#### STATE OF CALIFORNIA CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Davis Chemical Company 1550 North Bonnie Beach Place Los Angeles, CA 90063

Respondents:

Alpha Therapeutic Corporation a California corporation 5555 Valley Boulevard Los Angeles, CA 90032

Alpha/Owens Corning (AOC) LLC a California corporation 19991 Seaton Avenue Perris, CA 92570

Betterbilt Chemicals a California corporation P.O. Box 303, La Verne, CA 91750

Cambro Manufacturing a California corporation 7601 Clay Avenue Huntington Beach, CA 92648

Catalina Yachts a California corporation 21200 Victory Boulevard Woodland Hills, CA 91367

Century Laminators a California corporation 1182 Knollwood Circle Anaheim, CA 92801

Century Plastics a California corporation 1435 South Santa Fe Compton, CA 90221 Docket No. I&SE-CO 02/03-001

#### IMMINENT AND SUBSTANTIAL ENDANGERMENT DETERMINATION AND CONSENT ORDER

Health and Safety Code Sections 25355.5(a)(1)(B) and (C), 25358.3(a), 58009 and 58010 Gruber Systems, Inc. a California corporation 25636 Avenue Stanford Valencia, CA 91355

Harrington Industrial Plastics a California corporation 162 East Freedom Avenue Anaheim, CA 92801

Hydro Systems, Inc. a California corporation 50 Moreland Road Simi Valley, CA 93065

JBI Inc. a California corporation 2650 El Presidio Street Long Beach, CA 90810

Park International Corporation a California corporation 1401 Freeman Avenue Long Beach, CA 90804

Performance Catamarans a California corporation 1800 East Borchard Avenue Santa Ana, CA 92705

Plastics Research Corporation a California corporation 13538 Excelsior Drive Santa Fe Springs, CA 90670

Resinart a California corporation 1621 Placentia Avenue Costa Mesa, CA 92627

Semtech Corporation a Delaware corporation 200 Flynn Road Camarillo, CA 93012

Silvestri Studios a California corporation 1733 Cordova Street Los Angeles, CA 90007 Three Bond International, Inc. a California corporation 373 Van Ness Avenue Torrance, CA 90501

Watkins Manufacturing Corporation a California corporation 1323 Los Vallecitos Boulevard San Marcos, CA 92069

## I. INTRODUCTION

1.1 <u>Parties</u>. The California Environmental Protection Agency, Department of Toxic Substances Control ("DTSC") and

Alpha Therapeutic Corporation, a California corporation; AOC LLC, a California corporation; Betterbilt Chemicals, a California corporation; Cambro Manufacturing, a California corporation; Catalina Yachts, a California corporation; Century Laminators, a California corporation; Century Plastics, a California corporation; Gruber Systems, Inc., a California corporation; Harrington Industrial Plastics, a California corporation; Park International Corporation, a California corporation; Plastics Research Corporation, a California corporation; Resinart, a California corporation; Semtech Corporation, a Delaware corporation, Silvestri Studios, a California corporation; Three Bond International, Inc., a California corporation; ("Respondents")

hereby enter this Consent Order and agree to its terms and conditions. DTSC and Respondents are referred to collectively herein as the Parties.

1.2 <u>Property/Site</u>. This Consent Order applies to the property located at 1550 North Bonnie Beach Place, Los Angeles, California 90063 (the "Property") and the areal extent of contamination that resulted from activities on the Property (hereinafter, the "Site"). The Property consists of approximately 1/3 acre and is identified by Los Angeles County Assessor's Parcel Number 2122-009-029. A map showing the Property is attached as Exhibit A.

1.3 <u>Respondents</u>. Respondents are a former operator of and transporter of wastes sent to, and generators of wastes sent to a hazardous waste facility located at 1550 North Bonnie Beach Place, Los Angeles, California 90063.

1.4 <u>Jurisdiction</u>. This Consent Order is entered into by the Parties pursuant to Health and Safety Code sections 25355.5(a)(1)(B) and (C), 25358.3(a), 58009 and 58010.

Health and Safety Code section 25355.5(a)(1)(B) authorizes DTSC to issue an order establishing a schedule for removing or remedying a release of a hazardous substance at a site, or for correcting the conditions that threaten the release of a hazardous substance. The order may include, but is not limited to, requiring specific dates by which the nature and extent of a release shall be determined and the site adequately characterized, a remedial action plan prepared and submitted to DTSC for approval, and a removal or remedial action completed.

Health and Safety Code section 25355.5(a)(1)(C) authorizes DTSC, in lieu of issuing a unilateral order, to enter into an enforceable agreement with a potentially responsible party for the site that requires the party to take necessary corrective action to remove the threat of the release, or to determine the nature and extent of the release and adequately characterize the site, prepare a remedial action plan, and complete the necessary removal or remedial actions, as required in the approved remedial action plan.

Health and Safety Code section 25358.3(a) authorizes DTSC to take various actions, including issuance of an imminent and substantial endangerment determination and order, when DTSC determines that there may be an imminent or substantial endangerment to the public health or welfare or to the environment, because of a release or a threatened release of a hazardous substance.

Health and Safety Code section 58009 authorizes DTSC to commence and maintain all proper and necessary actions and proceedings to enforce its rules and regulations; to enjoin and abate nuisances related to matters within its jurisdiction that are dangerous to health; to compel the performance of any act specifically enjoined upon any person, officer, or board, by any law of this state relating to matters within its jurisdiction; and/or on matters within its jurisdiction, to protect and preserve the public health.

Health and Safety Code section 58010 authorizes DTSC to abate public nuisances related to matters within its jurisdiction.

1.5 <u>Denial of Liability/Reservation of Rights</u>. By entering into this Consent Order, Respondents make no admission of liability nor do they admit or acknowledge any causal or other relationship between any of their activities, past or present, and any conditions at or around the Site, nor do Respondents admit or acknowledge any legal responsibility for any such conditions or for remedying any contamination. Respondents expressly deny any such relationship, liability or responsibility. By entering into this Consent Order, Respondents are not waiving any right, claim, remedy, appeal, cause of action or defense in this or any other proceeding, except as explicitly stated in this Consent Order. This Consent Order expressly does not create rights in or obligations to third parties. Notwithstanding the foregoing, Respondents acknowledge their responsibility pursuant to this Consent Order to perform those acts they have agreed to undertake in this Consent Order and shall not deny such responsibility in any proceeding brought by DTSC to enforce any term or terms of this Consent Order.

