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FILED
APR 18 2006
PHIL G. GIAVASIS
STARK COUNTY OHIO
CLERK OF COURTS

IN THE COURT OF COMMON PLEAS
STARK COUNTY, OHIO

STATE OF OHIO, ex rel.
JIM PETRO
ATTORNEY GENERAL OF OHIO,

Plaintiff,

v.

ASHLAND INC.
(whose former division was known as
ASHLAND PETROLEUM COMPANY)
CANTON, OHIO REFINERY

Defendant.

CASE NO. 2004-CV-00752

JUDGE REINBOLD

FILED

APR 18 2006

**PHIL G. STAVASIS
STARK COUNTY OHIO
CLERK OF COURTS**

CONSENT ORDER

The Complaint in the above-captioned matter having been filed herein, and Plaintiff, State of Ohio, by its Attorney General Jim Petro (hereinafter "State") at the request of the Ohio Environmental Protection Agency ("Ohio EPA"), and Defendant, Ashland Inc. (whose former division was known as Ashland Petroleum Company and which previously owned and operated the Canton, Ohio Refinery (hereinafter "Defendant")), having consented to the entry of this Order,

NOW THEREFORE, without the taking of any evidence, or trial or adjudication of any issue of fact or law, without admission of any fact, issue or liability by Defendant, and upon consent of the Parties hereto, it is hereby ORDERED AND DECREED as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the Parties and the subject matter of this case. The Complaint states a claim upon which relief can be granted against Defendant under Ohio Revised Code (hereinafter "O.R.C.") Chapter 6111 for purposes of this Consent Order, and that venue is proper in this Court for purposes and duration of the order.

II. PARTIES BOUND

2. This Consent Order shall apply to and be binding on the persons as provided for in Civil Rule 65 (D). Defendant specifically agrees that Marathon Petroleum Company LLC (formerly known as Marathon Ashland Petroleum LLC) (hereinafter "MPC") shall be given a copy of this Consent Order within thirty (30) days of it being entered by the Court.

3. Defendant shall provide a copy of this Consent Order to any contractor or consultant specified by the State and to each major contractor, subcontractor and consultant employed to perform any of the work itemized or referenced herein. For purposes of this Consent Order, a major contractor, subcontractor or consultant is one who has received a contract for which Defendant or one of its contractors is obligated to pay more than \$25,000.00 in any year or who has been paid more than \$25,000.00 in a year.

4. No change in corporate ownership or status of Defendant, including, without limitation, any transfer of assets or real or personal property, shall in any way alter Defendant's obligations under this Consent Order. Defendant shall provide a copy of this Consent Order to any subsequent owner(s) or successor(s) prior to transfer of such ownership rights. At any time after the entry of this Consent Order, if MPC or, its ultimate parent corporation, Marathon Oil Corporation (or any of Marathon Oil Corporation's direct or remote subsidiaries that are subject to its control) (hereinafter individually and collectively "Marathon"), agree to accept all or part

of the obligations under this Consent Order that Ashland has not already performed, MPC (under any new name that it might then have) or Marathon shall be substituted for Ashland Inc. under this Consent Order to the extent of the duties that are being assumed once an executed binding written commitment in the form of an Amendment to this Consent Order is presented to the State and filed with the Court thirty (30) days later. The Defendant may also propose to substitute another party for itself in whole or in part under this Consent Order for State's approval. Once a party has been substituted for the existing Defendant pursuant to this Paragraph, the substituted party will be the only "Defendant" for purposes of the Consent Order for those obligations that it has assumed under an Amendment to this Consent Order. (Notwithstanding the foregoing, Ashland shall remain liable for those obligations under the Consent Order that are not assumed by MPC, Marathon, or a third party approved as a substitute in the Amendment.) If there is a dispute between the Parties on any substitution issues or if the State fails to respond within ninety (90) days or within any mutually agreed extended deadline to such a written request for substitution of a party, the matter shall be resolved by the Court on a reasonable basis.

In the event that a party is substituted for Ashland Inc. for all unfulfilled obligations of the Consent Order or for the unfulfilled obligations for one or more action areas or The Northeast Storm Sewer, Ashland may request that Ohio EPA provide a letter acknowledging acceptance of the Work Ashland had performed as of the time of substitution, with exceptions specifically described therein. Any Amendment request under this paragraph shall designate a contact person for the substituting entity under this Consent Order, who shall thereafter be treated the same as the original contact persons named in Section X of this Consent Order entitled Notice.

III. DEFINITIONS

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

- a). The "Site" shall mean the oil refinery located at 2408 Gambrinus Avenue in Canton, Stark County, Ohio, and adjacent properties owned by Ashland or MPC (formerly known as Marathon Ashland Petroleum LLC), as outlined on the attached map. (See Exhibit A - Site Map).
- b). "The Work Plan" or "Work Plans" shall mean Attachments I, II and III, attached hereto, and hereby specifically incorporated herein, and any amendments or modifications to such Attachments that may from time to time occur through agreement of the Parties. This term also includes any future Work Plans developed pursuant to the terms of this Consent Order, and any amendments or modifications to such Work Plans that may from time to time occur through agreement of the Parties.
- c). "The Southern Action Area" shall mean the area of the Site along the southern boundary of the Site's property line, between groundwater monitoring wells 90-19R, 90-16 and 90-26 (and including those monitoring wells proposed off-Site in Attachment I which have not yet been installed). (See Exhibit B - Remedial Progress Map).
- d). "The North Action Area" shall mean the northern portion of the Site, on the east side of Gambrinus Avenue, or the "contractor's yard area," as bounded by monitoring points 93-83, 90-38, 90-17, 90-49, 90-47, 90-41A and 90-43. (See Exhibit B - Remedial Progress Map).
- e). "The Well-Field Action Area" shall mean the production water well field located west of Gambrinus Avenue, as bounded by monitoring points 90-62A, 90-37, 90-56, 94-87, 90-51, 90-28, RW-1/90-14, 90-57, 93-80 and 94-86. (See Exhibit B - Remedial Progress Map).
- f). "The Northeast Storm Sewer" shall mean the seven monitoring locations labeled A-G. (See Exhibit B - Remedial Progress Map).
- g). "The Groundwater Monitoring System" shall mean a groundwater monitoring system which shall consist of a sufficient number of wells, installed at appropriate locations and depths, to yield groundwater samples from the uppermost aquifer system that represent the quality of groundwater at the Site under any varying conditions as required in the currently applicable Groundwater Detection Monitoring Plan.
- h). "Chemicals Of Concern" shall mean Benzene, Toluene, Ethylbenzene, Total Xylenes, and, for purposes of a termination criterion for Dissolved Phase Hydrocarbon Remediation but not for purposes of groundwater sampling, Naphthalene.

i). "Groundwater Contamination" shall mean Benzene, Toluene, Ethylbenzene, and Total Xylenes for purposes of Defendant's groundwater monitoring program conducted pursuant to Attachment III (Groundwater Detection Monitoring Plan) and Benzene, Toluene, Ethylbenzene, Total Xylenes and Naphthalene for purposes of the "Termination Criteria for Dissolved Phase Hydrocarbon Remediation", as defined herein.

j). The "Work" shall mean the activities set forth in the Consent Order and in "The Work Plans," and any and all other Work Plans developed and approved pursuant to the Consent Order, in the manner, within the times frames, and according to the definitions detailed therein.

k). "Delineation" shall be deemed to occur at a monitoring well once 1) monitoring has demonstrated that "Groundwater Contamination" is no longer detected in groundwater samples from the well, or 2) Ohio EPA accepts in writing that Defendant's delineation activities are complete.

l). "Termination Criteria For Dissolved Phase Hydrocarbon Remediation" shall mean the achievement of any one of the following conditions in The Southern Action Area, The North Action Area, or The Well-Field Action Area:

i). The concentrations of the Chemicals of Concern within the groundwater meet site-specific risk based levels.

