

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

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IN THE MATTER OF:)	Docket HWCA:
)	SRPD 98/99 SCC-4003
Henkel Corporation,)	
2200 Renaissance Boulevard)	
Gulph Mills, PA 19406)	
)	
EPA ID# CAD 094 022 191)	
)	CORRECTIVE ACTION
Cognis Corporation)	CONSENT AGREEMENT
5051 Estecreek Drive)	
Cincinnati, OH 45232)	
)	
Henkel Corporation)	
Cognis Corporation)	
Respondents.)	Health and Safety Code
)	Sections 25187 and 25200.14

INTRODUCTION

1.1. The Department of Toxic Substances Control (DTSC), Henkel Corporation, and Cognis Corporation (Respondents) enter into this Corrective Action Consent Agreement (Consent Agreement) and agree as follows:

1.2. Jurisdiction exists pursuant to Health and Safety Code (HSC), sections 25187 and 25200.14, which authorize DTSC to issue a Consent Agreement to require corrective action when DTSC determines that there is or may be a release of hazardous waste or hazardous waste constituents into the environment from a hazardous waste facility.

1.3. The parties enter into this Consent Agreement to avoid the expense of litigation and to carry out promptly the

1 corrective action described below.

2 1.4. Respondent Henkel was the operator and owner of a
3 manufacturing facility located at 5568 East 61st Street, City of
4 Commerce, California (Facility) which was conditionally uthorized
5 to treat hazardous waste. Respondent Cognis is currently the
6 owner of the site, which historically engaged in the treatment
7 by neutralization of acidic waste water which exhibited the
8 characteristic of corrosivity pursuant to a Conditional
9 Authorization issued to Henkel Corporation by DTSC on September
10 9, 1993. Prior to March 31, 1999, the site was used for the
11 manufacture and refining of fatty acids and glycerin.
12 Manufacturing at the site ceased at the end of March 1999.
13 Acidic wastewater is no longer generated at site or treated in
14 the Conditionally Authorized unit which Henkel closed in
15 December 1999. Subsequently Ownership of the site transferred
16 to Cognis on January 1, 2000.

17 1.5. The terms used in this Consent Agreement are as
18 defined in section 66260.10 of Title 22 of the California Code
19 of Regulations (Cal. Code Regs.), except as otherwise provided.

20 1.6. Respondents agree to implement all approved
21 Workplan and to undertake all actions required by the terms and
22 conditions of this Consent Agreement, including any portions of
23 this Consent Agreement incorporated by reference.

24 1.7. Respondents waive any right to request a hearing
25 on this Consent Agreement pursuant to HSC section 25187.
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FINDINGS OF FACT

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3 2.1.1. On December 30, 1996, Respondent Henkel
4 submitted a Phase I Environmental Assessment Checklist (Phase I)
5 pursuant to HSC section 25200.14 related to the facility. The
6 Phase I identified three Areas Of Concern (AOCs) that have
7 released either hazardous waste or hazardous waste constituents
8 into the environment:

- 9 • Acetone release area resulting from leaking
10 underground storage tank, (UG -1, capacity
11 -15000 gallons)
12 • Methanol release area resulting from leaking
13 underground storage tank, (UG-2, Capacity
14 -10000 gallons)
15 • Dowtherm A Heat Transfer Fluid release area
16 resulting from leaking underground storage
17 tanks, (UG-4, Capacity - 3000 gallons and UG-
18 5, Capacity - 415 gallons)

19 2.1.2. A Tank Closure Report relating to the Facility
20 submitted by *QST Environmental Inc.*, on February 16, 1999,
21 indicates that Underground Storage Tank 1 (UG-1) was cleaned and
22 filled with sand by the Respondent Henkel in 1990 prior to
23 promulgation of many of the current abandonment requirements.
24 Underground Storage Tanks 2, 4, & 5 (UGs- 2, 4, & 5) were
25 abandoned by *QST Environmental Inc.* in November 1998 on behalf
26 of the Henkel Corporation, in accordance with a Workplan
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1 approved by the Los Angeles County Department of Public Works,
2 and regulations of the Los Angeles County Fire Department
3 (LACFD). All the four abovementioned tanks have been closed *in*
4 *situ*. DTSC acknowledges the receipt of a Status Report on
5 Underground Storage Tanks submitted on September 17, 1999.

6 2.1.3. Phase I identifies that further investigation is
7 necessary to determine the existence, nature and/or extent of
8 contamination at the Facility. There have been several
9 subsurface investigations at the site which are documented in
10 Appendix 1.

11 2.1.4. Based on the Phase I submittal, DTSC conducted a
12 site visit on November 12, 1997, for the purpose of gathering
13 information on the extent of contamination.