Enforcement. DTSC and the Respondents agree that this Consent Order 1.6 shall not be construed or used as an admission or an indication of liability on the part of any of the Respondents, and Respondents expressly reserve all rights and defenses they may have in connection with the Site, in any proceeding brought by the State of California, DTSC, or by a third party, under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. section 9601 et seq., the Hazardous Substances Account Act ("HSAA"), Health and Safety Code section 25300 et seq., or any other statutory or common law provision, provided that Respondents shall not deny their responsibility to perform those acts that they have agreed to undertake in this Consent Order in any proceeding brought by DTSC to enforce any term or terms of this Consent Order. In any action by DTSC or the People of the State of California to enforce the terms of this Consent Order, Respondents consent to, and agree not to contest, the authority or jurisdiction of DTSC to issue or enforce this Consent Order and agree not to contest the validity of the Consent Order or its terms. DTSC reserves the right to take any enforcement action that it determines to be necessary pursuant to applicable state or federal laws, including the right to issue orders and to seek cost recovery, injunctive relief, monetary penalties, and punitive damages. Nothing in this Consent Order is intended or shall be construed to limit or preclude DTSC from taking any other action authorized by law or equity to protect public health and safety or the environment and recovering the costs thereof.

1.7 <u>Reservation of Rights</u>. Respondents and DTSC expressly reserve all rights they may have under applicable statutes, regulations and common law to assert the responsibility of other entities for any contamination at or migrating from the Site, and to recover the costs of response actions, including environmental investigations, from such entities.

1.8 <u>Purpose</u>. The purpose of this Consent Order is to ensure that any release or threatened release of a hazardous substance to the air, soil, surface water or groundwater at or from the Site is thoroughly investigated and that appropriate response actions are taken. The purpose of this Consent Order is also to obtain reimbursement from the Respondents for DTSC's response costs, including but not limited to the past costs identified in Section 6.18 (Cost Recovery), and future oversight costs. Respondents agree to undertake all actions required by the terms and conditions of this Consent Order.

## II. FINDINGS OF FACT

DTSC hereby makes the following Findings of Fact. Respondents do not admit any of said Findings of Fact and no such Finding of Fact shall be construed or employed as an admission in any action or proceeding brought by any person or party. Notwithstanding the foregoing, Respondents' failure to admit shall have no effect upon their obligations pursuant to this Consent Order or upon any proceeding brought by DTSC to enforce this Consent Order.

2.1 <u>Activities of Respondents</u>. Operating under a lease with an option to buy, Betterbilt Chemicals ("Betterbilt") operated at the Property from August 1, 1990 to November 13, 1990. Betterbilt operated without a hazardous waste permit. Betterbilt also delivered hazardous waste to this unpermitted TSD facility. Generators of hazardous waste sent to this unpermitted TSD facility are also included as Respondents. The generators named as Respondents are some of those who, according to DTSC records, sent hazardous waste to the facility.

2.2 <u>Activities of Other Persons</u>. Each of the following persons conducted the activities or enjoy or enjoyed the status described below at, or in connection with the Site:

2.2.1 <u>Former Owner/Operators</u>. Davis Chemical Company ("Davis") was operated by Ernest Davis, Donald Williams and Richard D. Williams. Davis operated as a recycler of spent solvents, primarily acetone, on the Property from 1949 to 1990, when the company went out of business. Davis owned and operated a hazardous waste treatment facility at the Property without a hazardous waste permit, and without a treatment, storage, and disposal ("TSD") permit or interim status authorization from DTSC or the United States Environmental Protection Agency ("U.S. EPA"). Richard D. Williams is owner and operator of Summit Transportation Corporation, a mobile solvent recycling operation that was recently based at the Property.

2.2.2 <u>Current Owner</u>. The property is currently owned by the Davis Family Trust (Trustees, Jeannine and Diana Davis), since the death of the former owner and operator, Ernest Davis.

2.2.3 <u>Generators That Are Not Respondents</u>. DTSC has reason to believe that the following entities owned or possessed hazardous substances, waste or constituents or solid waste when arrangement for its transport and treatment at the Property occurred: California Yachts, Inc., Commodore Products, DEC Associates, Decter Mankin Co., Inc., Freight Container Corporation, Gruber Systems, Hessco Industries, Inc., Hydro-Spa, Inc., Islander Yacht, The Stockland Co., Superior Marble Co. Inc., Synthane-Taylor Corp., Vistron Corp. Filon Division, and other entities not specifically identified here.

2.3 <u>Physical Description of Site</u>. The Property is located on a 1/3-acre lot in east Los Angeles in a light industrial area with some residential use. It is located on a hillside with significant grade; the northern portion of the Property is topographically downhill from the buildings and other improvements on the Property. A site reconnaissance visit by Ecology and Environment, Inc. in 1992 for the U.S. EPA, revealed evidence of poor housekeeping, significant spillage of waste solvents and resin, and deteriorated concrete flooring throughout the facility. Currently, hazardous wastes are not known to be stored on the Property. There are two single-family residences close to the Property, one directly adjacent to the southeastern property

boundary and the other across Bonnie Beach Place. It is currently not known if the contaminants have migrated off-site. The Property is currently vacant.

### 2.4 <u>Site History</u>.

2.4.1 Davis (EPA ID# CAD070215355) operated as a recycler of spent solvents and transporter of waste solvents from various small manufacturing operations from 1949 until 1990, when it went out of business. Davis reportedly accepted and processed by distillation chlorinated and petroleum-based solvents throughout its operational history. Since 1953, the predominant process at the facility has been reclaiming acetone/polyester resin wastes from the fiberglass industry. However, according to hazardous waste manifests, other types of solvents were also sent to the facility. Davis collected waste polyester resin dissolved in acetone in 55-gallon drums. The solutions were then pumped into an 800-gallon feed tank that served as the distillation equipment. After the solids settled, the acetone waste was distilled through one of two steam-heated vaporization units (a 150-gallon/hour unit and a 40-gallon/hour unit). The distilled acetone was then placed in 55-gallon containers for resale.

2.4.2 Around 1980, Davis installed four stainless steel underground storage tanks (USTs) at the facility - two 2,500-gallon reclaimed solvent tanks and two 6,000gallon waste solvent tanks. No secondary containment or release controls were installed on these tanks. These USTs were removed under the supervision of Los Angeles County Department of Public Works (LADPW) in November 1989. According to LADPW records, the sampling conducted in 1989 and 1990 by Davis and its contractor did not adequately address the possibility of a release from these tanks. At that time, LADPW required additional boring and sampling to be completed prior to certifying closure of these tanks. However, no further sampling to satisfy LADPW requirements was undertaken by Davis. From August 1, 1990 to October 23, 1990, Betterbilt Chemicals (EPA ID# CAD981686249) operated fuel blending activities and recovered acetone from waste polyester resins at the facility and also acted as a hazardous waste transporter. Flammable wastes (liquid and solid) were accepted at the facility and then shipped offsite for disposal by incineration at Systech Inc., a cement kiln facility in Lebec, California (EPA ID# CAT080031628). DTSC issued a Directive to Comply on October 23, 1990 ordering Davis to cease and desist all hazardous waste treatment and storage operations, stating that the facility was conducting unpermitted operations such as accepting flammable solids and liquids, blending flammable solids and liquids as fuel for Systech Inc., and treating waste paint related material by distillation.