OR

ii). The Director of Ohio EPA approves in writing Defendant's proposal that it may cease all or a portion of dissolved phase recovery operations, based on documentation and justification demonstrating the technical impracticability of continuation.

OR

iii). The Director of Ohio EPA approves in writing Defendant's proposal to stop any further remediation of the groundwater. Defendant's proposal may include but shall not be limited to a technical analysis of why no further remediation of the groundwater is achievable.

OR

iv). The Defendant achieves any of the Termination Criteria for Dissolved Phase Hydrocarbon Remediation agreed to by the Parties in a good faith amendment to this Consent Order pursuant to the Re-Opener Clause established herein.

m). "Re-Opener Clause" shall mean the clause pursuant to which Defendant may evaluate developments, including but not limited to, advances in dissolved phase hydrocarbon remediation methods applicable to refineries and/or developments in termination criteria for dissolved phase hydrocarbon remediation that may occur after entry of this Consent Order. Upon a written request by Defendant, the State will

consider the request and either approve or disapprove a reopener request in writing within ninety (90) days of its receipt, unless the Parties have agreed to one or more extensions of thirty (30) days to permit continuing discussions. If the State approves the request, as proposed or with mutually agreed changes, the State will join and support a Motion to amend the injunctive relief requirements of this Consent Order in accordance with the Parties' agreement. If the State disapproves the request or fails to act on the request within ninety (90) days or within any mutually agreed extended deadline, Defendant may seek this Court's approval to amend the Consent Decree on a reasonable basis.

IV. SATISFACTION OF LAWSUIT

6. The State alleges in its Complaint that Defendant has operated the Site in such a manner as to result in violations of O.R.C. Chapter 6111 and the regulations adopted thereunder and Defendant denies any violation of law. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability of Defendant and all other Parties bound by this Consent Order as set forth in Paragraph 2 for the claims alleged in the State's Complaint. Nothing in this Section shall apply to new conditions at or new information about the Site, or to any new violations arising out of acts or omissions occurring after the date of entry of this Consent Order.

V. PERMANENT INJUNCTION

7. With respect to the Site, Defendant is hereby permanently enjoined and ordered to comply as set forth in this Consent Order with the applicable requirements of O.R.C. Chapter 6111 and the rules promulgated thereunder, as well as any revisions or modifications thereto and any terms and conditions of any permits and any renewals or modifications thereof issued under this Chapter. The objective of the Parties in entering this Consent Order is to follow a program of sound and feasible scientific, engineering and construction practices to protect public health, safety, and welfare and the environment from the disposal, discharge, or release of petroleum

materials at the Site through the development and implementation of the Work ordered by this Consent Order and all actions concerning the Site shall be consistent with this objective.

8. Beginning on the effective date of this Consent Order, Defendant is enjoined and ordered to perform the work described in "The Work Plan," and any and all other Work Plans developed pursuant to this Consent Order, in the manner, within the time frames, and according to the definitions detailed therein. The terms, conditions, dates, and all other language contained in this Consent Order and the Work Plan and any Work Plans developed and approved pursuant to this Consent Order shall be read as one document. Each Party has an obligation to notify the other of any conflicts between the Consent Order and the Work Plans within a reasonable time period and the State and the Defendant shall resolve any such conflicts by discussion.

9. In connection with the Work, Defendant is hereby enjoined and ordered to comply with any and all applicable Ohio Administrative Code (hereinafter "O.A.C.") rules for installing or abandoning any monitoring or recovery well.

VI. INJUNCTIVE RELIEF
The Southern Action Area

10. No later than February 1, 2007, Defendant shall initiate the Work necessary to delineate the complete rate, concentration, and extent of any off-Site migration of Groundwater Contamination along The Southern Action Area of the Site between groundwater monitoring wells 90-19 and 90-26, pursuant to the terms and conditions outlined in Sections 1.1, and 2.1.1-2.7 of Attachment I (Work Plan For Phase I Off-site Investigation).

11. No later than ninety (90) days after completion of its initial delineation activities, Defendant shall submit to Ohio EPA an Initial Investigation Report detailing the results of its investigation of the off-Site migration of Groundwater Contamination and any delineation

achieved in The Southern Action Area, in accordance with the terms and conditions in Section 2.8 of Attachment I (Work Plan for Phase I Off-site Investigation).

a. If the Initial Investigation Report demonstrates that there is no off-Site migration of Groundwater Contamination from the Canton Refinery, Defendant has no further obligations for The Southern Action Area under this Section VI. Injunctive Relief (The Southern Action Area).

b. If, however, the Initial Investigation Report demonstrates that any off-Site migration of Groundwater Contamination has been delineated in The Southern Action Area, the Initial Investigation Report shall include a map depicting the boundaries of the Groundwater Contamination in The Southern Action Area.

c. If, however, the Initial Investigation Report demonstrates that any off-Site migration of Groundwater Contamination has not been delineated based on the initial phase of Defendant's investigation in The Southern Action Area, then no later than six (6) months after submittal of the Initial Investigation Report, Defendant shall submit to Ohio EPA for approval a Delineation Work Plan for the completion of its delineation investigation. (If the Delineation Work Plan is necessary, Defendant shall propose for Ohio EPA's approval selected milestone deadlines in the Delineation Work Plan that shall be subject to stipulated penalties under Section XVII. Stipulated Penalties.) Upon approval of the Delineation Work Plan, Defendant shall implement the plan in accordance with the schedule contained therein. Defendant shall continue to conduct its delineation investigation in accordance with the approved Delineation Work Plan, until either 1) off-Site Groundwater Contamination has been delineated in The Southern Action Area, or 2) the Ohio EPA agrees in writing that Defendant has completed its delineation investigation in The Southern Action Area. Upon Ohio EPA's approval that either of the two conditions set forth in the immediately preceding sentence have been completed, Defendant shall submit a Final Investigation Report to the Ohio EPA within ninety (90) days. Included in this Final Investigation Report shall be a map depicting the boundaries of the Groundwater Contamination in The Southern Action Area.