14 2.1.5. The site assessment report entitled *Workplan for*
15 *Site Assessment* dated March 20, 1998, the report of the site
16 Assessment entitled *Results of the Site Assessment* dated July
17 27, 1998, and the Workplan entitled *Workplan for Closing*
18 *Underground Storage Tanks UG-1, UG-2, & UG-5 and Remediating*
19 *Methanol and Acetone Impacted Soil* dated June 10, 1998, each
20 relating to the Facility confirmed elevated levels of acetone
21 (0.07 mg/kg to 20,000 mg/kg) beneath and in the vicinity of UG-1,
22 methanol (1.1 mg/kg to 14,000 mg/kg) beneath and in the vicinity
23 of UG-2, and dowtherm A (0.7 mg/kg to 28,000 mg/kg) beneath and
24 in the vicinity of UG-4 and UG-5.

25 2.1.6. Based on the Phase I submittal, site visit
26 conducted by DTSC staff, the *Workplan for Site Assessment* dated
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1 March 20, 1998, the *Results of the Site Assessment* dated July 27,
2 1998, and the *Workplan for Closing Underground Storage Tanks UG-*
3 *1, UG-2, and UG-5*, dated June 10, 1998 DTSC had concluded that
4 further investigation is needed to determine the nature and
5 extent of contamination in the three AOCs.

6 2.1.7. Based on the aforementioned determination on
7 January 22, 1999, DTSC issued a Draft Corrective Action Consent
8 Agreement in order to reach an agreement with the Respondent
9 Henkel to ensure that the extent of contamination is adequately
10 assessed and that any potential hazard resulting from the
11 release is properly mitigated.

12 2.1.8. A meeting was held on May 26, 1999 amongst the
13 representatives of DTSC, Los Angeles County Fire Department,
14 Henkel Corporation, and Harding Lawson Associates, the
15 consultant of Henkel Corporation to discuss the outstanding
16 regulatory requirements associated with the full closure of all
17 manufacturing operations at the Facility and revision of the
18 Consent Agreement with respect to the full closure of the
19 Facility.

20 2.1.9. During the May 26, 1999, meeting representatives
21 of Henkel Corporation agreed to include the following additional
22 six AOCs, which warrant further investigation, in the original
23 list of AOCs:

- 24 • Areas where nickel was stored and used
- 25 • Above ground storage tank area (located on
26 south side of the property near to the rail

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spur) where concentrated sulfuric acid was stored and it's vicinity

- Above ground storage tank area (located near to the waste water treatment unit) where concentrated sulfuric acid was stored and it's vicinity
- Storm water impoundment area
- Waste water sump area
- Waste water pre-treatment area

2.1.10. DTSC conducted a site visit on June 17, 1999 to gather information on the extent of contamination in the new six AOCs.

2.2. Based on the foregoing facts and findings, DTSC has concluded that further investigation is needed to determine the nature and extent of contamination if any, in the 9 AOCs as listed below:

- Acetone release area resulting from leaking underground storage tank, (UG -1, capacity -15000 gallons)
- Methanol release area resulting from leaking underground storage tank, (UG-2, Capacity -10000 gallons)
- Dowtherm A Heat Transfer Fluid release area resulting from leaking underground storage tanks, (UG-4, Capacity - 3000 gallons and UG-5, Capacity - 415 gallons)

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- Areas where nickel was stored and used
- Above ground storage tank area (located on south side of the property near to the rail spur) where concentrated sulfuric acid was stored and it's vicinity
- Above ground storage tank area (located near to the waste water treatment unit) where concentrated sulfuric acid was stored and it's vicinity
- Storm water impoundment area
- Waste water sump area
- Waste water pre-treatment area

2.3. Hazardous waste and hazardous waste constituents of concern at the Facility are: Dowtherm A (a heat transfer fluid manufactured by Dow Chemical Inc., and is composed of 73 percent 1,1-biphenyl and 27 percent 1,1-oxybisbenzene), which has toxicity of Rat, Oral LD50: 2460 mg/kg body weight, poison by inhalation, moderately by ingestion. Human systemic effect by inhalation unspecified on the sense of smell and unspecified respiratory effects. Acetone which has toxicity of Rat, Oral LD50: 5800 mg/kg body weight, altered sleep time and produced tremors. OSHA does not list acetone as a carcinogen, the most common effects reported are headache from prolonged vapor inhalation and skin irritation resulting from its defatting action. Methanol is toxic mainly to the nervous system, particularly optic nerves, where damage can progress to

1 permanent blindness. Methanol oxidizes in the body to form
2 formaldehyde and formic acid. These derivatives are believed
3 responsible for many of methanol's poisonous and toxic effects.
4 The fetal ingestion dose is 100 to 250 ml, although death is
5 reported from less than 33 ml. Nickel is an experimental
6 carcinogen and teratogen. Ingestion of soluble salts of nickel
7 causes nausea, vomiting, and diarrhea. Sulfuric acid is human
8 poison by unspecified route. Moderately toxic by ingestion.
9 Sulfuric acid is also extremely irritating, corrosive, and toxic
10 to tissue resulting in rapid destruction of tissue causing
11 severe burns. Repeated contact with dilute solutions of
12 sulfuric acid can cause a dermatitis, and repeated or prolonged
13 inhalation of a mist can cause inflammation of the upper
14 respiratory tract leading to chronic bronchitis.