2.4.3 U.S. EPA conducted a preliminary assessment (PA) of the Site in 1992 and noted "significant spillage". U.S. EPA did not conduct a site inspection (SI) following the PA because the U.S. EPA considered the Site to be a Resource Conservation and Recovery Act (RCRA) facility and recommended referral to the state RCRA program (implemented by DTSC under Health and Safety Code, division 20, chapter 6.5).

2.4.4 On November 12, 1996, Smith-Emery Geoservices, consultants for the Davis Family Trust, prepared a "Report of Environmental Sampling" to address potential environmental concerns related to the former recycling operations. Fifteen soil samples were analyzed, eight of which were found to contain analytes with one or more of the following compounds: 1,1, 2-trichloroethane (TCA), tetrachloroethene (PCE), and 1,1,2,2-tetrachloroethane. The 1996 report recommended that site closure be obtained from the local regulatory agency.

2.4.5 On October 2, 1997, DTSC's Statewide Compliance Branch referred the Site to DTSC's Site Mitigation Program. In an effort to commence the remedial investigation (RI) process and recover associated costs, in June 1999 DTSC sent out information request letters to potentially responsible parties, namely Betterbilt, Diana Davis (a trustee of the Ernest Davis Estate), and Donald Williams, former manager of Davis. Betterbilt and Diana Davis responded to the letter but Donald Williams failed to respond. The response from Betterbilt stated that it had never owned or operated the facility but was at one point negotiating to purchase the Property. Betterbilt said it never finalized the purchase because it was unable to obtain a permit to operate as a TSD facility. Betterbilt did not provide information concerning the type and quantities of hazardous substances it delivered to the facility, even though it was one of the transporters of hazardous waste to the facility, according to hazardous waste manifests obtained from DTSC's headquarters office.

2.5 <u>Hazardous Substances Found at the Site</u>. The solvents managed at the facility through the recycling process included acetone, methylene chloride, trichloroethane (TCA), trichloroethene (TCE), tetrachloroethene (PCE), xylene, methyl ethyl ketone (MEK), isopropyl alcohol (IPA), toluene, methanol, ethanol, and paint thinners.

Smith-Emery Geoservices analyzed fifteen soil samples in November 1996. Eight of the samples were found to exceed the action levels of one or more of the following compounds: 1,1,2-trichloroethane (TCA), tetrachloroethene (PCE), and 1,1,2,2-tetrachloroethane. The hazardous waste regulatory level at the time for PCE in soil, according to title 22, California Code of Regulations, section 66261.24, was 700 ppb. No hazardous waste levels are specified for TCA and 1,1,2,2-tetrachloroethane in soil. The highest concentrations detected for 1,1,2,2-tetrachloroethane, PCE and TCA were 16 ppb, 1200 ppb, and 64 ppb respectively.

2.6 <u>Health Effects</u>. Health effects and properties of the substances on the Site are listed below.

2.6.1 <u>Tetrachloroethene (PCE)</u>. This volatile organic compound can affect the central nervous system and cause anesthesia. May irritate skin and eyes after prolonged contact. May cause liver damage. Known to be carcinogenic in experimental animals.

2.6.2 <u>1,1,2-Trichloroethane (TCA)</u>. Irritating to eyes, mucus membranes, and in high concentrations, narcotic.

2.6.3 <u>1,1,2,2-Tetrachloroethane</u>. Breathing high levels of 1,1,2,2tetrachloroethane can cause fatigue, vomiting, dizziness, and possibly unconsciousness. Breathing, drinking, or touching it for a long period of time can cause liver damage, stomachaches, or dizziness. 1,1,2,2-Tetrachloroethane has been found in at least 273 of the 1,430 National Priorities List sites identified by U.S. EPA.

#### 2.7 Routes of Exposure.

2.7.1 Davis handled volatile wastes at the property for approximately 37 years. Some of these wastes were released into the soil. The current potential source for exposure through air emissions is on-site soil on which various processes were conducted and wastes were stored.

2.7.2 The Site sits on the Repetto Hills which is underlain by the Puente Formation consisting of marine siltstone, sandstone, shale, conglomerate, limestone and tuff. The California Department of Water Resources considers the Puente Formation to be "non-water bearing," i.e., a formation that produces limited quantities of water. However, because surface and subsurface flow from the Repetto Hills provides recharge to the aquifers of the Central Groundwater Basin, a potential for exposure through groundwater exists. The boundary of the Central Groundwater Basin is approximately 1 mile south of the Site. Two of the 1996 soil borings showed levels of some volatile organic compounds increasing with depth, thereby raising the possibility that groundwater, if it exists beneath the Site, may be contaminated.

2.8 <u>Public Health and/or Environmental Risk.</u> The potential for groundwater contamination exists. The Site sits on the Repetto Hills which is underlain by the Puente Formation consisting of marine siltstone, sandstone, shale, conglomerate, limestone and tuff. Contamination from the Site could reach the Puente Formation. The California Department of Water Resources considers the Puente Formation to be "non-water bearing", i.e. a formation that produces limited quantities of water. However, surface and subsurface flow from the Repetto Hills provides recharge to the aquifers of the Central Groundwater Basin. The boundary of the Central Groundwater Basin is approximately 1 mile south of the Site.

The property is in an industrial/residential area; future land uses may include redevelopment for residential or industrial purposes. Approximately 461,287 people live within 4 miles of the Site. There is also one sensitive environment for the San Diego horned lizard located about 0.5 miles south of the Site. The San Diego horned lizard has been identified for proposed listing on the federal endangered species list.

#### III. CONCLUSIONS OF LAW

DTSC hereby makes the following Conclusions of Law. Respondents do not admit any of said Conclusions of Law, and expressly deny the Conclusion of Law set forth in Section 3.5 of this Consent Order. Respondents' failure to admit, and express denial, shall have no effect upon their obligations pursuant to this Consent Order or upon any proceeding brought by DTSC to enforce this Consent Order. 3.1 Each Respondent is a responsible party as defined by Health and Safety Code section 25323.5.

3.2 Each of the substances listed in Section 2.5 (Hazardous Substances Found at the Site) is a "hazardous substance" as defined in Health and Safety Code section 25316.

3.3 There has been a "release" and/or there is a "threatened release" of hazardous substances listed in Section 2.5 at the Site, as defined in Health and Safety Code section 25320.

3.4 The actual and threatened release of hazardous substances at the Site may present an imminent and substantial endangerment to the public health or welfare or to the environment.

3.5 Response action is necessary to abate a public nuisance and to protect and preserve the public health.

## **IV. DETERMINATIONS**

Based on the foregoing findings of fact and conclusions of law, DTSC hereby makes the following determinations. Respondents do not admit either of the following determinations. Respondents' failure to admit shall have no effect upon their obligations pursuant to this Consent Order or upon any proceeding brought by DTSC to enforce this Consent Order.

4.1 Response action is necessary at the Site because there has been a release and/or there is a threatened release of a hazardous substance.