12. Notwithstanding the foregoing in Paragraph 11, if Defendant's Initial Investigation Report or its Final Investigation Report demonstrates the existence of free phase hydrocarbons or "free product" in The Southern Action Area, then within ninety (90) days of the submittal of the report demonstrating the existence of free product Defendant shall submit to Ohio EPA for approval a Free Product Investigation Report, which will evaluate the feasibility of extending free phase hydrocarbon recovery activities to The Southern Action Area or other remediation alternatives for free phase hydrocarbon recovery in this area. This report will

include a preferred alternative for addressing free-product in The Southern Action Area and a proposed schedule for implementation of the preferred alternative. Upon approval by Ohio EPA, Defendant will implement free phase hydrocarbon recovery activities in accordance with the Free Product Investigation Report and the schedule contained therein. (If the Free Product Investigation Plan is necessary, Defendant shall propose for Ohio EPA's approval selected milestone deadlines in the Free Product Investigation Work Plan that shall be subject to stipulated penalties under Section XVII. Stipulated Penalties.) Defendant shall continue to conduct free-phase hydrocarbon recovery operations in The Southern Action Area until either one of the two "Termination Criteria for Free Phase Hydrocarbon Recovery," as defined below, has been achieved in The Southern Action Area:

a). Defendant makes a demonstration that monitoring wells between 90-19 and 90-26, and any other well(s) currently inside The Southern Action Area or any future well(s) inside The Southern Action Area have had 1/8 inch or less of free product, measured using best available technology, for at least three consecutive semi-annual monitoring events;

OR

b). The Ohio EPA approves Defendant's proposal to stop free-phase hydrocarbon recovery and begin dissolved-phase hydrocarbon remediation in The Southern Action Area. Defendant's proposal may include but shall not be limited to a technical analysis of the reason for cessation of the free-phase hydrocarbon recovery operations.

13. Notwithstanding the foregoing, if Defendant's Initial Investigation Report or its Final Investigation Report demonstrates a possibility of co-mingling from other sources of contamination in The Southern Action Area, Defendant may submit a Consent Order Amendment Request to the State. The State will consider the Request and either approve or disapprove of the Amendment Request in writing within ninety (90) days of its receipt, unless the Parties agree to one or more extensions of thirty (30) days to permit continuing discussions. If the State approves the Request, as proposed or with mutually agreed changes, the State will join and support a Motion to amend the injunctive relief requirements of this Consent Order in

accordance with the Parties' agreement. If the State disapproves the Request or fails to take action on the Request within the time allowed, including any mutually agreed extension(s), Defendant may petition the Court to request an Amendment to the Consent Order and the Court shall resolve the matter on a reasonable basis.

14. Upon completion of the later of either 1) delineation activities under Paragraph 11(b) or Paragraph 11(c) or 2) achievement of either of the criteria set forth in Paragraph 12 for cessation of free-phase hydrocarbon recovery operations, Defendant shall monitor groundwater in The Southern Action Area, in accordance with its existing monitoring program as set forth in the currently applicable Groundwater Detection Monitoring Program Plan (and as amended from time to time), for a period of two (2) years and shall include the results of its monitoring in its semi-annual reports to Ohio EPA.

15. Within nine (9) months of the completion of the two-year monitoring period set forth in Paragraph 14 above, Defendant shall submit to Ohio EPA for approval a Remediation Study. This study will include but not be limited to an analysis of the use of air sparging, biological degradation, chemical degradation, hydraulic containment (drawing off-site contaminants within the boundaries of the Site) and any other method Defendant proposes in order to remediate Groundwater Contamination in The Southern Action Area.

16. Within one (1) year of Ohio EPA's approval of Defendant's Remediation Study, Defendant shall submit to Ohio EPA for approval a Remediation Plan. This plan will include the results of the Remediation Study with a proposal of the method (or combination of methods) Defendant will undertake to remediate Groundwater Contamination in The Southern Action Area, and a schedule for implementation of the proposed method(s). Once approved by Ohio EPA this schedule will be incorporated into this Consent Order and become an enforceable part

of this Consent Order. (If the Remediation Plan is necessary, Defendant shall propose for Ohio EPA's approval selected milestone deadlines in the Remediation Plan that shall be subject to stipulated penalties under Section XVII. Stipulated Penalties.)

17. The Defendant may also submit with its Remediation Plan or at any time after ten (10) years from the entry of this Consent Order a request to invoke the Re-Opener Clause defined in Section III, Definitions of this Consent Order.

18. Defendant will continue to remediate Groundwater Contamination in "The Southern Action Area" until one of the "Termination Criteria For Dissolved Phase Hydrocarbon Remediation," as defined in Paragraph 5(1) has been achieved.

19. Defendant shall conduct five (5) years of post-remediation confirmatory monitoring following achievement of one of the criteria listed in Paragraph 5(1) defining the "Termination Criteria for Dissolved Phase Hydrocarbon Remediation." If after five (5) years of post remediation confirmatory monitoring, Defendant is unable to continue to satisfy the terms and conditions in Paragraph 5(1) defining the "Termination Criteria for Dissolved Phase Hydrocarbon Remediation", then Defendant will submit a New Remediation and Monitoring Plan to Ohio EPA for approval. Included with the New Remediation and Monitoring Plan will be a schedule for further remediation and a post remediation monitoring plan. Once approved this schedule will be incorporated into this Consent Order and become an enforceable part of this Consent Order. (If the New Remediation and Monitoring Plan is necessary, Defendant shall propose for Ohio EPA's approval selected milestone deadlines in the New Remediation and Monitoring Plan that shall be subject to stipulated penalties under Section XVII. Stipulated Penalties.)

The North Area
Groundwater Detection Monitoring Plan

20. Defendant shall continue to conduct the semi-annual groundwater monitoring program in The North Action Area, in order to monitor the extent of known underground free-phase hydrocarbon accumulations and the extent of dissolved petroleum hydrocarbon indicator parameters, specifically benzene, toluene, ethylbenzene, and xylenes (hereinafter "BTEX"). Defendant shall conduct the semi-annual groundwater monitoring program in The North Action Area, pursuant to the terms and conditions of Attachment III (Groundwater Detection Monitoring Plan), until the provisions of Paragraph 5(l) defining the "Termination Criteria of Dissolved Phase Hydrocarbon Remediation" have been achieved. Further, Defendant shall monitor monitoring wells in The North Action Area to determine the apparent hydrocarbon thickness and water level elevations, pursuant to the terms and conditions of Section 3.2.2 of Attachment II (Groundwater Remediation Work Plan). Results of the semi-annual groundwater monitoring program in The North Action Area shall be provided to Ohio EPA as part of the semi-annual status reports, pursuant to the terms and conditions outlined in Section 3.4 of Attachment III (Groundwater Detection Monitoring Plan), by no later than February 1 and August 1 of each year, effective immediately.