15 2.4. The Facility comprises approximately 10 acres in
16 size and is divided into two portions by a railway spur. The
17 northern portion of the plant located north of the railway spur
18 and south of East 61st Street when the facility was in operation
19 contained a one story administrative office building, boilers,
20 numerous aboveground storage tanks, the product processing
21 building and 286,000-gallon waste water sump. The southern
22 portion of the plant, located south of the railway spur and
23 north of Randolph Street when the facility was in operation
24 contained approximately 20 multiple-service aboveground storage
25 tanks, a cooling tower, a product transfer and loading dock,
26 various materials and equipment storage buildings, distillation
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1 towers and 1.25 million gallon storm water impoundment basin.
2 The Facility is located at the center of heavy industrial
3 complex in the City of Commerce. To the north is the Los
4 Angeles Paper Company. To the east is the Pacific Die Casting
5 Foundry. To the west, are Highway 710, and the Los Angeles
6 River. The Los Angeles River is located one-tenth of a mile to
7 the west. The nearest residential area is located half mile
8 south of the Facility in the City of Bell Garden and the nearest
9 school is located one and half miles southeast of the facility
10 in the City of Bell Garden. The nearest water body is the Los
11 Angeles River. The water table is about 120 feet deep beneath
12 the facility.

13 2.5. Releases from the Facility have a potential to
14 leach into the groundwater and affect public water supply.
15 Contaminated dust on site has a potential to become airborne and
16 affect nearby residences. Workers at the Facility may become
17 exposed to the chemical residues on site during work related
18 activities, and to the contaminated soil during future site
19 mitigation, demolition or related activities.

20 2.6. The area is currently paved with concrete, which
21 should limit access to impacted soils thereby decreasing
22 exposures from these contaminants through the major exposure
23 pathways (e.g., inhalation, dermal contact, ingestion, etc.).
24 Impacted soils are relatively inaccessible to remediation
25 scenarios that would entail soil excavation, and attempted
26 excavation of impacted soils could damage the structural
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1 integrity of the building area. The potential present and
2 future receptors on the site are the contractors, their
3 personnel and transient visitors.

4 2.7 The Southland Oil site is a former oil refinery
5 which is located in one acre area adjacent to the Henkel
6 Property. The Southland Oil site has been used for oil related
7 business since 1930's. Contaminants that have been identified
8 at the Southland Oil site include heavy petroleum hydrocarbons,
9 Polychlorinated biphenyls (PCBs), lead, halogenated
10 hydrocarbons, aromatic and semivolatile compounds (Calsite
11 Profile Report). There may have offsite migration in the past.
12 Migration of contamination to the east and west of the site has
13 not been studied. The TPH and lead hot spots are close to the
14 site boundaries, and may have affected adjacent properties
15 (RI/FS Report-1993). So, migrated contaminants if any, from the
16 former Southland Oil company, adjacent to the southwest area of
17 the Property are also the constituents of concern. Respondents
18 agree to sample the Henkel site in the areas adjacent to the
19 Southland Oil site to ascertain the presence and concentration
20 of these constituents of concern.

21
22 PROJECT COORDINATOR
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24 3. Within fourteen (14) days of the effective date of
25 this Consent Agreement, DTSC and the Respondents shall each
26 designate a Project Coordinator and shall notify each other in
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1 writing of the Project Coordinator selected. Each Project
2 Coordinator shall be responsible for overseeing the
3 implementation of this Consent Agreement and for designating a
4 person to act in his/her absence. All communications between
5 the Respondents and DTSC, and all documents, report approvals,
6 and other correspondence concerning the activities performed
7 pursuant to this Consent Agreement shall be directed through the
8 Project Coordinators. Each party may change its Project
9 Coordinator with at least seven (7) days prior written notice.
10 DTSC reserves the right to disapprove of Respondents' Project
11 Coordinator. DTSC's approval shall not be unreasonably
12 withheld.

13 WORK TO BE PERFORMED

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15 4. Respondents agree to perform the work undertaken
16 pursuant to this Consent Agreement in a manner consistent with:
17 the attached Scopes of Work; any DTSC-approved Work plans; HSC
18 and other applicable state and federal laws and their
19 implementing regulations; and applicable DTSC and USEPA guidance
20 documents. Applicable guidance documents include, but are not
21 limited to, the *Preliminary Endangerment Assessment* (PEA)
22 *Guidance Manual, Test Methods For Evaluating Solid Waste* (SW846)
23 *Update III, Drilling, Coring, Sampling, and Logging at Hazardous*
24 *Substance Release Sites (July 1995) - State of California*
25 *Environmental Protection Agency Guidance Manual, Interim*
26 *Guidance for Active Soil Gas Investigation (February 25, 1997) -*
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1 Los Angeles Regional Water Quality Control Board.