4.2 There may be an imminent and/or substantial endangerment to the public health or welfare or to the environment because of the release and/or the threatened release of the hazardous substances at the Site.

### V. CONSENT ORDER

Based on the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DETERMINATIONS, IT IS HEREBY AGREED AND ORDERED THAT Respondents conduct the following response actions in the manner specified herein, and in accordance with a schedule specified by DTSC as follows:

5.1 All response actions taken pursuant to this Consent Order shall be consistent with the requirements of chapter 6.8 (commencing with section 25300), division 20 of the Health and Safety Code and any other applicable state or federal statutes and regulations.

5.1.1 <u>Site Remediation Strategy</u>. It is the intent of this Consent Order to require for the Site: completion of a Remedial Investigation/Feasibility Study ("RI/FS"),

preparation of a Remedial Action Plan ("RAP"), and preparation of California Environmental Quality Act (CEQA) documents. An overall Site investigation and remediation strategy that reflects program goals, objectives, and requirements shall be developed by Respondents in conjunction with DTSC. Current knowledge of the Site contamination sources, exposure pathways, and receptors shall be used in developing this strategy.

An objective of the Site investigations shall be to identify immediate or potential risks to public health and the environment and prioritize and implement response actions using removal actions and operable units, if appropriate, based on the relative risks at the Site. Respondents and DTSC shall develop and possibly modify Site priorities throughout the course of the investigations.

5.1.2 <u>Remedial Action Objectives</u>. Based on available information, DTSC has preliminarily determined that the remedial action objectives for the Site shall include:

- (a) Protection of existing and potential beneficial uses of groundwater. The Regional Water Quality Control Board Basin Plan identifies public water supply as a beneficial use of the Central Groundwater Basin. Therefore, drinking water standards or more conservative values determined by a Risk Assessment shall be remedial action objectives for this Site.
- (b) Cleanup of hazardous substances in the soil, to risk-based levels.
- (c) Protection of flora and fauna, if necessary based on an ecological risk assessment.

5.1.3 <u>Removal Actions</u>. Respondents shall undertake removal actions if, during the course of the RI or FS, DTSC determines that they are necessary to mitigate the release of hazardous substances at or emanating from the Site. DTSC may require Respondents to submit a removal action workplan that includes a schedule for implementing the workplan for DTSC's approval. Either DTSC or Respondents may identify the need for removal actions. Respondents shall implement the following removal actions:

- 5.1.4 Fence and Post.
- (a) Within 30 days of the effective date of this Consent Order, Respondents shall install a fence. The fence shall secure, at a minimum, the areas specified on the Site map (Exhibit B).
- (b) Within 30 days of the effective date of this Consent Order, Respondents shall install signs that are visible from the area surrounding the contaminated Site and posted at each route of entry into the Site, including those routes likely to be used by unauthorized persons. Such routes of entry include: access roads leading to the Site, and facing rivers,

creeks, lakes or other waterways that may provide a route of access to the Site.

(c) The fence and signs shall be constructed of materials able to withstand the elements and shall be continuously maintained for as long as DTSC determines it to be necessary in order to protect public health and safety and the environment. The fence and signs shall be constructed and posted according to DTSC's Standard Fence and Sign Specifications.

5.1.5 <u>Site Remediation Strategy Meeting</u>. Respondents, including the Project Coordinator (Section 6.1) and Project Engineer/Geologist (Section 6.2), shall meet with DTSC within 30 days from the effective date (and concurrent with the development of the RI/FS workplan) to discuss the Site remediation strategy. These discussions will include Site risks and priorities; project planning, phasing and scheduling, remedial action objectives, remedial technologies, data quality objectives, and the RI/FS workplan. Results of the discussions will be included in the Scoping Document, Section 5.2.2(b) of this Consent Order.

5.2 <u>Remedial Investigation/Feasibility Study (RI/FS)</u>. A phased RI/FS shall be conducted for the Site. The first RI phase shall consist of a soils investigation. The second RI phase shall consist of a groundwater investigation; this second phase shall be conducted only if DTSC determines that the results of the first phase indicate that it is necessary. The RI/FS shall be prepared consistent with U.S. EPA's "Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA," October 1988. The purpose of the RI/FS is to assess Site conditions and to evaluate alternatives to the extent necessary to select a remedy appropriate for the Site. RI and FS activities may be conducted concurrently and iteratively so that the investigations can be completed expeditiously. Because of the unknown nature of the Site and iterative nature of the RI/FS, additional data requirements and analyses may be identified throughout the process. Respondents shall conduct additional data collection and analysis as identified by DTSC, consistent with the general scope and objectives of this Consent Order.

The following elements of the RI/FS process shall be preliminarily defined in the initial Site scoping and refined and modified as additional information is gathered throughout the RI/FS process.

- (a) Conceptual Site Model identifying contamination sources, exposure pathways, and receptors;
- (b) Federal, State and local remedial action objectives including applicable legal requirements or relevant and appropriate standards;
- (c) Project phasing including the identification of removal actions and operable units;
- (d) General response actions and associated remedial technology types; and

- (e) The need for treatability studies.
- 5.2.1 <u>RI/FS Objectives</u>. The objectives of the RI/FS are to:
- (a) Determine the nature and full extent of hazardous substance contamination of air, soil, surface water and groundwater at the Site;
- (b) Identify all actual and potential exposure pathways and routes through environmental media;
- (c) Determine the magnitude and probability of actual or potential harm to public health, safety or welfare or to the environment posed by the threatened or actual release of hazardous substances at or from the Site;
- (d) Identify and evaluate appropriate response actions to prevent or minimize future releases and mitigate any releases that have already occurred; and(e)Collect and evaluate the information necessary to prepare a RAP.

5.2.2 <u>RI/FS Workplan</u>. Within 60 days from the effective date of this Consent Order, Respondents shall prepare and submit to DTSC for review and approval a detailed RI/FS Workplan and implementation schedule that covers all the activities necessary to conduct the RI and the FS. The RI/FS Workplan for the first RI phase (soil RI) shall include a detailed description of the tasks to be performed, information or data needed for each task, and the deliverables that will be submitted to DTSC. Either Respondents or DTSC may identify the need for additional work. If DTSC determines that the second RI phase (groundwater RI) is necessary, Respondents shall prepare and submit to DTSC for review and approval a detailed RI/FS Workplan and implementation schedule that covers all the activities necessary to conduct the groundwater RI phase for the Site.

These RI/FS Workplan deliverables are discussed in the remainder of this Section, with a schedule for implementation, and monthly reports. The RI/FS Workplan shall include all the sections and address each component listed below.

(a) <u>Project Management Plan</u>. The Project Management Plan shall define relationships and responsibilities for major tasks and project management items by Respondents, its contractors, subcontractors, and consultants. The plan shall include an organization chart with the names and titles of key personnel and a description of their individual responsibilities.

