BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of: )
Albright and Wilson Americas Inc., )
Ruetgers-Nease Chemical Company, )
Inc., and )
Mobil Mining and Minerals Co., a )
division of Mobil Oil Corporation )
RESPONDENTS.

Ohio Revised Code Sections )
3734.13(A), 3734.20(B) )
and 6111.03(H) )

DIRECTOR'S FINAL
FINDINGS AND ORDERS
(Re: Paddys Run Road Site)

ADMINISTRATIVE ORDER ON CONSENT

I. JURISDICTION

This Administrative Order on Consent ("Consent Order") is
issued pursuant to the authority vested in the Director of the
Ohio Environmental Protection Agency ("OEPA") by Ohio Revised Code
("ORC") Sections 3734.13(A), 3734.20(B), and 6111.03(H).

II. STATEMENT OF PURPOSE

In entering into this Consent Order, the mutual objective of
OEPA and Respondents is to conduct a Remedial Investigation of the
Paddys Run Road Site to determine the nature and the extent of
contamination, if any, and to develop a Feasibility Study of
appropriate response measures under the Comprehensive
Environmental Response, Compensation and Liability Act of 1980, 42
U.S.C. § 9601, et seq., as amended by the Superfund Amendments and
Reauthorization Act of 1986 Pub.L. 99-499 ("CERCLA"), employing sound scientific, engineering and construction practices. The Remedial Investigation/Feasibility Study (hereinafter RI/FS) shall be conducted in the manner provided in Section VIII of this Consent Order. Neither this Consent Order nor any actions taken under it shall be construed as imposing any obligation on Respondents to undertake or forbear from undertaking any actions not specifically set forth in this Consent Order.

III. DEFINITIONS

As used in this Consent Order and the RI/FS Work Plan (hereinafter "Work Plan") incorporated herein as Exhibit A, the following shall be defined terms:

A. "The Contractor" shall mean a qualified Contractor or Consultant retained by Respondents pursuant to this Consent Order, and any subcontractor, representative, agent or designee thereof.

B. The term "OEPA" shall mean the Ohio Environmental Protection Agency and its designated representatives.

C. "Paddys Run Road Site," sometimes referred to as the "Site," shall be the site described in paragraph IV.A.

D. The term "the parties" shall mean Respondents and OEPA.

E. "Documents" shall mean any correspondence, narrative reports and all documentary evidence of any kind reflecting any information concerning Site conditions. The term "document" shall be construed broadly to promote the effective sharing of
information and views concerning the work to be done between the Respondents and OEPA.

F. "NCP" means the National Oil and Hazardous Substances Pollution Contingency Plan, referred to in CERCLA as the National Contingency Plan and codified at 40 C.F.R. Part 300, as amended.

G. The term "Respondents" shall mean Albright and Wilson Americas Inc. ("A&W"); Ruetgers-Nease Chemical Company, Inc. ("Ruetgers-Nease"); and Mobil Mining and Minerals Co., a division of Mobil Oil Corporation ("Mobil"); and such other parties which may from time to time agree to execute this Consent Order.

IV. FINDINGS OF FACT, DETERMINATIONS AND CONCLUSIONS OF LAW

OEPA has determined that all findings of fact necessary for the issuance of this Consent Order pursuant to ORC Sections 3734.13(A), 3734.20(B) and 6111.03(O) have been made and are outlined below. Respondents, by entering into this Consent Order, do not admit or agree to the findings of fact, determinations or conclusions of law set forth below. Specifically, but without limitation, Respondents do not admit or agree that any threatened or actual imminent and substantial endangerment exists requiring remedial action, and each denies any legal liabilities associated with the Site.

A. The Site is located on the east side of Paddys Run Road in Hamilton County, Ohio near the town of Fernald, Ohio and consists of approximately a 4.3 acre parcel on which the Ruetgers-Nease plant is situated and approximately a 10 acre parcel on
which the A&W plant is situated and as more fully described in the Work Plan.

B. Analyses of samples collected by OEPA at the Site indicated the presence of xylene, benzene, arsenic, phosphates, sulfates, ammonia, potassium, sodium, chlorides, MBAS, COD, TDS, and uranium in the groundwater underlying or in the immediate vicinity of the Site.