21. At all times Defendant's Groundwater Monitoring System shall consist of a sufficient number of wells, installed at appropriate locations and depths, to yield groundwater samples from the uppermost aquifer system, which represent the quality of groundwater at the Site under any varying conditions. If at any time Defendant's Groundwater Monitoring System fails to meet this standard then Defendant shall install new wells or take other agreed actions to meet this objective.

Free-Phase Hydrocarbon Recovery Operations

22. Defendant shall continue to conduct free-phase hydrocarbon recovery operations in The North Action Area pursuant to the terms and conditions of the Work Plan, until one of the two "Termination Criteria for Free Phase Hydrocarbon Recovery Operations," described below, has been achieved in The North Action Area:

a). Monitoring wells 93-83, 90-38, 92-71, 90-17, 90-49, 90-47, 90-41A, and 90-43, and any other well(s) currently inside The North Action Area or any future well(s) inside The North Action Area, have had 1/8 inch or less of free product, measured using best available technology, for at least three consecutive semi-annual monitoring events;

OR

b). The Ohio EPA approves Defendant's proposal to stop free-phase hydrocarbon recovery and begin dissolved-phase hydrocarbon remediation in The North Action Area. Defendant's proposal may include but shall not be limited to a technical analysis of the reason for cessation of the free-phase hydrocarbon recovery operations.

Dissolved-Phase Hydrocarbon Remediation

23. No later than sixty (60) days after the terms and conditions in Paragraph 22 (Termination Criteria for Free Phase Hydrocarbon Recovery Operations) have been satisfied, Defendant shall submit to Ohio EPA for approval a Dissolved-Phase Hydrocarbon Remediation Study for The North Action Area. This study will include but not be limited to an analysis of the use of air sparging, biological degradation, chemical degradation, hydraulic containment (drawing off-site contaminants within the boundaries of the Site) and any other method Defendant proposes in order to remediate the Groundwater Contamination. As part of the submittal Defendant will include a schedule to begin and complete the study and a date for submittal of the final report of the Dissolved-Phase Hydrocarbon Remediation Study. Once approved by Ohio EPA this schedule will be incorporated into this Consent Order and become an enforceable part of this Consent Order.

24. Defendant shall submit with the final report from the Dissolved-Phase Hydrocarbon Remediation Study a Dissolved-Phase Hydrocarbon Remediation Plan. This plan will include a proposal of the method (or combination of methods) Defendant will undertake to remediate the Groundwater Contamination in The North Action Area, and a schedule for implementation of the proposed method(s). Once approved by Ohio EPA this schedule will be incorporated into this Consent Order and become an enforceable part of the Consent Order. (Defendant shall propose for Ohio EPA's approval selected milestone deadlines in the Dissolved-Phase Hydrocarbon Remediation Plan that shall be subject to stipulated penalties under Section XVII. Stipulated Penalties.)

25. The Defendant may also submit with its Dissolved Phase Hydrocarbon Remediation Plan or at any time after ten (10) years from the entry of this Consent Order a request to invoke the Re-Opener Clause defined in Section III, Definitions of this Consent Order.

26. Defendant will continue to remediate the dissolved-phase Groundwater Contamination in The North Action Area until one of the "Termination Criteria for Dissolved Phase Hydrocarbon Remediation," as defined in Paragraph 5(1), has been achieved.

27. Defendant shall conduct five (5) years of post-remediation confirmatory monitoring following achievement of one of the criteria listed in Paragraph 5(1) defining the "Termination Criteria for Dissolved Phase Hydrocarbon Remediation". If after five (5) years of post remediation confirmatory monitoring, Defendant is unable to continue to satisfy the terms and conditions in Paragraph 5(1) defining the "Termination Criteria for Dissolved Phase Hydrocarbon Remediation", then Defendant will submit a New Remediation and Monitoring Plan to Ohio EPA for approval. Included with the New Remediation and Monitoring Plan will be a schedule for further remediation and post remediation monitoring plan. Once approved this schedule will

be incorporated into this Consent Order and become an enforceable part of this Consent Order. (If the New Remediation and Monitoring Plan is necessary, Defendant shall propose for Ohio EPA's approval selected milestone deadlines in the New Remediation and Monitoring Plan that shall be subject to stipulated penalties under Section XVII. Stipulated Penalties.)

The Well-Field Area

Groundwater Detection Monitoring Plan

28. Defendant shall continue to conduct a semi-annual groundwater monitoring program in The Well-Field Action Area, in order to monitor the extent of known underground free-phase hydrocarbon accumulations and the extent of dissolved petroleum hydrocarbon indicator parameters, specifically BTEX. Defendant shall conduct the semi-annual groundwater monitoring program in The Well-Field Action Area, pursuant to the terms and conditions of Attachment III (Groundwater Detection Monitoring Plan), until the provisions of Paragraph 5(l) defining the "Termination Criteria of Dissolved Phase Hydrocarbon Remediation" have been achieved. Further, Defendant shall monitor monitoring wells in The Well-Field Action Area to determine the apparent hydrocarbon thickness and water level elevations, pursuant to the terms and conditions of Section 3.2.2 of Attachment II (Groundwater Remediation Work Plan). Results of the semi-annual groundwater monitoring program in The Well-Field Action Area shall be provided to Ohio EPA as part of the semi-annual status reports, pursuant to the terms and conditions outlined in Section 3.4 of Attachment III (Groundwater Detection Monitoring Plan), by no later than February 1 and August 1 of each year, effective immediately.

29. At all times Defendant's Groundwater Monitoring System shall consist of a sufficient number of wells, installed at appropriate locations and depths, to yield groundwater samples from the uppermost aquifer system that represent the quality of groundwater at the Site

under any varying conditions. If at any time Defendant's Groundwater Monitoring System fails to meet this standard then Defendant shall install new wells or take other agreed actions to meet this objective.

Free-Phase Hydrocarbon Recovery Operations

30. Defendant shall continue to conduct free-phase hydrocarbon recovery operations in The Well-Field Action Area pursuant to the terms and conditions of the Work Plan, until one of the two Termination Criteria for Free Phase Hydrocarbon Recovery Operations, described below, has been achieved:

a). Defendant makes a demonstration that monitoring wells 90-62A, 90-37, 90-56, 94-87, 90-51, 90-28, RW-1/90-14, 90-57, 93-80 and 94-86, and any other well(s) currently inside The Well-Field Action Area or any future well(s) inside The Well-Field Action Area, have had 1/8 inch or less of free product, measured using best available technology, for at least three consecutive semi-annual monitoring events;

OR

b). The Ohio EPA approves Defendant's proposal to stop free-phase hydrocarbon recovery and begin dissolved-phase hydrocarbon remediation in The Well-Field Action Area. Defendant's proposal may include but shall not be limited to a technical analysis of the reason for cessation of the free-phase hydrocarbon recovery operations.

