnification shall not apply to acts or omissions of the State of Ohio, its employees, agents or assigns at, on, upon, or related to the Site if said acts are performed outside the scope of employment or official responsibilities, or performed with malicious purpose, in bad faith, or in a wanton or reckless manner. 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 COPI. The State agrees to provide notice to Defendants within thirty (30) days after receipt of any claim that 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.

XXI. OTHER CLAIMS

56. Nothing in this COPI shall constitute or be construed as a release from any claim, cause of action, or demand in law or equity against any person, firm, partnership, or corporation not a Party to this COPI for any liability arising from, or related to, events or conditions at the Site, including without limitation the State's right to seek recovery of any Past and Future Response Costs not paid by Defendants hereunder, and civil penalties for any violations that have occurred at the Site.

XXII. RESERVATION OF RIGHTS

57. The State reserves the right to seek further relief from this or any Court including, without limitation, further preliminary and/or permanent injunctive relief, claims not alleged in

the Complaint, and cost recovery for work beyond this COPI. This reservation explicitly includes the State's right to pursue an order implementing a remedy for contamination at the Site, including, without limitation, a RD/RA Order, and to seek recovery of costs for such work. This reservation also explicitly includes the State's right to seek relief for claims for damages to natural resources. Except as provided in Paragraph 58, this COPI does not waive any defenses which Defendants may have as to such further relief.

58. The State also expressly reserves, and this COPI shall be without prejudice to, any civil or criminal claims, demands, rights, or causes of action, judicial or administrative, the State may have or which may in the future accrue against Defendants or others, regardless of whether such claim, demand, right or cause of action was asserted in the Complaint. This COPI does not waive defenses that Defendants may have as to such claims, demands, rights or causes of action and the further relief reserved in Paragraph 57, except that Defendants shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims, demands, rights or causes or action raised by the State in the subsequent proceeding were or should have been brought in the instant case.

59. Nothing herein shall limit the authority of the State to undertake any action against any entity, including Defendants, to eliminate or control conditions which may present a threat to the public health, safety, welfare or environment, and to seek cost reimbursement for any such action.

60. Entering into this COPI, the COPI 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 or in the Complaint.

61. Defendants reserve all rights that they may have against any persons who are not parties to this COPI under all federal, state and local laws, except as may be set forth in a separate agreement or agreements.

XIII. NATURAL RESOURCE DAMAGES

62. Defendants agree that the time period between the Effective Date of this COPI and the completion and approval by the State of the Natural Resource Damage Assessment as part of the Feasibility Study, as set forth in Paragraphs 63 and 64 below, will not be included in computing the time periods under the statute of limitations set forth in CERCLA § 113 (g) (1), 42 U.S.C. § 9613(g)(1). Defendants agree not to assert, plead or raise in any fashion, in any such action hereafter initiated or maintained by the State of Ohio, whether by answer, motion or otherwise, any defense or avoidance based on: (a) running of the statute of limitations during the aforementioned period; or (b) laches or other principles concerning the timeliness of commencing a civil action based upon the failure of the State of Ohio to assert such claims during the aforementioned period; and the statute of limitations shall be tolled during and for such period.

63. Defendants shall collect the necessary data to be consistent with CFR Title 43, Part 11 "Natural Resource Damage Assessments," §§ 11.61, 11.62, 11.63 and 11.64, in addition to data specified in the attached SOW.

64. Defendants shall evaluate the extent to which natural resource restoration is provided by each alternative presented in the Feasibility Study, pursuant to CFR Title 43, Part 11, § 11.73. Defendants shall evaluate additional natural resource restoration alternatives as part of the Natural Resources Damage Assessment and document these findings in the Feasibility Study.

65. Independently, or concurrently with settlement of NRD claims Defendants agree to complete mitigation pursuant to the requirements of Ohio Administrative Code Section 3745-1 "Ohio Water Quality Standards, ,of any Federal jurisdictional or state isolated wetlands destroyed, filled, or otherwise compromised during the implementation of the Work as part of any remedy selected at the completion of the RI/FS. Any such wetland areas destroyed, filled, or otherwise compromised shall be catalogued during the RI/FS process and the total acreage of these wetlands shall be reported on the progress reports submitted to the State of Ohio.