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3 INTERIM MEASURES (IM)

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5 5.1. Interim measures shall be used whenever possible
6 to control or abate immediate threats to human health and/or the
7 environment, and to prevent and/or minimize the spread of
8 contaminants while long-term corrective action alternatives are
9 being evaluated.

10 5.2. DTSC will review the Respondents' Status Report
11 on tanks and determine which interim measures, if any,
12 Respondents will implement at the Facility. If deemed
13 appropriate by DTSC, such determination may be deferred until
14 additional data are collected. Respondents shall also evaluate
15 available data and assess the need for interim measures in
16 addition to those specifically required by this Consent
17 Agreement. This current Consent Agreement would include cost
18 reimbursement for DTSC's cost for the review of the documents
19 submitted.

20 5.3. If at any time Respondents identify an immediate
21 or potential threat to human health and/or the environment,
22 discovers new releases of hazardous waste and/or hazardous waste
23 constituents, Respondents shall notify the DTSC Project
24 Coordinator orally within 48 hours of discovery and notify DTSC
25 in writing within 10 days of discovery summarizing the findings,
26 including the immediacy and magnitude of the potential threat to
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1 human health and/or the environment. Within 30 days of
2 receiving DTSC's written request, Respondents shall submit to
3 DTSC an Interim Measures (IM) Workplan for approval. The IM
4 Workplan shall include a schedule for submitting to DTSC an IM
5 Operation and Maintenance Plan and IM Plans and Specifications.
6 The IM Workplan is subject to approval by DTSC and shall provide
7 for the performance of all Interim Measures necessary to achieve
8 stabilization at the Facility. If DTSC determines that
9 immediate action is required, the DTSC Project Coordinator may
10 orally authorize the Respondents to act prior to DTSC's receipt
11 of the IM Workplan.

12 5.4 If DTSC identifies an immediate or potential threat
13 to human health and/or the environment, discovers new releases
14 of hazardous waste and/or hazardous waste constituents, DTSC
15 will notify Respondents in writing. Within 30 days of receiving
16 DTSC's written notification, Respondents shall submit to DTSC
17 for approval an IM Workplan that identifies Interim Measures
18 that will mitigate the threat. The IM Workplan shall include a
19 schedule for submitting to DTSC an IM Operation and Maintenance
20 Plan and IM Plans and Specifications. The IM Workplan is
21 subject to approval by DTSC and shall provide for the
22 performance of all Interim Measures necessary to achieve
23 stabilization at the Facility. If DTSC determines that
24 immediate action is required, DTSC Project Coordinator may
25 orally authorize Respondents to act prior to receipt of the IM
26 Workplan.

1 6.2. The Investigation Workplan shall detail the
2 methodology to: (1) gather data needed to make decisions on
3 interim measures/stabilization during the early phases of the
4 Facility Investigation; (2) identify and characterize
5 all sources of contamination; (3) define the nature, degree, and
6 extent of contamination; (4) define the rate of movement and
7 direction of contamination flow; (5) characterize the potential
8 pathways of contaminant migration; (6) identify actual or
9 potential human and/or ecological receptors; and (7) support
10 development of alternatives from which a corrective measure will
11 be selected by DTSC. A specific schedule for implementation of
12 all activities shall be included in the Workplan.

13 6.3. Respondents shall submit a Report to DTSC for
14 approval in accordance with DTSC approved Workplan schedule.
15 The Report shall be developed in a manner consistent with the
16 Scope of Work for a Facility Investigation contained in
17 Attachment 1. If there is a phased investigation, separate FI
18 Reports and a report that summarizes the findings from all
19 phases of the FI must be submitted to DTSC. DTSC will review
20 the Report and notify Respondents in writing of DTSC's approval
21 or disapproval.

22 6.4. Concurrent with the submission of an Investigation
23 Workplan, Respondent shall submit to DTSC a Health and Safety
24 Plan in accordance with Attachment 2. If Workplans for both an
25 IM and FI are required by this Consent Agreement , Respondent
26 may submit a single Health and Safety Plan that addresses the

1 combined IM and FI activities.

2 6.5. Concurrent with the submission of an Investigation
3 Workplan, Respondents shall submit for DTSC approval a Community
4 Profile in accordance with Attachment 3. Based on the
5 information provided in the Community Profile and any Supplement
6 to the Community Profile, DTSC will determine the level of
7 community interest. Depending on the level of community
8 interest, DTSC will decide which public participation activities
9 are necessary. These activities may include a FI Fact Sheet, a
10 Public Participation Plan, a public notice and a public meeting.

11 6.6. Respondents shall evaluate the results of all
12 sampling, tests and other data generated during the Facility
13 Investigation in comparison with the current health-based
14 screening levels for each contaminant. Respondents shall
15 include a report of cumulative Health Risk Assessment in the
16 final Facility Investigation Report.

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18 CORRECTIVE MEASURES STUDY (CMS)

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20 7.1. Respondents shall prepare a Corrective Measures
21 Study if contaminant concentration exceed current health-based
22 action levels and/or if DTSC determines that the contaminant
23 released pose a potential threat to human health and/or the
24 environment.