(b) <u>Scoping Document</u>. Within 30 days from the effective date of this Consent Order, Respondents shall submit a Scoping Document to DTSC. The Scoping Document shall incorporate program goals, program management principles, and expectations contained in the National Contingency Plan (NCP) (40 Code of Federal Regulations (CFR) part 300), as amended. It shall include:

- (1) An analysis and summary of the Site background and the physical setting. At a minimum, the following information is required:
- (A) A map of the Site, and if they exist, aerial photographs and blueprints showing buildings and structures;
- (B) A description of past disposal practices;
- (C) A list of all hazardous substances that were disposed, discharged, spilled, treated, stored, transferred, transported, handled or used at the Site, and a description of their estimated volumes, concentrations, and characteristics;
- (D) A description of the characteristics of the hazardous substances at the Site; and
- (E) If applicable, a description of all current and past manufacturing processes that are or were related to each hazardous substance.
- (2) An analysis and summary of previous response actions including a summary of all existing data including air, soil, surface water, and groundwater data and the Quality Assurance/Quality Control (QA/QC) procedures which were followed;
- (3) Presentation of the Conceptual Site Model;
- (4) The scope and objectives of RI/FS activities;
- (5) Preliminary identification of possible response actions and the data needed for the evaluation of alternatives. Removal actions shall be proposed, if needed, based on the initial evaluation of threats to public health and the environment. If remedial actions involving treatment can be identified, treatability studies shall be conducted during the characterization phase, unless Respondents and DTSC agree that such studies are unnecessary as set forth in Section 5.3 (Treatability Studies); and
- (6) If applicable, initial presentation of the Site Remediation Strategy.
- (c) <u>Field Sampling Plan</u>. The Field Sampling Plan is part of the RI/FS Workplan and shall include:
- (1) Sampling objectives, including a brief description of data gaps and how the field sampling plan will address these gaps;
- (2) Sample locations, including a map showing these locations, and proposed frequency;

- (3) Sample designation or numbering system;
- (4) Detailed specification of sampling equipment and procedures;
- (5) Sample handling and analysis including preservation methods, shipping requirements and holding times; and
- (6) Management plan for wastes generated.
- (d) <u>Quality Assurance Project Plan</u>. This plan is part of the RI/FS Workplan and shall include:
- (1) Project organization and responsibilities with respect to sampling and analysis;
- (2) Quality assurance objectives for measurement including accuracy, precision, and method detection limits. In selecting analytical methods, Respondents shall consider obtaining detection limits at or below potentially applicable legal requirements or relevant and appropriate standards, such as Maximum Contaminant Levels (MCLs) or Maximum Contaminant Level Goals (MCLGs);
- (3) Sampling procedures;
- (4) Sample custody procedures and documentation;
- (5) Field and laboratory calibration procedures;
- (6) Analytical procedures;
- (7) Laboratory to be used certified pursuant to Health and Safety Code section 25198;
- (8) Specific routine procedures used to assess data (precision, accuracy and completeness) and response actions;
- (9) Reporting procedure for measurement of system performance and data quality;
- (10) Data management, data reduction, validation and reporting. Information shall be accessible to downloading into DTSC's system; and
- (11) Internal quality control.
- (e) <u>Health and Safety Plan.</u> A site-specific Health and Safety Plan is part of the RI/FS Workplan and shall be prepared in accordance with federal (29)

C.F.R. § 1910.120) and state (Cal. Code Regs., tit. 8, § 5192) regulations and shall describe the following:

- (1) Field activities including work tasks, objectives, and personnel requirements and a description of hazardous substances on the Site;
- (2) Respondents key personnel and responsibilities;
- (3) Potential hazards to workers including chemical hazards, physical hazards, confined spaces and climatic conditions;
- (4) Potential risks arising from the work being performed including the impact to workers, the community and the environment;
- (5) Exposure monitoring plan;
- (6) Personal protective equipment and engineering controls;
- (7) Site controls including work zones and security measures;
- (8) Decontamination procedures;
- (9) General safe work practices;
- (10) Sanitation facilities;
- (11) Standard operating procedures;
- (12) Emergency response plan covering workers addressing potential hazardous material releases;
- (13) Training requirements;
- (14) Medical surveillance program; and
- (15) Record keeping.
- (f) <u>Other Activities.</u> A description of any other significant activities that are appropriate to complete the RI/FS shall be included.

(g) <u>Schedule.</u> A schedule that provides specific time frames and dates for completion of each activity and report conducted or submitted under the RI/FS Workplan for the soil RI phase and, if DTSC determines it is necessary, for the groundwater RI phase, including the schedules for removal actions and operable unit activities.

DTSC may determine that in addition to tasks defined in the initially approved work plan or plans, other additional work may be necessary to accomplish the objectives of this Consent Order as set forth in the scope of work. DTSC may require that the Respondents perform these response actions in addition to those required by the initially approved work plan or plans, including any approved modifications, if it determines that such actions are necessary to complete the work. Respondents shall confirm their willingness to perform the additional work in writing to DTSC within 7 days of receipt of the DTSC request for additional work. Respondents shall implement the additional tasks that DTSC determines are necessary. The additional work shall be completed according to the standards, specifications, and schedule set forth or approved by DTSC in a written modification to the work plan or plans. DTSC reserves the right to conduct the work itself at any point, to seek reimbursement from Respondents and to seek any other appropriate relief.

5.2.3 <u>RI/FS Workplan Implementation</u>. Respondents shall implement the approved RI/FS Workplan for the soil RI phase. If DTSC determines a groundwater RI phase is necessary, Respondents shall also implement the approved RI/FS Workplan for the groundwater RI phase.

5.2.4 <u>RI/FS Workplan Revisions</u>. If Respondents propose to modify any methods or initiate new activities for which no Field Sampling Plan, Health and Safety Plan, Quality Assurance Project Plan or other necessary procedures/plans have been established, Respondents shall prepare an addendum to the approved plans for DTSC review and approval prior to modifying the method or initiating new activities.

5.3 <u>Treatability Studies</u>. At the request of DTSC, Respondents will perform treatability testing to develop data for the detailed remedial alternatives. If appropriate and practicable, treatability testing would be required to demonstrate the implementability and effectiveness of technologies, unless Respondents can show DTSC that similar data or documentation or information exists. The required deliverables would be: a workplan, a sampling and analysis plan, and a treatability evaluation report. To the extent practicable and appropriate, any such treatability studies will be proposed and implemented during the latter part of Site characterization.