C. One or more of these materials are "industrial wastes," as that term is defined in ORC Section 6111.01 and/or "hazardous substances," as that term is defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

D. Each of Respondents is or has been an "owner" or "operator" within the meaning of Section 107(a) of CERCLA, 42 U.S.C. § 9607(a) of a "facility," as defined in Section 101(9) of CERCLA, 42 U.S.C § 9601(9) within the Site.

E. The migration and threatened migration of one or more hazardous substances into the soil, groundwater and surface water at or from the site constitutes "a release or threat of release," as that term is defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), or discharge of hazardous substances, pollutants, or contaminants into "waters of the State," as that term is defined in ORC Section 6111.01(H).

F. Each of Respondents is a potentially "responsible person" within the meaning of Section 107 of CERCLA. Each of Respondents is a "person" as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21), and ORC Section 3734.01.

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By: [Signature] Date 5-18-89
G. The actions to be taken pursuant to this Consent Order are reasonable and necessary to protect the public health or welfare or the environment and are intended by the parties to be in accordance with and consistent with the NCP.

H. A reasonable time for beginning and completing the actions required by this Consent Order has been provided for in Exhibit A.

I. Respondents have agreed to undertake only those actions required of them by the terms and conditions of this Consent Order.

J. It is necessary that Respondents comply with all applicable Ohio environmental laws and regulations in order to safeguard the public health or welfare or the environment.

K. OEPA considers the Respondents to be qualified to conduct the RI/FS in accordance with CERCLA.

V. COMMITMENT OF RESPONDENTS

A. Respondents consent to and will not challenge OEPA's jurisdiction to enter into this Consent Order.

B. Respondents shall undertake, at their expense, the implementation of their obligations under this Consent Order. The work which Respondents will perform at the Site is described in Exhibit A, as it may be modified from time to time under this Consent Order. The work shall be completed in accordance with the standards and specifications set forth and within the time frames
specified in Exhibit A as they may be modified from time to time under this Consent Order.

VI. PARTIES BOUND

This Consent Order shall apply to and be binding upon Respondents and OEPA, their agents, successors, and assigns and upon all persons, contractors, and consultants acting on behalf of OEPA or Respondents, but nothing herein shall be deemed to abridge, alter, or affect the contracts of either OEPA or Respondents with such persons, contractors, or consultants. Respondents agree to provide copies of this Consent Order to all contractors performing any work called for by this Consent Order.

VII. SITE ACCESS

To the extent that portions of the Site or areas where work is to be performed are owned by parties other than those bound by this Consent Order, Respondents shall use their best efforts to obtain reasonable voluntary site access agreements from the present owners, including any agreements necessary to provide reasonable access to OEPA, and their authorized representatives pursuant to Section XII of this Consent Order. In the event Respondents are unable to obtain such access, Respondents shall promptly notify OEPA regarding both the lack of access agreements and the efforts to obtain such access agreements, and OEPA will contact the landowners. Where reasonable voluntary access is denied, OEPA recognizes that the work performance schedule of

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Exhibit A may need to be extended to the extent that delay in performing the work is attributable to failure to obtain site access or to the extent that the work contemplated may need to be modified. If Respondents are unable to obtain a reasonable voluntary site access agreement, OEPA reserves the right to exercise its authority under Ohio law to obtain access to insure that the RI/FS is completed. OEPA reserves the right to terminate this Consent Order should Respondents' inability to gain access to the Site or other areas materially affect the Respondents' ability to perform the work required herein.

All parties with access to the Site and other areas where work is to be performed pursuant to this paragraph shall comply with the Health and Safety Plan set forth in Exhibit A. Nothing herein shall act to limit the statutory authority of OEPA to conduct inspections and gather information.

VIII. REMEDIAL INVESTIGATION/FEASIBILITY STUDY

Respondents shall complete an RI/FS of the Site in accordance with the Work Plan. Activities which Respondents propose to undertake in compliance with the terms of this Consent Order are contemplated to be in accordance with and consistent with the NCP. The RI/FS shall be conducted in accordance with the NCP; U.S. EPA's "Guidance on Remedial Investigations under CERCLA" dated May, 1985; U.S. EPA "Guidance on Feasibility Studies under CERCLA" dated April, 1985. If OEPA determines that any additional guidance documents published and circulated as national guidance

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by U.S. EPA, such as EPA Directive No. 9355.0-19 "Interim Guidance on Superfund Selection of Remedy," and which are not inconsistent with the NCP, affects the work or schedules under this Consent Order, OEPA will notify Respondents and the work and schedules shall be modified as appropriate.