25 7.2. Within 60 days of DTSC's written approval of the
26 Facility Investigation Report required in sections 6.3 and 6.6,
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1 Respondents shall submit a CMS Workplan to DTSC. The CMS
2 Workplan is subject to approval by DTSC and shall be developed
3 in a manner consistent with the Scope of Work for a Corrective
4 Measures Study contained in Attachment 4.

5 7.3. The CMS Workplan shall detail the methodology for
6 developing and evaluating potential corrective measures to
7 remedy the contamination at the Facility. The CMS Workplan
8 shall identify the potential corrective measures, including any
9 innovative technologies, that may be used for the containment,
10 treatment, remediation, and/or disposal of contamination.

11 7.4. Respondents shall prepare treatability studies for
12 all potential corrective measures that involve treatment except
13 where Respondents can demonstrate to DTSC's satisfaction that
14 they are not needed. The CMS Workplan shall include, at a
15 minimum, a summary of the proposed treatability study including
16 a conceptual design, a schedule for submitting a treatability
17 study Workplan, or Respondents' justification for not proposing
18 a treatability study.

19 7.5. Respondents shall submit a CMS Report to DTSC for
20 approval in accordance with DTSC-approved CMS Workplan schedule.
21 The CMS Report shall be developed in a manner consistent with
22 the Scope of Work for a Corrective Measures Study Report
23 contained in Attachment 4. DTSC will review the CMS Report and
24 notify Respondents in writing of DTSC's approval or disapproval.

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1 9.2. Concurrent with the submission of a CMI Workplan,
2 Respondents shall submit to DTSC a Health and Safety Plan in
3 accordance with Attachment 2.

4 9.3. Concurrent with the submission of a CMI Workplan,
5 Respondents shall submit for DTSC approval a Community Profile
6 in accordance with Attachment 3. Based on the information
7 provided in the Community Profile and any Supplement to the
8 Community Profile, if DTSC determines that there is a high level
9 of community concern about the Facility, DTSC may require
10 Respondents to prepare a Public Participation Plan.

11 9.4. The CMI program shall be designed to facilitate
12 the design, construction, operation, maintenance, and monitoring
13 of corrective measures at the Facility. In accordance with the
14 schedule contained in the approved CMI Workplan, Respondents
15 shall submit to DTSC the documents listed below. These
16 documents shall be developed in a manner consistent with the
17 Scope of Work for Corrective Measures Implementation contained
18 in Attachment 5.

- 19 • Operation and Maintenance Plan
- 20 • Draft Plans and Specifications
- 21 • Final Plans and Specifications
- 22 • Construction Workplan
- 23 • Construction Completion Report
- 24 • Corrective Measures Completion Report

25 9.5. DTSC will review all required CMI documents and
26 notify Respondents in writing of DTSC's approval or disapproval.

1 9.6. As directed by DTSC, within 90 days of DTSC's
2 approval of all required CMI documents, Respondents shall
3 establish a financial assurance mechanism for Corrective
4 Measures Implementation. The financial assurance mechanisms may
5 include a performance or surety bond, liability insurance, an
6 escrow performance guarantee account, a trust fund, financial
7 test, or corporate guarantee as described in Title 22 Cal. Code
8 Regs. section 66265.143 or any other mechanism acceptable to
9 DTSC. The mechanism shall be established to allow DTSC access
10 to the funds to undertake Corrective Measures Implementation
11 tasks if Respondents are unable or unwilling to undertake the
12 required actions.

13
14 CALIFORNIA ENVIRONMENTAL QUALITY ACT
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16 10. DTSC must comply with the California Environmental
17 Quality Act (CEQA) insofar as activities required by this
18 Consent Agreement are projects subject to CEQA. Respondents
19 shall provide all information necessary to facilitate any CEQA
20 analysis. DTSC will make an initial determination regarding the
21 applicability of CEQA. If the activities are not exempt from
22 CEQA, DTSC will conduct an Initial Study. Based on the results
23 of the Initial Study, DTSC will determine if a Negative
24 Declaration or an Environmental Impact Report (EIR) should be
25 prepared. DTSC will prepare and process any such Negative
26 Declaration. However, should DTSC determine that an EIR is
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1 necessary, such an EIR would be prepared under a separate
2 agreement between DTSC and Respondents.

3
4 DTSC APPROVAL

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6 11.1. Respondents shall revise any work plan, report,
7 specification, or schedule in accordance with DTSC's written
8 comments. Respondents shall submit to DTSC any revised
9 documents by the due date specified by DTSC. Revised submittal
10 are subject to DTSC's approval or disapproval.

11 11.2. Upon receipt of DTSC's written approval,
12 Respondents shall commence work and implement any approved work
13 plan in accordance with the schedule and provisions contained
14 therein.

15 11.3. Any DTSC approved Workplan, report,
16 specification, or schedule required under this Consent Agreement
17 shall be deemed incorporated into this Consent Agreement.