66. The Parties shall negotiate in good faith to resolve all natural resource claims, including, but not limited to evaluations of past damages and future lost use, prior to completion of an assessment by Ohio EPA, pursuant to CFR Title 43, Part 11, §§ 11.70 et seq. If the Parties fail to reach a settlement of natural resource damages claims following good faith negotiations, the Parties reserve all rights they may have under the applicable federal statutes and regulations.

67. Notwithstanding any other provision of this COPI, any dispute concerning the scope of the data collection or the content of the findings required under this Section XXIII shall be resolved by mutual agreement of the parties or adjudication by the Court, rather than by the Dispute Resolution provisions of Section XIII.

XXIV. STAY OF LITIGATION

68. Other than for the purpose of enforcing compliance with this COPI, the Parties agree that all further proceedings in this case, including but not limited to filing answers and propounding discovery, shall be stayed as to Defendants pending further order of this Court. The State and Defendants reserve the right to move the Court to lift such stay. For purposes of filing answers pursuant to Civil Rule 12, Defendants shall have sixty (60) days to file answers after the stay is lifted.

XXV. RETENTION OF JURISDICTION

69. This Court shall retain jurisdiction of this matter for the purpose of overseeing compliance with this COPI.

XXVI. CONTRIBUTION PROTECTION

70. With respect to matters addressed in this COPI, the Parties agree that Defendants are entitled to contribution protection and claim preclusion as of the Effective Date of this COPI as to any persons who are not Parties to this COPI as provided by CERCLA Section 113(f)(2), 42 U.S.C. § 9613(f)(2), or other state or federal laws so long as Defendants comply with this COPI. The "matters addressed" in this COPI are the Work and the Past and Future Response Costs paid as required by this COPI.

71. For so long as the Defendants are in compliance with the terms of this COPI, the State shall not (i) grant contribution protection to any persons who are not Parties to this COPI for the "matters addressed" by the Defendants under this COPI, and (ii) shall not enter into a separate Consent Order with any persons who are not Parties to this COPI that otherwise

constitutes a release, covenant not to sue, or other settlement whatsoever of "matters addressed" by the Defendants. As set forth in Section XXI and XXII of this COPI, for any civil or criminal claims, demands, rights, or causes of action, judicial or administrative, the State may have against Defendants and/or any person, firm, partnership, or corporation not a Party to this COPI for any liability arising from, or related to, events or conditions at the Site that are not "matters addressed" by Defendants, the State reserves all of its rights, which may include entering into separate Consent Orders that constitute a release, covenant not to sue, or other settlement

XXVII. TERMINATION

72. Defendants' obligations under this COPI shall terminate upon approval in writing by Ohio EPA of Defendants' written certification to Ohio EPA that all Work required to be performed under this COPI, including any approved additional Work, and the requirements for the payment of Response Costs has been completed. Defendants' certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate, and complete." This certification shall be submitted by Defendants to Ohio EPA and shall be signed by responsible officials of Defendants. The termination of Defendants' obligations under this COPI shall not terminate Defendants' obligations or entitlements under the Reservation of Rights, Access to Information, Indemnity, Other Claims, and Contribution Protection.

XXVIII. NEGOTIATION OF FINAL CONSENT ORDER

73. Upon termination of this COPI, the Parties agree to meet and confer in good faith concerning the negotiation of a consent order that would include, but not necessarily be limited

to, a permanent injunction implementing the Remedial Design and Remedial Action ("RD/RA") for the selected remedy and the payment of response costs related to the RD/RA. If the Parties fail to reach a settlement of such claims following good faith negotiations, the Parties reserve all rights they may have under the applicable federal statutes and regulations.

XXIX. ENTRY OF COPI AND JUDGMENT BY CLERK

74. Upon signing of this COPI by the Court, the clerk is directed to enter it upon the journal.

XXX. AUTHORITY TO ENTER INTO THE COPI

75. Each signatory for a corporation represents and warrants that he/she has been duly authorized to sign this document and so bind the corporation to all terms and conditions thereof, and that he/she submits with this COPI an authenticated and certified resolution from the corporation establishing that he/she is so empowered.

IT IS SO ORDERED AND AGREED.

11-3-2010

UNITED STATES DISTRICT JUDGE

E. Sargus

APPROVED:

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Ohio Attorney General

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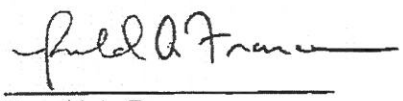

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