Dissolved-Phase Hydrocarbon Remediation

31. No later than sixty (60) days after the terms and conditions in Paragraph 30 (Termination Criteria for Free Phase Hydrocarbon Recovery Operations) have been satisfied, Defendant shall submit to Ohio EPA for approval a Dissolved-Phase Hydrocarbon Remediation Study for The Well-Field Action Area. This study will include but not be limited to an analysis of the use of air sparging, biological degradation, chemical degradation, hydraulic containment (drawing off-site contaminants within the boundaries of the Site) and any other method Defendant proposes in order to remediate the Groundwater Contamination. As part of the submittal Defendants will include a schedule to begin and complete the study and a date for submittal of the final report of the Dissolved-Phase Hydrocarbon Remediation Study. Once

approved by Ohio EPA this schedule will be incorporated into this Consent Order and become an enforceable part of this Consent Order.

32. Defendant shall submit with the final report from the Dissolved-Phase Hydrocarbon Remediation Study a Dissolved-Phase Hydrocarbon Remediation Plan. This plan will include a proposal of the method (or combination of methods) Defendant will undertake to remediate the Groundwater Contamination in The Well-Field Action Area, and a schedule for implementation of the proposed method(s). Once approved by Ohio EPA this schedule will be incorporated into this Consent Order and become an enforceable part of this Consent Order. (Defendant shall propose for Ohio EPA's approval selected milestone deadlines in the Dissolved-Phase Remediation Plan that shall be subject to stipulated penalties under Section XVII. Stipulated Penalties.)

33. The Defendant may also submit with its Dissolved-Phase Remediation Plan or at any time after ten (10) years from the entry of this Consent Order a request to invoke the Re-Opener Clause, defined in Section III. Definitions of this Consent Order.

34. Defendant will continue to remediate the dissolved-phase Groundwater Contamination in The Well-Field Action Area until one of the "Termination Criteria for Dissolved Phase Hydrocarbon Remediation," as defined in Paragraph 5(1) has been achieved.

35. Defendant shall conduct five (5) years of post-remediation confirmatory monitoring following achievement of one of the criteria listed above in Paragraph 5(1) defining the "Termination Criteria for Dissolved Phase Hydrocarbon Remediation". If after five (5) years of post remediation confirmatory monitoring, Defendant is unable to continue to satisfy the terms and conditions in Paragraph 5(1) defining the "Termination Criteria for Dissolved Phase Hydrocarbon Remediation", then Defendant will submit a New Remediation and Monitoring

Plan to Ohio EPA for approval. Included with the New Remediation and Monitoring Plan will be a schedule for further remediation and a post remediation monitoring plan. Once approved this schedule will be incorporated into this Consent Order and become an enforceable part of this Consent Order. (If the New Remediation and Monitoring Plan is necessary, Defendant shall propose for Ohio EPA's approval selected milestone deadlines in the New Remediation and Monitoring Plan that shall be subject to stipulated penalties under Section XVII. Stipulated Penalties.)

**The Northeast Storm Sewer
Groundwater Detection Monitoring Plan**

36. Defendant shall continue to conduct a semi-annual monitoring program for The Northeast Storm Sewer in order to monitor for BTEX constituents that may be entering the storm sewer. Defendant shall conduct the monitoring program for The Northeast Storm Sewer pursuant to the terms and conditions of Appendix B to Attachment III (Northeast Storm Sewer Monitoring Plan). Defendant shall conduct this monitoring until December 31, 2009.

37. Results of the semi-annual monitoring program for The Northeast Storm Sewer shall be provided to Ohio EPA as part of the semi-annual status reports, pursuant to the terms and conditions outlined in Section 3.5 of Appendix B to Attachment III, by no later than February 1 and August 1 of each year, effective immediately.

**The Southern Action Area, The North Action Area, The Well-Field Action Area and
The Northeast Storm Sewer**

38. All work to be performed by Defendant pursuant to Section VI. Injunctive Relief shall be under the direction and supervision of a qualified engineer, geologist, or scientist with expertise in investigation and remediation of Groundwater Contamination and/or contamination caused by oil, petroleum and/or petroleum fraction products.

39. The Parties agree that the following documents are appended to this Consent Order, incorporated by reference at the time of entry of this Consent Order, and an enforceable part of this Consent Order:

Attachment I: Defendant's December 11, 2003, Work Plan for Phase 1 Off-Site Investigation;

Attachment II: Defendant's September 5, 2003, Groundwater Remediation Work Plan;

Attachment III: Defendant's December 11, 2003, Groundwater Detection Monitoring Plan.

The aforementioned Work Plans may be amended from time to time and such amended Work Plans upon written acceptance by Ohio EPA shall supersede those set forth above. Decisions and actions by Ohio EPA or the State under this Consent Order, specifically including those relating to the Work Plan(s), reports, schedules, other technical submissions and Work, shall be on a reasonable basis.

40. Delays in performance of Work covered by this Consent Order due to the time taken for government review shall not be considered a violation of this Consent Order or counted towards the running of time limits under this Consent Order, unless Defendant's submissions were materially delayed or materially deficient.

VII. SAMPLING AND DATA AVAILABILITY

41. Upon request, Defendant shall make available to the Ohio EPA the results of all sampling, tests or other data, including raw data, generated by Defendant or on its behalf, related to the Site. The Parties shall allow split or duplicate samples to be taken of all samples collected under this Consent Order. Defendant shall notify the person named in Paragraph 46 (Notice) not less than seven (7) days in advance of any sample collection called for under this Consent Order, unless a shorter notice is mutually agreed to by the State's person under Paragraph 46 (Notice)

and Defendant's technical representative. The Parties shall give the best practicable notice in the event of an emergency.

42. Defendant shall submit all raw data and all original reports of analytical procedures and results, and any interpretive reports and written explanations concerning such raw data and original laboratory reports to the Ohio EPA within forty-five (45) days of receipt of a written request.

VIII. ACCESS TO INFORMATION

43. Defendant shall provide to the Ohio EPA, upon request, access to one set of copies of all nonprivileged documents and information within its possession or control, or within the possession or control of its contractors or agents, generated or collected as part of the Work required under this Consent Order, including, but not limited to, manifests, reports, correspondence, or other documents or information related to any and all work performed pursuant to the terms and conditions of this Consent Order.

44. Defendant shall preserve for the duration of this Consent Order and for a minimum of five (5) years after its termination, one set of all nonprivileged documents and other information within its possession or control, or within the possession or control of its contractors or agents, which were generated or collected as part of the Work performed pursuant to the terms and conditions of this Consent Order, notwithstanding any document retention policy to the contrary. Defendant may preserve such documents in computer readable form or by microfiche, or other electronic or photographic device. Defendant shall notify the 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 the Ohio EPA.