18 11.4. Verbal advice, suggestions, or comments given by
19 DTSC representatives will not constitute an official approval or
20 decision.

21 SUBMITTAL

22
23 12.1. Written reports will be submitted in accordance
24 with the schedules described in each approved Workplan.

25 12.2. Any report or other document submitted by
26 Respondents pursuant to this Consent Agreement shall be signed

1 and certified by the Project Coordinators, a responsible
2 corporate officer, or a duly authorized representative.

3 12.3. The certification required by paragraph 12.2
4 above, shall be in the following form:

5 I certify that the information contained in or
6 accompanying this submittal is true, accurate, and
7 complete. As to those portions of this submittal for
8 which I cannot personally verify the accuracy, I certify
9 that this submittal and all attachments were prepared at
10 my direction in accordance with procedures designed to
11 assure that qualified personnel properly gathered and
12 evaluated the information submitted.

13
14 Signature: _____
15 Name: _____
16 Title: _____
17 Date: _____
18

19 12.4. Respondents shall provide two copies of all
20 documents, including but not limited to, Work plans, reports,
21 and correspondence of fifteen (15) pages or longer. Submittal
22 specifically exempted from this copy requirement are all
23 progress reports and correspondence of less than 15 pages, of
24 which one copy is required.

25 12.5. Unless otherwise specified, all reports,
26 correspondence, approvals, disapprovals, notices, or other
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1 submissions relating to this Consent Agreement shall be in
2 writing and shall be sent to the current Project Coordinators.

3
4 PROPOSED CONTRACTOR/CONSULTANT

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6 13. All work performed pursuant to this Consent
7 Agreement shall be under the direction and supervision of a
8 professional engineer or registered geologist, registered in
9 California, with expertise in hazardous waste site cleanup.
10 Respondents' contractor or consultant shall have the technical
11 expertise sufficient to fulfill his or her responsibilities.
12 Within thirty (30) days of the effective date of this Consent
13 Agreement, Respondents shall notify the DTSC Project Coordinator
14 in writing of the name, title, address and qualifications of the
15 professional engineer or registered geologist to be used in
16 carrying out the terms of this Consent Agreement. If such
17 engineer or geologist has not been retained as of the effective
18 date of this agreement, Respondent shall notify DTSC within 30
19 days of retaining such engineer or geologist. At any time
20 Respondents have the right to change the primary professional
21 engineer or registered geologist they use to carry out the terms
22 of this Consent Agreement and shall notify DTSC of the name,
23 title, and address and qualification of the new person.
24 Respondents will advise DTSC of any contractors or consultants
25 retained in the future to conduct the work required by this
26 Consent Agreement. DTSC reserves the right to disapprove of
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1 Respondents' contractor and/or consultant. But DTSC's approval
2 shall not be unreasonably withheld.

3
4 ADDITIONAL WORK

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6 14. DTSC may determine or Respondents may propose that
7 certain tasks, including investigatory work, engineering
8 evaluation, or procedure/methodology modifications are necessary
9 in addition to, or in lieu of, the tasks and deliverables
10 included in any part of DTSC-approved Workplan. DTSC shall
11 request in writing that Respondents perform the additional work
12 and shall specify the basis and reasons for DTSC's determination
13 that the additional work is necessary. Within fourteen (14)
14 days after the receipt of such determination, Respondents may
15 confer with DTSC to discuss the additional work DTSC has
16 requested. If required by DTSC, Respondents shall submit a work
17 plan to DTSC for the additional work. Such Workplan shall be
18 submitted to DTSC within sixty (60) days of receipt of DTSC's
19 determination or according to an alternate schedule agreed upon
20 by DTSC and Respondents. Upon approval of a Workplan,
21 Respondents shall implement it in accordance with the provisions
22 and schedule contained therein. The need for, and disputes
23 concerning, additional work are subject to the dispute
24 resolution procedures specified in this Consent Agreement.

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QUALITY ASSURANCE

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3 15.1. All sampling and analyses performed by
4 Respondents under this Consent Agreement shall follow applicable
5 DTSC and USEPA guidance for sampling and analysis. Work plans
6 shall contain quality assurance/quality control and chain of
7 custody procedures for all sampling, monitoring, and analytical
8 activities. Any deviations from the approved Work plans must be
9 approved by DTSC prior to implementation, must be documented,
10 including reasons for the deviations, and must be reported in
11 the applicable report (e.g., SI Report). Sampling and analysis
12 conducted prior to the effective date of this Consent Agreement
13 will not have to be in strict conformance to the current DTSC
14 and EPA guidance.

15 15.2. The names, addresses, and telephone numbers of
16 the California State certified analytical laboratories
17 Respondents propose to use must be specified in the applicable
18 Workplan.

SAMPLING AND DATA/DOCUMENT AVAILABILITY

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20
21
22 16.1. Respondents shall submit to DTSC upon request the
23 results of all sampling and/or tests or other data generated by
24 its employees, agents, consultants, or contractors pursuant to
25 this Consent Agreement.