IX. RESERVATION OF RIGHTS

Notwithstanding compliance with the terms of this Consent Order, including the completion of an OEPA-approved RI/FS, the Respondents are not released from liability, if any, for any actions beyond the terms of this Consent Order. OEPA reserves the right to take any enforcement action pursuant to CERCLA and/or any available legal authority, including the right to seek injunctive relief, monetary penalties and punitive damages for any violation of law or this Consent Order or ORC Chapters 3734, 3745 and 6111. Except as otherwise provided in Section V.A. of this Consent Order, the Respondents expressly reserve all rights and defenses they may have.

OEPA expressly reserves all rights and defenses that it may have, including OEPA's right both to disapprove the work performed by the Respondents as specified below in Section XIV, and in such event to request that the Respondents perform tasks in addition to those detailed in the RI/FS Work Plan, as provided in this Consent Order. In the event that the Respondents decline to perform any such additional and/or modified tasks, OEPA will have the right to undertake any remedial investigation and/or feasibility study work.
with respect thereto. In addition, OEPA reserves the right to undertake removal actions and/or remedial actions and/or other enforcement actions in accordance with ORC Sections 3734.20 through 3734.26, or Section 107 of CERCLA, 42 U.S.C. § 9607 or any other applicable law. In either event, OEPA reserves the right to seek reimbursement from the Respondents thereafter for such costs incurred by the State of Ohio. Except as otherwise provided in Section V.A. of this Consent Order, nothing herein shall waive Respondents' rights to seek to enforce any remedies or assert any defense against OEPA, each other, or any party not a signatory hereto in connection with the Site, area of study and/or this Consent Order. OEPA recognizes that Respondents may have the right against other persons or entities who may have caused contamination on, at or in the vicinity of the Site and that, therefore, Respondents may have the right, and Respondents hereby expressly reserve such right, to seek contribution, indemnity and/or any other available remedy against any person or entity responsible or liable for contribution, indemnity, or otherwise for any amounts which have been or will be expended by Respondents in connection with the Site or with the performance of the RI/FS.

X. PROJECT COORDINATORS

The Respondents and OEPA shall each designate a Project Coordinator and an alternate for the purpose of overseeing the implementation of this Consent Order. To the maximum extent possible, except as specifically provided in this Consent Order,
communications among the Respondents and OEPA concerning the terms and conditions of this Consent Order shall be made between the Project Coordinators. Each Project Coordinator shall be responsible for assuring that all communications from the other parties are appropriately disseminated and processed.

Without limitation of any authority conferred on OEPA by statute or regulation, the OEPA Project Coordinator's authority includes, but is not limited to: (1) upon adequate notice to Respondents' Project Coordinator, taking samples which shall be split with Respondents; (2) in accordance with the terms of the Work Plan, directing the type, quantity and location of samples to be taken by the Respondents; (3) observing, and taking photographs and making such other reports on the progress of the work as the Project Coordinator deems appropriate; (4) directing that work stop for a period not to exceed 72 hours whenever the OEPA Project Coordinator determines that activities at the Site may create a present danger to public health or welfare or the environment; and (5) reviewing such records, files and documents that are relevant to the Consent Order and are not privileged. In the event that OEPA halts activities, OEPA shall inform Respondents of the circumstances which establish an immediate danger. OEPA agrees to make reasonable efforts to minimize any interference with the activities of the Respondents in carrying out the RI/FS or in performing their routine business activities.

The Respondents' Project Coordinator or alternate shall be on-site for the following activities: core/bore drilling,
monitoring well installation, geophysical surveying, groundwater sampling, surface water sampling and sediment sampling. The Respondents' Project Coordinator shall make himself reasonably available to the OEPA Project Coordinator at all other times during the pendency of this Consent Order. The absence of the OEPA Project Coordinator from the Site shall not be cause for stoppage of work unless otherwise provided.