5.4 <u>Remedial Investigation (RI) Report</u>. The purpose of the RI is to collect data necessary to adequately characterize the Site for the purposes of defining risks to public health and the environment and developing and evaluating effective remedial alternatives. Site characterization may be conducted in one or more phases to focus sampling efforts and increase the efficiency of the investigation. The RI Report for the soil RI phase shall be prepared and submitted by Respondents to DTSC for review and approval in accordance with the approved RI/FS workplan schedule. If DTSC determines a groundwater RI phase is necessary, the RI Report for the groundwater RI phase shall also be prepared and submitted by Respondents to DTSC for review and approval in accordance with the approved RI/FS workplan schedule. Respondents shall identify the sources of contamination and define the nature, extent, and volume of the contamination. Using this information, the contaminant fate and transport shall be evaluated. The RI Report shall contain:

- (a) <u>Site Physical Characteristics.</u> Data on the physical characteristics of the Site and surrounding area shall be collected to the extent necessary to define potential transport pathways and receptor populations and to provide sufficient engineering data for development and screening of remedial action alternatives.
- (b) <u>Sources of Contamination.</u> Contamination sources (including heavily contaminated media) shall be defined. The data shall include the source locations, type of contaminant, waste characteristics, and Site features related to contaminant migration and human exposure.
- (c) <u>Nature and Extent of Contamination.</u> Contaminants shall be identified and the horizontal and vertical extent of contamination shall be defined in soil, groundwater, surface water, sediment, air, and biota. Spatial and temporal trends and the fate and transport of contamination shall be evaluated.

5.5 <u>Baseline Health and Ecological Risk Assessment</u>. Respondents shall perform health and ecological risk assessments for the Site that meet the requirements of Health and Safety Code section 25356.1.5(b). Respondents shall submit a Baseline Health and Ecological Risk Assessment Report within 60 days from the approval of the RI Report. The report shall be prepared consistent with U.S. EPA and California Environmental Protection Agency guidance and regulations, including as a minimum: Risk Assessment Guidance for Superfund, Volume 1; Human Health Evaluation Manual, December 1989; Superfund Exposure Assessment Manual, April 1988; Risk Assessment Guidance for Superfund, Volume 2, Environmental Evaluation Manual, March 1989; and all other related or relevant policies, practices and guidelines of the California Environmental Protection Agency, and policies, practices and guidelines developed by U.S. EPA pursuant to 40 C.F.R. section 300.400 et seq. The Baseline Health and Ecological Risk Assessment Report shall include the following components:

- (a) <u>Contaminant Identification</u>. Characterization data shall identify contaminants of concern for the risk assessment process.
- (b) <u>Environmental Evaluation</u>. An ecological assessment consisting of:
- (1) Identification of sensitive environments and rare, threatened, or endangered species and their habitats; and
- (2) As appropriate, ecological investigations to assess the actual or potential effects on the environment and/or develop remediation criteria.
- (c) <u>Exposure Assessment</u>. The objectives of an exposure assessment are to identify actual or potential exposure pathways, to characterize the potentially exposed populations, and to determine the extent of the exposure. Exposed populations may include industrial workers, residents, and subgroups that comprise a meaningful portion of the general

population, including, but not limited to, infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations, that are identifiable as being at greater risk of adverse health effects due to exposure to hazardous substances than the general population.

- (d) <u>Toxicity Assessment</u>. Respondents shall evaluate the types of adverse health or environmental effects associated with individual and multiple chemical exposures; the relationship between magnitude of exposures and adverse effects; and related uncertainties such as the weight of evidence for a chemical's potential carcinogenicity in humans.
- (e) <u>Risk Characterization</u>. Risk characterization shall include the potential risks of adverse health or environmental effects for each of the exposure scenarios derived in the exposure assessment.

5.6 <u>Feasibility Study (FS) Report</u>. The FS Report shall be prepared and submitted by Respondents to DTSC for review and approval, no later than 30 days from submittal of the RI Report. If DTSC determines a groundwater RI phase is necessary, Respondents shall prepare and submit the FS Report for review and approval, no later than 30 days from submittal of the RI Report for the groundwater RI phase. The FS Report shall summarize the results of the FS including the following:

- (a) Documentation of all treatability studies conducted.
- (b) Development of medium specific or operable unit specific remedial action objectives, including legal requirements and other promulgated standards that are relevant.
- (c) Identification and screening of general response actions, remedial technologies, and process options on a medium and/or operable unit specific basis.
- (d) Evaluation of alternatives based on the criteria contained in the NCP including:

### Threshold Criteria:

- (1) Overall protection of human health and the environment.
- (2) Compliance with legal requirements and other promulgated standards that are relevant.

### Primary Balancing Criteria:

(1) Long-term effectiveness and permanence.

- (2) Reduction of toxicity, mobility, or volume through treatment.
- (3) Short-term effectiveness.
- (4) Implementability based on technical and administrative feasibility.
- (5) Cost.

#### Modifying Criteria:

- (1) State and local agency acceptance.
- (2) Community acceptance.

5.7 <u>Public Participation Plan (Community Relations)</u>. Respondents shall work cooperatively with DTSC in providing an opportunity for meaningful public participation in response actions. Any such public participation activities shall be conducted in accordance with Health and Safety Code sections 25356.1 and 25358.7 and DTSC's most current Public Participation Policy and Guidance Manual, and shall be subject to DTSC's review and approval.

Respondents shall conduct a baseline community survey within 45 days of the effective date this order. If DTSC determines that a Public Participation Plan (PPP) is necessary, Respondents shall prepare a PPP that describes how, under this Consent Order, the public and adjoining community will be kept informed of activities conducted at the Site and how Respondents will be responding to inquiries from concerned citizens. Major steps in developing a PPP are as follows:

- (a) Develop proposed list of interviewees;
- (b) Schedule and conduct community interviews; and
- (c) Analyze interview notes, and develop objectives.

Respondents shall submit the PPP for DTSC's review within 45 days of DTSC's determination that a PPP is necessary.

Respondents shall implement any of the public participation support activities identified in the PPP, at the request of DTSC. DTSC retains the right to implement any of these activities independently. These activities include, but are not limited to, development and distribution of fact sheets; public meeting preparations; and development and placement of public notices.

5.8 <u>California Environmental Quality Act (CEQA)</u>. DTSC will comply with CEQA for all activities required by this Consent Order that are projects subject to CEQA. Upon DTSC request, Respondents shall provide DTSC with any information that DTSC deems necessary to facilitate compliance with CEQA. The costs incurred by

DTSC in complying with CEQA are response costs and Respondents shall reimburse DTSC for such costs pursuant to Section 6.18 (Cost Recovery).

5.9 <u>Remedial Action Plan (RAP)</u>. If, after DTSC approves the FS Report, DTSC determines that a RAP is necessary, Respondents shall prepare and submit to DTSC a draft RAP. Respondents shall submit the draft RAP to DTSC no later than 30 days after DTSC approval of the FS Report. The draft RAP shall be consistent with the NCP and Health and Safety Code section 25356.1. The draft RAP public review process may be combined with that of any other documents required by CEQA. The draft RAP shall be based on and summarize the approved RI/FS Reports, and shall clearly set forth:

- (a) Health and safety risks posed by the conditions at the Site.
- (b) The effect of contamination or pollution levels upon present, future, and probable beneficial uses of contaminated, polluted, or threatened resources.
- (c) The effect of alternative remedial action measures on the reasonable availability of groundwater resources for present, future, and probable beneficial uses.
- (d) Site specific characteristics, including the potential for offsite migration of hazardous substances, the surface or subsurface soil, and the hydro geologic conditions, as well as preexisting background contamination levels.
- (e) Cost-effectiveness of alternative remedial action measures. Land disposal shall not be deemed the most cost-effective measure merely on the basis of lower short-term cost.
- (f) The potential environmental impacts of alternative remedial action measures, including, but not limited to, land disposal of the untreated hazardous substances as opposed to treatment of the hazardous substances to remove or reduce their volume, toxicity, or mobility prior to disposal.
- (g) A statement of reasons setting forth the basis for the removal and remedial actions selected. The statement shall include an evaluation of each proposed alternative submitted and evaluate the consistency of the removal and remedial actions proposed by the plan with the NCP.
- (h) A schedule for implementation of all proposed removal and remedial actions.