IX. PROGRESS REPORTS

45. Defendant shall continue to submit to the Ohio EPA semi-annual written progress reports in the same format and substance as the semi-annual progress reports Defendant has previously submitted to the Ohio EPA describing the activities which have been undertaken during the previous six (6) months, and activities which are scheduled for the next semi-annual period, by no later than February 1 and August 1 of each year, beginning immediately after the entry of this Consent Order. At a minimum, these reports shall:

- a). Identify the Site and activity;
- b). Describe the status of any and all work required pursuant to the terms and conditions of this Consent Order at the Site and progress to date;
- c). Provide semi-annual volumes of recovered hydrocarbon sufficient to allow the Ohio EPA to determine whether free-phase hydrocarbon recovery systems have become less productive for sustained periods of time;
- d). Describe difficulties encountered during the reporting period;
- e). Describe actions taken to rectify problems;
- f). Describe activities planned for the next semi-annual period;
- g). Identify changes in key personnel;
- h). Provide an explanation of any deviation from the milestones in The Work Plan and/or Consent Order schedules and actions taken to correct the deviation from the milestones.

X. NOTICES

46. All document(s), including correspondence, progress reports, notifications, or other submissions, required to be submitted under this Consent Order, shall be submitted to the following:

Bryan Schmucker, or the Northeast District Enforcement Coordinator
Ohio Environmental Protection Agency
Northeast District Office

2110 E. Aurora Road
Twinsburg, Ohio 44087

William A. Olasin, Director of Environmental Remediation, or his successor
Ashland Inc.
5200 Blazer Parkway
EH&S, DS-4
Dublin, Ohio 43017
wolasin@ashland.com
(614) 790-3065
(614) 790-6232 (fax)

U.S. Mail Address:
P.O. Box 2219
Columbus, Ohio 43216-2219

Overnight Delivery and Personal Delivery Address:
5200 Blazer Parkway
Dublin, Ohio 43017

Joseph A. French, Esq., Environmental Counsel, or his successor
Ashland Inc.
Law Department
jafrench@ashland.com
(614) 790-3851
(614) 790-4268 (fax)

U.S. Mail Address:
P.O. Box 2219
Columbus, Ohio 43216-2219

Overnight Delivery and Personal Delivery Address:
5200 Blazer Parkway
Dublin, Ohio 43017

All documents to be submitted pursuant to this Consent Order shall be deemed submitted on the date they are sent to the Party representatives listed above by certified mail, or facsimile transmission, or overnight mail, hand delivery or e-mail with an attached icon containing the document submitted. Either Party may upon ten (10) days advance written notice, change the contact information above or the Party representative to receive documents under this Section.

XI. SITE ACCESS

47. Defendant consents that Ohio EPA, its employees and agents, shall have full access to the Site at all reasonable times without need for a warrant, as may be necessary for the implementation of this Consent Order.

48. The Defendant shall provide the State with assurance that Defendant has and will have access to the Site to perform the obligations of the Consent Order. To the extent that access is required for implementation of this Consent Order to property (other than the Site or property owned by Wheeling and Lake Erie Railroad for the purpose of the placement of initial well locations described in Attachment I, which is subject to an existing access agreement) that is owned or controlled by persons other than Defendant, Defendant shall use its best efforts to secure from such persons access for Defendant and Ohio EPA as necessary to effectuate this Consent Order. Failure to obtain access based upon Defendant's reasonable best efforts is not a violation of this Consent Order. Copies of all access agreements obtained by Defendant shall be submitted to Ohio EPA within ten (10) days of receipt by Defendant. If any access required to effectuate this Consent Order is not obtained within thirty (30) days of the date that Ohio EPA notifies Defendant in writing that additional access beyond that already secured is necessary, Defendant shall promptly notify the State in writing of the steps Defendant has taken to obtain access. The State may as it deems appropriate assist Defendant in obtaining access or provide an explanation in writing why it will not.

49. Paragraphs 47 and 48 of this Consent Order shall not be construed to eliminate or restrict any State right to seek access to the Site that it may otherwise have under Federal or State law.

XII. RESERVATION OF RIGHTS

50. 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. This Consent Order reserves all rights to the Defendant for claims or conditions not alleged in the Complaint, such as new violations or conditions which occur after the entry date of this Consent Order, and by entering into this Consent Order Defendant does not waive any rights, claims or defenses which it may have in any such action or against any others not a party to this action. Upon the achievement at a particular action area (i.e., The Southern Action Area, The North Action Area and The Well-field Action Area) of the Termination Criteria for Dissolved Phase Hydrocarbon Remediation or approval by Ohio EPA for that action area, Defendant shall have resolved its liability to the State under the Complaint and for the Work required by this Consent Order for that action area.

51. While at the time the Parties sign this Consent Order the Site does not present any imminent threat to the public health, welfare or environment from Defendant's subsurface petroleum and related matters addressed by this Consent Order, nothing in this Consent Order shall be construed to limit the authority of the State to undertake any action against any entity, including Defendant, to eliminate or mitigate conditions that may present a imminent 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 under the Comprehensive Environmental Response, Compensation and Liability Act (hereinafter-"CERCLA") to: (1) recover natural resource damages, and/or (2) order the performance of, and /or recover costs for any work not conducted pursuant to the terms of this

Consent Order, and by entering into this Consent Order Defendant does not waive any rights, claims or defenses which it may have in any such action.

52. Nothing in this Consent Order shall relieve Defendant of any obligation to comply with applicable requirements of O.R.C. Chapter 6111 that are not addressed by this Consent Order, including, without limitation, any regulation, license or order issued under this Chapter, and any other applicable federal, state or local statutes, regulations, or ordinances, including but not limited to permit requirements.

53. 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 Defendant for noncompliance with this Consent Order and Defendant reserves all arguments, rights, claims and defenses of any kind with respect to such an action.

XIII. OTHER CLAIMS

54. Nothing in this Consent Order 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 subject to this Consent Order, for any liability arising from, or related to, events or conditions at the Site.

XIV. MODIFICATION

55. No modification shall be made to this Consent Order without the written agreement of State, Defendant, and the Court, provided that this provision does not eliminate or curtail rights, powers, or authority provided elsewhere in this Consent Order nor any inherent rights, powers, or authority of the Court.

XV. RETENTION OF JURISDICTION

56. This Court shall retain jurisdiction of this matter until the completion of all activities contemplated by this Consent Order. The Court's jurisdiction includes, but is not limited to, enforcing Defendant's compliance with this Consent Order and resolving any disputes that may arise under this Consent Order on a reasonable basis.

XVI. CIVIL PENALTY & BENEFICIAL ENVIRONMENTAL PROJECT FOR THE PUBLIC

57. Within thirty (30) days of the Court's entering of this Consent Order on the docket of the court following both Parties' signatures and any public notice period, Defendant shall pay a civil penalty of \$80,000.00.