26 16.2. Respondents shall notify DTSC in writing at least
27

1 Respondents or their contractors or consultants.
2

3 RECORD PRESERVATION
4

5 18.1. Respondents shall retain, during the pendency of
6 this Consent Agreement and for a minimum of six (6) years after
7 its termination, all data, records, and documents that relate in
8 any way to the performance of this Consent Agreement or to
9 hazardous waste management and/or disposal at the Facility.

10 Respondents shall ensure that DTSC is notified in writing ninety
11 (90) days prior to the destruction of any such records, so that
12 DTSC has the opportunity to take possession of any such
13 records. Prior to transferring possession of these documents to
14 a third party (non-signatory to this agreement) a copy of these
15 records will be provided to DTSC. Such written notification
16 shall reference the effective date, caption, and docket number
17 of this Consent Agreement and shall be addressed to:

18
19 Stephen W. Lavinger, Chief
20 Southern California Branch
21 Statewide Regulatory Programs Division
22 Department of Toxic Substances Control
23 5796 Corporate Avenue
24 Cypress, California 90630

25 18.2. If Respondents retain or employs any agent,
26 consultant, or contractor for the purpose of carrying out the
27 terms of this Consent Agreement, Respondents will require any
such agents, consultants, or contractors to provide Respondents

1 a copy of all documents produced pursuant to this Consent
2 Agreement.

3 18.3. The site which is the subject of this Consent
4 Agreement is closed, no employees of Respondent are routinely
5 onsite and there is no secure storage area at the site for
6 records. Therefore, all documents pertaining to this Consent
7 Agreement shall be stored at the office of Respondent's Project
8 Coordinator.

9 DISPUTE RESOLUTION

10
11 19.1. The parties agree to use their best efforts to
12 resolve all disputes informally. The parties agree that the
13 procedures contained in this section are the sole administrative
14 procedures for resolving disputes arising under this Consent
15 Agreement. If Respondents fail to follow the procedures
16 contained in this section, it shall have waived its right to
17 further consideration of the disputed issue.

18 19.2. If Respondents disagree with any written decision
19 by DTSC pursuant to this Consent Agreement, Respondents' Project
20 Coordinators shall orally notify DTSC Project Coordinator of the
21 dispute. The Project Coordinators shall attempt to resolve the
22 dispute informally.

23 19.3. If the Project Coordinators cannot resolve the
24 dispute informally, Respondents may pursue the matter formally
25 by placing its objection in writing. Respondents' written
26 objection must be forwarded to:

1 Stephen W. Lavinger, Chief
2 Southern California Branch
3 Statewide Regulatory Programs Division
4 Department of Toxic Substances Control
5 5796 Corporate Avenue
6 Cypress, California 90630

7 A copy of the objection shall be forwarded to DTSC Project
8 Coordinator. The written objection must be mailed to the Branch
9 Chief within fourteen (14) days of Respondents' receipt of
10 DTSC's written decision under paragraph 19.2. Respondents'
11 written objection must set forth the specific points of the
12 dispute and the basis for Respondents' position.

13 19.4. DTSC and Respondents shall have fourteen (14)
14 days from DTSC's receipt of Respondents' written objection to
15 resolve the dispute through formal discussions. This period may
16 be extended by DTSC for good cause. During such period,
17 Respondents may meet or confer with DTSC to discuss the dispute.

18 19.5. After the formal discussion period, DTSC will
19 provide the Respondents with its written decision on the
20 dispute. DTSC's written decision will reflect any agreements
21 reached during the formal discussion period and be signed by
22 Southern California Branch Chief, Statewide Regulatory Programs
23 Division, Department of Toxic Substances Control, or his/her
24 designee.

25 19.6. During the pendency of all dispute resolution
26 procedures set forth above, the time periods for completion of
27 work to be performed under this Consent Agreement that are
affected by such dispute shall be extended for a period of time

1 not to exceed the actual time taken to resolve the dispute. The
2 existence of a dispute shall not excuse, toll, or suspend any
3 other compliance obligation or deadline required pursuant to
4 this Consent Agreement.

5
6 RESERVATION OF RIGHTS

7
8 20.1. DTSC reserves all of its statutory and regulatory
9 powers, authorities, rights, and remedies, both legal and
10 equitable, which may pertain to Respondents failure to comply
11 with any of the requirements of this Consent Agreement. This
12 Consent Agreement shall not be construed as a covenant not to
13 sue, release, waiver, or limitation on any rights, remedies,
14 powers, or authorities, civil or criminal, that DTSC has under
15 any statutory, regulatory, or common law authority.

16 20.2. DTSC reserves the right to disapprove of work
17 performed by Respondent pursuant to this Consent Agreement and
18 to request that Respondent perform additional tasks.