In conjunction with DTSC, Respondents shall implement the public review process specified in DTSC's Public Participation Policy and Guidance Manual. Within

10 days of closure of the public comment period, Respondents shall submit to DTSC a written Responsiveness Summary of all written and oral comments presented and received during the public comment period.

Following DTSC's review and finalization of the Responsiveness Summary, DTSC will specify any changes to be made in the RAP. Respondents shall modify the document in accordance with DTSC's specifications and submit a final RAP within 15 days of receipt of DTSC's comments.

5.10 <u>Stop Work Order</u>. In the event that DTSC determines that any activity (whether or not pursued in compliance with this Consent Order) may pose an imminent or substantial endangerment to the health or safety of people on the Site or in the surrounding area or to the environment, DTSC may order Respondents to stop further implementation of this Consent Order for such period of time needed to abate the endangerment. In the event that DTSC determines that any site activities (whether or not pursued in compliance with this Consent Order) are proceeding without DTSC authorization, DTSC may order Respondents to stop further implementation of this Consent Order Respondents to stop further implementation of this Consent Order Respondents to stop further implementation of this Consent Order or activity for such period of time needed to obtain DTSC authorization, if such authorization is appropriate. Any deadline in this Consent Order directly affected by a Stop Work Order, under this Section, shall be extended for the term of the Stop Work Order.

5.11 Emergency Response Action/Notification. In the event of any action or occurrence (such as a fire, earthquake, explosion, or human exposure to hazardous substances caused by the release or threatened release of a hazardous substance) during the course of this Consent Order, Respondents shall immediately take all appropriate action to prevent, abate, or minimize such emergency, release, or immediate threat of release and shall immediately notify the Project Manager. Respondents shall take such action in consultation with the Project Manager and in accordance with all applicable provisions of this Consent Order. Within seven days of the onset of such an event, Respondents shall furnish a report to DTSC, signed by Respondents' Project Coordinator, setting forth the events that occurred and the measures taken in the response thereto. In the event that Respondents fail to take appropriate response and DTSC takes the action instead, Respondents shall be liable to DTSC for all costs of the response action. Nothing in this Section shall be deemed to limit any other notification requirement to which Respondents may be subject.

#### VI. GENERAL PROVISIONS

6.1 <u>Project Coordinator</u>. Within ten (10) days from the date the Consent Order is signed by DTSC, Respondents shall submit to DTSC in writing the name, address, and telephone number of a Project Coordinator whose responsibilities will be to receive all notices, comments, approvals, and other communications from DTSC. Respondents shall promptly notify DTSC of any change in the identity of the Project Coordinator. Respondents shall obtain approval from DTSC before the new Project Coordinator performs any work under this Consent Order. 6.1.1 <u>Communication and Coordination Plan (CCP)</u>. Within thirty (30) days from the date this Consent Order is signed by DTSC, Respondents shall submit to DTSC for its approval a CCP which specifies the requirements and procedures by which Respondents will communicate and coordinate with one another in carrying out the requirements of this Consent Order.

6.2 <u>Project Engineer/Geologist</u>. The work performed pursuant to this Consent Order shall be under the direction and supervision of a qualified professional engineer or a registered geologist in the State of California, with expertise in hazardous substance site cleanups. Within 30 calendar days from the date this Consent Order is signed by DTSC, Respondents shall submit: a) The name and address of the project engineer or geologist chosen by Respondents; and b) in order to demonstrate expertise in hazardous substance cleanup, the resumé of the engineer or geologist, and the statement of qualifications of the consulting firm responsible for the work. Respondents shall promptly notify DTSC of any change in the identity of the Project Engineer/Geologist. Respondents shall obtain approval from DTSC before the new Project Engineer/Geologist performs any work under this Consent Order.

6.3 <u>Quarterly Summary Reports</u>. Within sixty (60) days from the date this Consent Order is signed by DTSC, and on a quarterly basis thereafter, Respondents shall submit a Quarterly Summary Report of their activities under the provisions of this Consent Order. Respondents shall submit the report so that it is received by DTSC by the 15<sup>th</sup> day of the appropriate month. The report shall describe:

- (a) Specific actions taken by or on behalf of Respondents during the previous calendar quarter;
- (b) Actions expected to be undertaken during the current calendar quarter;
- (c) All planned activities for the next quarter;
- (d) Any requirements under this Consent Order that were not completed;
- (e) Any problems or anticipated problems in complying with this Consent Order; and
- (f) All results of sample analyses, tests, and other data generated under this Consent Order during the previous calendar quarter, and any significant findings from these data.

6.4 <u>Quality Assurance/Quality Control (QA/QC)</u>. All sampling and analysis conducted by Respondents under this Consent Order shall be performed in accordance with QA/QC procedures submitted by Respondents and approved by DTSC pursuant to this Consent Order.

6.5 <u>Submittals</u>. All submittals and notifications from Respondents required by this Consent Order shall be sent simultaneously to:

Mr. Thomas M. Cota, Chief Attention: Mr. Safouh Sayed [two copies] Southern California Cleanup Operations Branch Department of Toxic Substances Control 5796 Corporate Avenue Cypress, CA 90630

6.6 <u>Communications</u>. All approvals and decisions of DTSC made regarding submittals and notifications will be communicated to Respondents in writing by the Site Mitigation Branch Chief, or his/her designee. No informal advice, guidance, suggestions or comments by DTSC regarding reports, plans, specifications, schedules or any other writings by Respondents shall be construed to relieve Respondents of the obligation to obtain such formal approvals as may be required.

### 6.7 DTSC Review and Approval.

(a) All response actions taken pursuant to this Consent Order shall be subject to the approval of DTSC. Respondents shall submit all deliverables required by this Consent Order to DTSC. Once the deliverables are approved by DTSC, they shall be deemed incorporated into, and where applicable, enforceable under this Consent Order.

(b) If DTSC determines that any report, plan, schedule or other document submitted for approval pursuant to this Consent Order fails to comply with this Consent Order or fails to protect public health or safety or the environment, DTSC may:

- (1) Modify the document as deemed necessary and approve the document as modified; or
- (2) Return comments to Respondents with recommended changes and a date by which Respondents must submit to DTSC a revised document incorporating the recommended changes.
- (c) Any modifications, comments or other directives issued pursuant to (a) above, are incorporated into this Consent Order. Any noncompliance with these modifications or directives shall be deemed a failure or refusal to comply with this Consent Order.