58a. In the furtherance of the mutual objectives of the State of Ohio and Defendant in improving waters in the Canton vicinity, Defendant will provide \$220,000.00 to be utilized by the City of Canton for the installation of drinking water lines to serve residential homes. (Defendant has a preference that the monies be used to install drinking water lines in Canton Township.) Defendant will place the \$220,000.00 into a separate account (which may or may not be an interest bearing account. If the account is interest bearing, escrow fees and other costs of the account may be deducted first from the interest, but the remainder of the interest will be disbursed in accordance with this paragraph). This money and interest (minus any escrow fees or other costs for the account) will only be disbursed to either the City of Canton or to Ohio EPA. In order for the City of Canton to be eligible for this money, it must submit to Ohio EPA (in care of the Chief of the Division of Surface Water, Lazarus Government Center, 122 South Front Street, P.O. Box 1049, Columbus, Ohio, 43216-1049) for written approval a written proposal demonstrating that the money will be used for the installation of residential drinking

water lines. After Ohio EPA has determined that the proposal meets these requirements, Ohio EPA will inform the City of Canton in writing so that the City of Canton can forward the written approval to Defendant and request release of the funds from Defendant. The City of Canton will have two (2) years from the entry of this Consent Order to receive approval from Ohio EPA and to request the release of the funds. If the City of Canton has completed a written proposal and submitted it to the Chief of the Division of Surface Water of Ohio EPA within the two (2) year period, but the proposal has not yet been approved, the City of Canton will have an additional year to obtain Ohio EPA approval. If two (2) years after the entry of this Consent Order (or after the one (1) year extension if it is applicable), the City of Canton has failed to submit and obtain written approval from Ohio EPA, Defendant will release the \$ 220,000.00 (and interest, if applicable) to Ohio EPA and submit it in accordance with Paragraph 59. Nothing in this paragraph or the Consent Order as a whole prevents Ohio EPA from approving a substitute beneficial environmental project for the public proposed by Defendant, but nothing under this paragraph or the Consent Order obligates the Defendant to make such a substitute proposal. Nothing in this paragraph or the Consent Order as a whole grants any right to the City of Canton to sue or otherwise seek to enforce the provisions of the Consent Order against the State of Ohio, the Ohio EPA, or Defendant.

58b. In addition, in furtherance of the mutual objects of the State of Ohio and Defendant in improving the environment, Defendant shall pay \$75,000.00 within ninety (90) days of entry of the Consent Order to the Clean Diesel School Bus Program established by the Director of Ohio EPA for the purpose of installing, in accordance with Ohio EPA guidelines, diesel particulate filters for school buses operated by school districts in the State of Ohio. Money in the fund shall be made available to school districts in accordance with a grant process established by

the Director of Ohio EPA. A copy of the check to the Clean Diesel School Bus Program shall be mailed to Ohio EPA, Division of Air Pollution Control, Attn: James Orlemann, Enforcement Coordinator, Lazarus Government Center, 122 South Front Street, Columbus, Ohio 43215.

59. Payments required by this section to Ohio EPA shall be paid by delivering a certified check to:

J. Mark Lemmon
Office of the Attorney General of Ohio
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43215-3400

The checks shall be made payable to "Treasurer, State of Ohio" and will be paid pursuant to the requirements of O.R.C. Section 6111.09(B).

XVII. STIPULATED PENALTIES

60. Unless the Director of Ohio EPA decides otherwise, Defendant shall be liable for and shall pay a stipulated penalty of \$500.00 per day for each day after thirty (30) for each deadline or requirement missed for the following tasks:

- a) Each Semi Annual sampling and reporting as provided for in Paragraphs 14, 20, and 28 of this Consent Order;
- b) Initiation of delineation activities as described in Paragraph 10 of this Consent Order;
- c) Submittal of the Initial Investigation Report for The Southern Action Area as provided for in Paragraph 11 of this Consent Order;
- d) Submittal of Delineation Work Plan for The Southern Action Area if necessary as provided for in Paragraph 11.c. of this Consent Order;
- e) Compliance with each deadline of the schedule to be contained in an approved Delineation Work Plan for The Southern Action Area that is specified as subject to stipulated penalties;
- f) Submittal of the Final Investigation Report for The Southern Action Area if necessary as provided for in Paragraph 11.c. of this Consent Order;

g) Submittal of the Free Product Investigation Report for The Southern Action Area if necessary as provided for in Paragraph 12 of this Consent Order;

h) Compliance with each deadline of the schedule to be contained in an approved Free Product Investigation Report for The Southern Action Area that is specified as subject to stipulated penalties;

i) Submittal of the Remediation Study for The Southern Action Area as provided for in Paragraph 15 of this Consent Order;

j) Submittal of the Remediation Plan for The Southern Action Area as provided for in Paragraph 16 of this Consent Order;

k) Compliance with each deadline of the schedule to be contained in an approved Remediation Plan for The Southern Action Area that is specified as subject to stipulated penalties;

l) Compliance with each deadline of the schedule to be contained in an approved New Remediation and Monitoring Plan for The Southern Action Area that is specified as subject to stipulated penalties;

m) Submittal of the Dissolved Phase Hydrocarbon Remediation Study for The North Action Area as provided for in Paragraph 23 of this Consent Order;

n) Submittal of the Dissolved Phase Hydrocarbon Remediation Plan for The North Action Area as provided for in Paragraph 24 of this Consent Order;

o) Compliance with each deadline of the schedule to be contained in an approved Remediation Plan for The North Action Area that is specified as subject to stipulated penalties;

p) Compliance with each deadline of the schedule to be contained in an approved New Remediation and Monitoring Plan for The North Action Area that is specified as subject to stipulated penalties;

q) Submittal of the Dissolved Phase Hydrocarbon Remediation Study for The Well Field Action Area as provided for in Paragraph 31 of this Consent Order;

r) Submittal of the Dissolved Phase Hydrocarbon Remediation Plan for The Well Field Action Area as provided for in Paragraph 32 of this Consent Order;

s) Compliance with each deadline of the schedule to be contained in an approved Remediation Plan for The Well Field Action Area that is specified as subject to stipulated penalties;

t) Compliance with each deadline of the schedule to be contained in an approved New Remediation and Monitoring Plan for The Well Field Action Area that is specified as subject to stipulated penalties.

Defendant shall only be liable for stipulated penalties as set forth above or that it subsequently specifically agrees to perform.

61. Ashland Inc. shall no longer be liable for stipulated penalties under this Section for any obligation or duty, which is otherwise subject to stipulated penalties under the Consent Order, once another party has been substituted as a Defendant for Ashland Inc. in accordance with Paragraph 4 for the same obligations or duties, except for those stipulated penalties for which the State has made demand in accordance with the following sentence. Within ninety (90) days of presentation to the State of the executed binding written commitment for substitution specified in Paragraph 4 or the State's agreement to a Consent Order Amendment for substitution of a new party, the State shall make a demand of Ashland Inc. for any stipulated penalties that are due and owing. Ashland Inc. shall remain a party to this Consent Order for purposes of issues involving stipulated penalties for which the State has made a demand in accordance with this Paragraph.