OEPA and Respondents each have the right to change their respective Project Coordinator. Such a change shall be accomplished by notifying the other parties in writing at least five (5) calendar days prior to the change.

The OEPA Project Coordinator shall have the authority vested in the On-Scene-Coordinator by the NCP.

XI. REPORTING

The Respondents shall mail in the manner prescribed below written progress reports which describe the actions which have been taken toward achieving compliance with this Consent Order during the previous month, as well as activities which are scheduled for the next month, to OEPA by the tenth day of every month following the effective date of this Consent Order, unless otherwise designated pursuant to this Consent Order.

Such progress reports and any other documents, reports, approvals or correspondence submitted pursuant to this Consent Order shall be sent by certified mail, return receipt requested,
to the OEPA at the following addresses (or to such other address as the OEPA may hereinafter designate in writing):

Ohio Environmental Protection Agency  
Post Office Box 1049,  
1800 WaterMark Drive  
Columbus, Ohio 43266-0149  
Attn: Harley Bowers

OEPA Southwest District Office  
40 South Main Street  
Dayton, Ohio 45402  
Attn: Michael Starkey

All correspondence to the Respondents shall be directed to the following:

Albright & Wilson Americas Inc.  
Attn: Donald B. Faggert  
P.O. Box 26229  
Richmond, VA 23260-6229

Mobil Mining and Minerals Company  
Attn: G. L. Higgins  
P.O. Box 26683  
Richmond, VA 23261

Ruetgers-Nease Chemical Co.  
Attn: Stephen Foard  
201 Struble Road  
State College, PA 16801

Copies of any legal communications or notices from OEPA and copies of all communications generated or sent by OEPA’s legal counsel shall also be sent to the following:

For Ruetgers-Nease Chemical Co.  
Attn: William J. Kennedy, Esq.  
Dechert Price & Rhoads  
3400 Center Square West  
1500 Market Street  
Philadelphia, PA 19102

For Albright & Wilson Americas Inc.:  
Attn: George S. Flint, Esq.  
Jackson & Nash  
330 Madison Avenue  
New York, New York 10017-5096

For Mobil Mining and Minerals Company:  
Attn: P. B. Walker, Esq.  
Pendleton & Sabian, P.C.  
303 E. 17th Street, Suite 1000  
Denver, Colorado 80203

OEPA may, in its discretion, direct that reports or plans or proposals made pursuant to the Consent Order be submitted at extended intervals or that no further reports need be submitted.
Any reports or other documents submitted by Respondents relevant to the performance of the RI/FS, unless designated as confidential, shall be included in OEPA’s administrative record.

XII. SAMPLING, ACCESS AND DATA/DOCUMENT AVAILABILITY

OEPA and the Respondents shall make available to each other the results of samples or tests or well log data or other data which shall not include preliminary or "draft" interpretive documents rendered by Respondents or Respondents’ Contractor, generated by any of them, or on their behalf, with respect to the implementation of this Consent Order but shall include Respondents’ raw field data and subsequently validated laboratory data and supporting documentation, as defined in the Quality Assurance/Quality Control Plan set forth in Exhibit A. OEPA shall also make available to Respondents the results of sampling and/or tests generated by OEPA, its contractors or agents or retained in OEPA’s records unless such results are privileged under law as attorney-client communications or attorney work product.

Nothing in this Consent Order shall be deemed to waive any legal privilege or immunity (e.g. attorney-client privilege or attorney work product) available to any of the parties. If OEPA or Respondents claim such a privilege, the claimant shall identify such privileged information and the basis for claiming such privilege.

At the request of OEPA, the Respondents shall allow split or duplicate samples to be taken by the OEPA of samples collected by

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By: [Signature] Date: 5-18-89
the Respondents during the implementation of the Consent Order. The Respondents shall notify the OEPA Project Coordinator not less than five (5) working days unless otherwise agreed in advance of any sample collection for which the OEPA Project Coordinator has indicated that he or she may wish to obtain split or duplicate samples.