19 20.3. DTSC reserves the right to perform any portion of
20 the work consented to herein or any additional site
21 characterization, feasibility study, and/or remedial actions it
22 deems necessary to protect human health and/or the environment
23 should Respondent be unwilling or unable to timely perform such
24 work. DTSC may exercise its authority under any applicable
25 state or federal law or regulation to undertake response actions
26 at any time. DTSC reserves its right to seek reimbursement from
27

1 Respondents for costs incurred by the State of California with
2 respect to such actions. DTSC will notify Respondents in
3 writing as soon as practicable regarding the decision to perform
4 any work described in this section.

5 20.4. If DTSC determines that activities in compliance
6 or noncompliance with this Consent Agreement have caused or may
7 cause a release of hazardous waste and/or hazardous waste
8 constituents, or a threat to human health and/or the
9 environment, or that Respondents are not capable of undertaking
10 any of the work required, DTSC may order Respondents to stop
11 further implementation of this Consent Agreement for such period
12 of time as DTSC determines may be needed to abate any such
13 release or threat and/or to undertake any action which DTSC
14 determines is necessary to abate or redress such release or
15 threat. The deadlines for any actions required of Respondents
16 under this Consent Agreement affected by the order to stop work
17 shall be extended to take into account DTSC's actions.

18 20.5. This Consent Agreement is not intended to be
19 nor shall it be construed to be a permit. The parties
20 acknowledge and agree that DTSC's approval of any work plan,
21 plan, and/or specification does not constitute a warranty or
22 representation that the Work plans, plans, and/or specifications
23 will achieve the required cleanup or performance standards.
24 Compliance by Respondents with the terms of this Consent
25 Agreement shall not relieve Respondents of its obligations to
26 comply with HSC or any other applicable local, state, or federal
27

1 law or regulation.

2
3 OTHER CLAIMS
4

5 21. Except as provided in this Consent Agreement,
6 nothing in this Consent Agreement shall constitute or be
7 construed as a release from any claim, cause of action, or
8 demand in law or equity against any person, firm, partnership,
9 or corporation for any liability it may have arising out of or
10 relating in any way to the generation, storage, treatment,
11 handling, transportation, release, or disposal of any hazardous
12 constituents, hazardous substances, hazardous wastes,
13 pollutants, or contaminants found at, taken to, or taken or
14 migrating from the Facility.
15

16 OTHER APPLICABLE LAWS
17

18 22. All actions required to be taken pursuant to this
19 Consent Agreement shall be undertaken in accordance with the
20 requirements of all local, state, and federal laws and
21 regulations. Respondents shall obtain or cause their
22 representatives to obtain all permits and approvals necessary
23 under such laws and regulations.
24

25 //

26 //

27 //

1 pay an invoice within 60 days without good cause, the amount is
2 subject to interest as provided by HSC section 25360.1.

3 23.5. DTSC will retain all costs records associated
4 with the work performed under this Consent Agreement as required
5 by state law. DTSC will make all documents which support the
6 DTSC's cost determination available for inspection upon request,
7 as provided by the Public Records Act.

8 23.6. Any dispute concerning costs pursuant to this
9 Consent Agreement is subject to the Dispute Resolution provision
10 of this Consent Agreement. DTSC reserves its right to recover
11 unpaid costs under applicable state and federal laws.

12 23.7. All payments shall be made within 60 days of the
13 date of receipt by Respondents of the billing statement by check
14 payable to the Department of Toxic Substances Control and shall
15 be sent to:

16 Accounting Unit
17 Department of Toxic Substances Control
18 P.O. Box 806
19 Sacramento, California 95812-0806

20 All checks shall reference the name of the Facility, the
21 Respondents' name and address, and the docket number of this
22 Consent Agreement. Copies of all checks and letters
23 transmitting such checks shall be sent simultaneously to DTSC's
24 Project Coordinator.

24 //

25 //

26 //

27

1 satisfactorily completed. The Acknowledgment will affirm
2 Respondents' continuing obligation to preserve all records after
3 the rest of the Consent Agreement is satisfactorily completed.
4

5 EFFECTIVE DATE
6

7 26. The effective date of this Consent Agreement shall
8 be the date on which this Consent Agreement is signed by all the
9 parties. Except as otherwise specified, "days" means calendar
10 days.

11 SIGNATORIES
12

13 27. Each undersigned representative certifies that he
14 or she is fully authorized to enter into this Consent Agreement.
15

16 DATE: June 28, 2000

BY: Original signed by Juliette Richter

Signature/Respondent

17 Henkel Corp., Assoc General Counsel & Risk Manager

18 Typed or Printed Name and Title of
19 Respondent

20 DATE: June 28, 2000

BY: Original signed by Attorney-in-Fact

Signature/Respondent

21 Attorney-in-Fact, Cognis Corporation

22 Typed or Printed Name and Title of
23 Respondent

24 DATE: June 29, 2000

BY: Original signed by Stephen W. Lavinger

25 Stephen W. Lavinger Chief
26 Southern California Branch
27 Statewide Regulatory Programs Division
Department of Toxic Substances Control

This Corrective Action Consent Agreement posted on DTSC's website does not include all attachments from the original document. If you need copies of a specific document, please contact the DTSC project manager listed in the document.