62. Any payment required to be made under the provisions of Section XVII. Stipulated Penalty of this Consent Order shall be made by delivering, to the address set forth below, a certified check for the appropriate amount within forty-five (45) days from the date of the failure to meet the requirements of this Consent Order. Payments shall be made payable to "Treasurer, State of Ohio." Defendant shall also state in writing the specific failure of the Consent Order and/or any Work Plan term or condition which was not complied with, and the date(s) of non-compliance. The payment of stipulated penalties by Defendant and the acceptance of such stipulated penalties by the State for specific violations pursuant to Section XVII. Stipulated

Penalty shall not be construed to limit the State's authority to seek additional relief or to otherwise seek judicial enforcement of this Consent Order.

Administrative Assistant
Attorney General's Office
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43215-3400

XVIII. COVENANTS NOT TO SUE OR REFER FOR ENFORCEMENT

63. In consideration of the actions that will be performed under the terms of this Consent Order, which the Parties acknowledge could take more than one hundred years notwithstanding full compliance with this Consent Order, unless there are significant new scientific or legal developments, and except as specifically provided in the Section XII. RESERVATION OF RIGHTS the State covenants not to sue or take administrative action against Defendant and those persons bound pursuant to Civil Procedure Rule 65(D) for matters alleged in the Complaint with respect to the Site. These covenants not to sue shall take effect upon the Parties' execution of this Consent Order; however, the effectiveness of the covenant not to sue is conditioned upon Defendant's compliance with its obligations under this Consent Order. These covenants not to sue extend only to the Defendant and those persons listed in Rule 65(D) and do not extend to any other person.

XIX. EFFECT ON THIRD PARTIES AND CONTRIBUTION PROTECTION

64. Except as otherwise provided by law, this Consent Order does not create any rights in any persons other than the State or Defendant. This Section confirms that this Consent Order is concerned solely and exclusively with the rights and obligations of the State and the Defendant (and those persons listed in Civ. R. 65(D)) and does not create rights, or advantages for any third party.

65. Neither this Consent Order, nor any action or omission under it is an admission by Defendant or an adjudication or finding by the Court of liability, wrongdoing, misconduct, or any other factual or legal matter, or evidence that can be used against Defendant. Except as otherwise provided by law, this Consent Order is not admissible in any proceeding by any other party other than the State or Defendant, or a matter that shall be used by any other party other than the State or Defendant. Paragraphs 64 and 65 do not diminish the rights and obligations of the State or Defendant as specified in other paragraphs of this Consent Order.

66. To the extent provided by state or federal law, and to the extent of compliance with this Consent Order, during performance of this Consent Order as well as at its termination, Defendant shall be afforded the protection against all claims whatsoever in the nature of contribution or implied indemnity for the matters addressed by this Consent Order.

XX. COURT COSTS

67. Defendant shall pay the court costs of this action.

XXI. AUTHORITY TO ENTER INTO THE CONSENT ORDER

68. Each signatory for the State and Defendant represents and warrants that he/she has been duly authorized to sign this document by that Party and to so bind the Party to all terms and conditions thereof.

XXII. TERMINATION OF CONSENT ORDER

69. The provisions of this Consent Order may be terminated upon a demonstration by Defendant that:

- (1) Defendant has paid, in full, the civil penalty required by this Consent Order; and
- (2) Defendant has paid all stipulated penalties required by this Consent Order; and

(3) Defendant has met the Termination Criteria For Dissolved Phase Hydrocarbon Remediation in The Southern Action Area by achieving one of four conditions delineated in Paragraph 5(1) of this Consent Order; and

(4) Defendant has met the Termination Criteria For Dissolved Phase Hydrocarbon Remediation in The North Action Area by achieving one of four conditions delineated in Paragraph 5(1) of this Consent Order; and

(5) Defendant has met the Termination Criteria For Dissolved Phase Hydrocarbon Remediation in The Well-Field Action Area by achieving one of four conditions delineated in Paragraph 5(1) of this Consent Order; and

(6) Defendant has completed the requirements outlined in Paragraphs 36 and 37 for The Northeast Storm Sewer.

Defendant may apply for termination of this Consent Order, and Ohio EPA may approve termination of this Consent Order, even though one or more of the six criteria above are not met.

70. Termination of this Consent Order shall only be by order of the Court upon application by any Party, and a demonstration that the six (6) conditions outlined above have been met or that Ohio EPA has approved termination of the Consent Order.

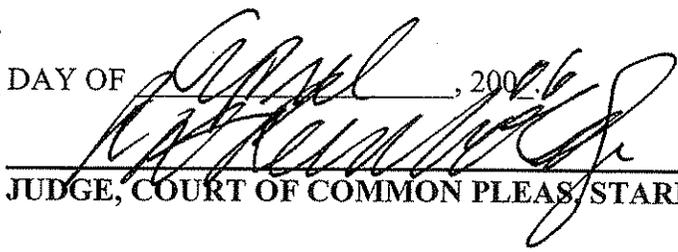
XXIII. ENTRY OF CONSENT ORDER AND FINAL JUDGMENT BY CLERK

71. The Parties agree and acknowledge that final approval by the State and Defendant and entry of this Consent Order will be done pursuant to the requirements of 40 C.F.R. 123.27(d)(2)(iii), which provides for notice of the lodging of the Consent Order, opportunity for public comment, and the consideration of any public comments. Both the State and the Defendant reserve the right to withdraw this Consent Order based upon comments received

during the public comment period. Defendant shall pay the costs of public notice associated with this Consent Order.

72. Pursuant to Rule 58 of the Ohio Rules of Civil Procedure, upon the signing of this Consent Order by the Court, the clerk 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 to note the service in the appearance docket.

IT IS SO ORDERED.

ENTERED THIS 17 DAY OF April, 2006


JUDGE, COURT OF COMMON PLEAS, STARK COUNTY

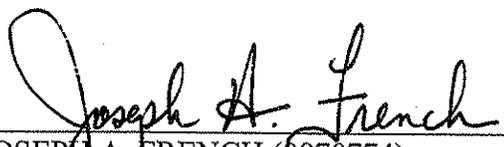
Respectfully submitted,

JIM PETRO
ATTORNEY GENERAL

BY: 

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Public Protection Division
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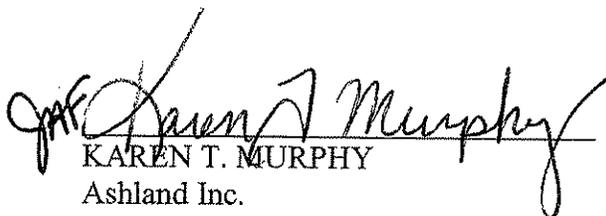
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Kenneth C. Moore and Jessica E. DeMonte
of Squire, Sanders & Dempsey L.L.P.
are signing as evidence that they have
provided legal advice to Ashland on
this Consent Order, but neither they nor
their firm thereby assume responsibility for
compliance with the duties or obligations
of the Consent Order.