Respondents shall also agree that they shall preserve during the pendency of this Consent Order and for a minimum of ten (10) years after its termination copies of all records and documents within their possession or that of their divisions, employees, or agents which relate to actions performed under this Consent Order, despite any document retention policy to the contrary. Respondents also agree to request their accountants, attorneys, or contractors to preserve or make available to OEPA all documents which relate to actions performed under this Consent Order subject to the same terms and conditions as are applicable to documents in Respondents' possession, as provided in this paragraph. After the ten (10) year period, Respondents shall notify OEPA within thirty (30) calendar days prior to the destruction of any such documents. Upon request by OEPA, Respondents shall make available to OEPA such records or copies of any such records unless otherwise privileged under law.

XIII. CONFIDENTIAL INFORMATION

The Respondents may assert a claim of business confidentiality covering the information requested by this Consent

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Order, except for analytical data, pursuant to Ohio Administrative Code Rule 3745-49-03(A). Information determined to be confidential by OEPA will be afforded protection under Ohio Administrative Code Rule 3745-49-03. If no such claim accompanies the information when it is submitted to OEPA, it may be made available to the public by the OEPA without further notice to the Respondents.

XIV. REVIEW OF SUBMITTALS AND PROPOSED MODIFICATIONS. RESOLUTION OF DISPUTES

A. OEPA shall review all submittals made by Respondents in accordance with the approved schedule set forth in the Work Plan, and OEPA shall notify the Respondents of approval or disapproval of the submittal. Approval or disapproval by OEPA shall be consistent with CERCLA, the NCP, and ORC Sections 3734.13(A), 3734.20(B), or 6111.03(H) or the regulations promulgated thereunder. In the event of disapproval of any submittal, OEPA shall specify in writing the reasons for such disapproval and, if additional investigation or other work is required to fulfill the terms of the Work Plan, shall provide a specification of the additional work desired, the basis and rationale for OEPA's determination that additional work is necessary and a schedule for completion; provided, however, that any such investigation or other work shall be consistent with the NCP. Respondents agree to address OEPA's request for such additional activities in a supplemental submittal within a reasonable time specified by OEPA. Respondents shall have the opportunity to meet with or to have a
telephone conference with OEPA to discuss the additional work OEPA has requested and to propose alternatives. Any refusal to conduct such additional work shall not constitute a violation of this Consent Order. In the event of subsequent disapproval of any supplemental submittal, refusal by Respondents to conduct such additional work requested or noncompliance with the terms of this Consent Order or the Work Plan, OEPA retains its rights as set forth in Section IX of this Consent Order.

B. Except as provided in the Work Plan, no modification outside the scope of the Work Plan shall be made by the Respondents in the Work Plan without written notification to and written approval of the OEPA. The notification required by this section shall set forth the nature of and reasons for the requested modification. Any such modification shall be consistent with the NCP.

C. Minor modifications in the work that are within the scope of the Work Plan and consistent with the NCP may be made by mutual agreement of the Project Coordinators. Such minor modifications shall be memorialized in an exchange of letters by the Project Coordinators.

D. The Project Coordinators shall, wherever possible, operate by consensus, and in the event that there is a disapproval of any report or disagreement about the conduct of the work performed under this Consent Order, the Project Coordinators shall negotiate in good faith for five (5) business days to resolve the differences.
In the event that the Project Coordinators are unable to reach consensus on the disapproval or disagreement in five (5) business days, then each Project Coordinator shall reduce his position to written form within five (5) business days of the end of the good faith negotiations referenced above. Those written positions shall be immediately exchanged by the Project Coordinators.

Following the exchange of written positions, the parties shall have an additional five (5) business days to resolve their differences. If OEPA concurs with the position of the Respondents, OEPA will modify the Consent Order to include necessary extensions of time or variances of required work. If OEPA does not concur with the position of the Respondents, the parties may agree to extend the time frame for further negotiation. If no such agreement is reached, OEPA will, based upon and consistent with the Consent Order and Work Plan, issue a final "action" by the OEPA Director pursuant to ORC Section 3745.04. Respondents may appeal the decision of OEPA to the Ohio Environmental Board of Review as provided in ORC Chapter 3745.

The pendency of dispute resolution set forth in this Section shall not affect the time period for completion of work and/or obligations to be performed under this Consent Order, except that, upon mutual agreement of all parties, any time period may be extended as appropriate under the circumstances. Such an agreement shall not be unreasonably withheld. Elements of work
and/or obligations not affected by the dispute shall be completed in accordance with the schedule contained in the Work Plan.

XV. OTHER CLAIMS

Contamination suspected at or in the vicinity of the Site may be the result, at least in part, of activities by persons and/or entities not signatory to this Consent Order and at least some of the suspected contamination may originate from sources off-Site. Nothing herein is intended to release, discharge, or in any way affect any claims, causes of action or demands in law or equity against any person, firm, partnership or corporation not a signatory to this Consent Order from any liability he, she or it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release or disposal of any materials or hazardous substances at, to or from the Site. The parties to this Consent Order expressly reserve all rights (including any right to contribution or indemnity possessed by the Respondents against each other or any other parties who may be responsible for actual or threatened releases at or in the vicinity of the Site), claims, demands and causes of action they have or may have against any and all other persons and entities not parties to this Consent Order. This Consent Order does not constitute any decision on preauthorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2).

OEPA recognizes and agrees that Respondents may have a right to contribution, indemnity and/or any other available remedies.
against any person or entity found to be a "responsible person" within the meaning of Section 107 of CERCLA, 42 U.S.C. § 9607, or otherwise liable for any amounts which have been or will be expended by Respondents under this Consent Order or otherwise in connection with any claims asserted by OEPA and/or any other matter relating to or in connection with the Site.

XVI. DEED NOTICE, LAND USE AND CONVEYANCE OF TITLE

Ruetgers-Nease and A&W shall assure that no portion of the facilities located on their respective properties will be used in any manner which would adversely affect the integrity of any monitoring system installed pursuant to this Consent Order for the duration of this Consent Order. Ruetgers-Nease and A&W shall assure that no conveyance of title, easement or other interest in any portion of their facilities shall be consummated without provision for continued operation and maintenance of any monitoring system installed pursuant to this Consent Order for the duration of this Consent Order. Ruetgers-Nease and A&W shall notify OEPA by registered mail at least twenty (20) calendar days prior to any conveyance of any interest in land which is known to comprise the Site or portion of the Site and of the provision made for continued maintenance of the system.

XVII. REIMBURSEMENT OF COSTS

A. The Respondents shall reimburse OEPA for all response costs incurred consistent with the NCP incurred by OEPA in
connection with the Consent Order from the effective date hereof, Respondents' total liability for such cost shall not exceed $25,000 in the aggregate. Within sixty (60) days of the end of each calendar year, OEPA will submit to the Respondents itemized statements of such response costs of the OEPA for the previous year. Subject to the $25,000 aggregate limit set forth above, following receipt of the itemized statements, the Respondents shall pay, within sixty (60) calendar days, such sums as follows: payment to OEPA shall be made to the Ohio Hazardous Waste Clean-up Special Account created by ORC Section 3734.28 by check payable to Treasurer, State of Ohio and shall be forwarded to Counsel for Director of Environmental Protection, P.O. Box 1049, 1800 WaterMark Drive, Columbus, Ohio 43266-0149.

B. A copy of the transmittal letter shall be sent to the Project Coordinator.

C. In the event that Respondents fail to complete the RI/FS in compliance with the terms of this Consent Order, OEPA reserves its right to bring an action against Respondents or any other parties pursuant to Section 107 of CERCLA, 42 U.S.C. § 9607 and ORC Section 3734.20 through 3734.26 for recovery of past response costs in connection with the Site and any response costs incurred in oversight of Respondents' implementation of this Consent Order (which are not paid pursuant to paragraph A of this section) and all costs associated with OEPA's performance of the RI/FS or any part thereof. Nothing in this Consent Order shall be construed as
a waiver of any right that OEPA may have to seek reimbursement of any response costs from any person not a party hereto.

XVIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to this Consent Order shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations, including all environmental laws and regulations. In the event there is a conflict in the application of federal or state laws or regulations, the more stringent of the conflicting provisions or determinations, that at a minimum satisfies federal requirements, shall apply. If any government authorization or permits are required to perform any of the work contemplated in the Work Plan, OEPA shall promptly determine and notify Respondents of OEPA's decision with respect to any such permits.

XIX. INDEMNITY

A. The Respondents agree to indemnify, save and hold harmless OEPA from any and all claims or causes of action to the extent caused by the Respondents' negligent acts or omissions in carrying out any activities pursuant to this Consent Order. OEPA shall not be considered a party to and shall not be held liable under any contract entered into by the Respondents in carrying out the activities pursuant to this Consent Order. Consistent with federal, state, and common law, nothing in this Consent Order shall render Respondents liable for any act or omission of OEPA.
B. OEPA agrees to provide notice to Respondents within ten (10) days of receipt of any claim which may be the subject of the indemnity in paragraph A above and to cooperate with Respondents in the defense of any such claim or action against OEPA; provided that parties asserting claims or defenses against each other are excluded from this requirement to the extent of their dispute.

XX. COVENANT NOT TO SUE

From the effective date of this Consent Order, for as long as the terms herein are complied with, and upon or after termination of this Consent Order pursuant to provisions of section XXIII of this Consent Order and reimbursement to OEPA of amounts due under paragraph A of section XVII of this Consent Order, OEPA covenants not to sue Respondents regarding the work performed hereunder or to refer the Respondents to the Ohio Attorney General for enforcement proceedings or cost recovery proceedings regarding work performed by Respondents hereunder or for the costs paid to OEPA by Respondents hereunder. Nothing herein shall be deemed to grant any rights to persons not a party to this Consent Order, and OEPA and Respondents reserve all rights against such persons.

XXI. FORCE MAJEURE

The Respondents shall cause all work to be performed within the time limits set forth in Exhibit A, unless performance is delayed by events which constitute a "force majeure." For purposes of this Consent Order, a "force majeure" is defined as
any event arising from causes beyond the control of the Respondents (including, specifically, delays caused by or attributable to OEPA, its representatives or its contractors) which cannot be overcome by due diligence and which delays a performance date required by this Consent Order. Changed economic circumstances of the Respondents or increased costs of work shall by itself, not constitute force majeure. Respondents shall notify the OEPA Project Coordinator orally or by telephone after any event which Respondents contend constitute a force majeure. A record of delays provided orally or by telephone shall be incorporated in Respondents' monthly reports to OEPA. Such written notice shall describe the anticipated length of the delay, the measures taken or to be taken by the Respondents to prevent or minimize the delay, and the timetable by which these measures will be implemented. In the event that OEPA agrees that the delay in question is attributable to a force majeure, the time period for performance under this Consent Order shall be extended for the time period of delay attributable to the event constituting a force majeure. In the event OEPA does not concur that the time of performance under the Consent Order may be extended, this shall be deemed a dispute subject to resolution pursuant to the disputes resolution procedure set forth above.

XXII. EFFECTIVE DATE

The effective date of this Consent Order shall be the date on which it is signed by the last party.
XXIII. TERMINATION AND SATISFACTION

The provisions of this Consent Order shall be deemed satisfied upon the Respondents' receipt of written notice of approval from OEPA that the Respondents have demonstrated to the satisfaction of the OEPA, completion of all terms of the Consent Order.

XXIV. ADMISSIONS

Nothing in this Consent Order, including the Work Plan, is intended by the parties to be, nor shall it be, an admission of facts or law, an estoppel or a waiver of defenses by the Respondents for any purpose except as otherwise provided in Section V.A. of this Consent Order, and Respondents specifically do not admit that the conditions at the Site present an imminent and substantial endangerment to public health, welfare or the environment. Participation in this Consent Order by the Respondents is not intended by the parties to be, and shall not be, an admission of any fact or opinion developed by the Contractor in the completion of the work. The terms of this
Consent Order, including the Work Plan, shall not be construed more or less favorably for or against any party hereto.

IT IS SO ORDERED:

By: [Signature]
Richard L. Shjank, Ph.D., Director
Ohio Environmental Protection Agency

The parties below by signature signify consent to the issuance of this Consent Order and hereby waive any right they may have to appeal the issuance of this Consent Order.

IT IS SO AGREED:

ALBRIGHT AND WILSON AMERICAS INC.

By: [Signature]  Mar 12, 1989
Title: President

RUETGERS-NEASE CHEMICAL COMPANY, INC.

By: [Signature]  March 7, 1989
Title: President

MOBIL MINING AND MINERALS CO., a division of Mobil Oil Corporation

By: [Signature]  April 10, 1989
Title: President

I certify that this is a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: [Signature]  May 18, 1989