6.8 <u>Compliance with Applicable Laws</u>. Nothing in this Consent Order shall relieve Respondents from complying with all other applicable laws and regulations, including but not limited to compliance with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California Regional Water Quality Control Board. Respondents shall conform all actions required by this Consent Order with all applicable federal, state and local laws and regulations.

In any action by DTSC or the People of the State of California to enforce the terms of this Consent Order, Respondents consent to and agree not to contest the authority or jurisdiction of DTSC to issue or enforce this Consent Order and agree not to contest the validity of the Consent Order or its terms.

6.9 <u>Respondent Liabilities</u>. Nothing in this Consent Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current or future operations of Respondents. Nothing in this Consent Order is intended or shall be construed to limit the rights of any of the parties with respect to claims arising out of or relating to the deposit or disposal at any other location of substances removed from the Site. Nothing in this Consent Order is intended to limit or preclude DTSC from taking any action authorized by law to protect public health or safety or the environment and recovering the cost thereof. Notwithstanding compliance with the terms of this Consent Order, Respondents may be required to take further actions as are necessary to protect public health and the environment.

Respondents are jointly and severally responsible for carrying out all actions required by this Consent Order, except for those actions expressly required only of another Respondent or group of Respondents.

6.10 <u>Site Access</u>. Access to the Site and laboratories used for analyses of samples under this Consent Order shall be provided at all reasonable times to employees, contractors, and consultants of DTSC. Nothing in this Section is intended or shall be construed to limit in any way the right of entry or inspection that DTSC or any other agency may otherwise have by operation of any law. DTSC and its authorized representatives shall have the authority to enter and move freely about all property at the Site at all reasonable times for purposes including, but not limited to: inspecting records, operating logs, sampling and analytic data, and contracts relating to this Site; reviewing the progress of Respondents in carrying out the terms of this Consent Order; conducting such tests as DTSC may deem necessary; and verifying the data submitted to DTSC by Respondents.

To the extent the Site or any other property to which access is required for the implementation of this Consent Order is owned or controlled by persons other than Respondents, Respondents shall use best efforts to secure from such persons site access agreements that provide access for Respondents, as well as DTSC, its representatives, and contractors, as necessary to effectuate this Consent Order. Such agreements shall specify that Respondents are not DTSC's representative with respect to liability associated with site activities. Copies of such agreements shall be provided to DTSC prior to Respondents' initiation of field activities. To the extent that any portion of the Site is controlled by tenants of Respondents, as well as for DTSC, its representatives, and contractors, as necessary to effectuate this Consent Order. If any access required to complete the Work is not obtained within forty-five (45) days of the effective date of this Consent Order, or within forty-five (45) days of the date DTSC notifies Respondents in writing that additional access beyond that previously secured is

necessary, Respondents shall promptly notify DTSC, and shall include in that notification a summary of the steps Respondents have taken to attempt to obtain access. DTSC may assist Respondents in obtaining access, including exercising its legal authority to gain such access. Respondents shall reimburse DTSC in obtaining access, including, but not limited to, attorneys fees and the amount of just compensation.

6.11 <u>Efforts to Coordinate with Non-Parties</u>. Respondents shall make best efforts to coordinate in the conducting of response actions pursuant to this Consent Order with any person not a party to this Consent Order who offers to perform or, in lieu of performance to pay for, in whole or in part the response actions conducted under this Consent Order. Best efforts to coordinate shall include, at a minimum:

(1) replying in writing within a reasonable period of time to an offer to perform or pay for the response actions conducted under this Consent Order;

(2) engaging in good-faith negotiations with any person not a party to this Consent Order who offers to perform or to pay for the response actions conducted under this Consent Order; and

(3) good-faith consideration of a good-faith offer to perform or pay for the response actions conducted under this Consent Order.

6.12 <u>Sampling, Data and Document Availability</u>. Respondents shall permit DTSC and its authorized representatives to inspect and copy all sampling, testing, monitoring or other data generated by Respondents or on Respondents' behalf in any way pertaining to work undertaken pursuant to this Consent Order. Respondents shall submit all such data upon the request of DTSC. Copies shall be provided within seven (7) days of receipt of DTSC's written request. Respondents shall inform DTSC at least seven (7) days in advance of all field sampling under this Consent Order, and shall allow DTSC and its authorized representatives to take duplicates of any samples collected by Respondents pursuant to this Consent Order. Respondents shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Consent Order.

6.13 <u>Record Retention</u>. All such data, reports and other documents shall be preserved by Respondents for a minimum of seven years after the conclusion of all activities under this Consent Order. If DTSC requests that some or all of these documents be preserved for a longer period of time, Respondents shall either comply with that request or deliver the documents to DTSC, or permit DTSC to copy the documents prior to destruction. Respondents shall notify DTSC in writing at least six months prior to destroying any documents prepared pursuant to this Consent Order.

6.14 <u>Government Liabilities</u>. The State of California or any agency or authorized representative thereof shall not be liable for any injuries or damages to persons or property resulting from acts or omissions by Respondents, or related parties

specified in Section 6.25 (Parties Bound), in carrying out activities pursuant to this Consent Order, nor shall the State of California or any agency or authorized representative thereof be held as party to any contract entered into by Respondents or its agents in carrying out activities pursuant to this Consent Order. Respondents agree to indemnify and hold the State of California, its agencies, departments, boards, agents, and employees, harmless from any and all claims or causes of action or costs including, but not limited to, attorney's fees and other expenses of litigation and settlement arising from or on account of acts or omissions of Respondents, their agents, successors, assigns, contractors, subcontractors, or any persons acting on their behalf or under their control, in carrying out activities under this Consent Order.

6.15 <u>Additional Actions</u>. By issuance of this Consent Order, DTSC does not waive the right to take any further actions authorized by law.

6.16 <u>Extension Requests</u>. If Respondents are unable to perform any activity or submit any document within the time required under this Consent Order, Respondents may, prior to expiration of the time, request an extension of the time in writing. The extension request shall include a justification for the delay. All such requests shall be in advance of the date on which the activity or document is due.

6.17 <u>Extension Approvals</u>. If DTSC determines that good cause exists for an extension, it will grant the request and specify a new schedule in writing. Respondents shall comply with the new schedule incorporated in this Consent Order.

### 6.18 Cost Recovery.

6.18.1 DTSC contends that Respondents are liable for all of the costs that DTSC has incurred and will incur prior to the effective date of this Consent Order, and for all of the costs DTSC will incur thereafter, responding to the contamination at the Site (including costs incurred by DTSC overseeing response work performed and to be performed by Respondents and interest as provided by law). DTSC expressly reserves its right to bring an action under CERCLA, Health and Safety Code section 25360 or any other applicable federal or state statute or common law, for recovery of all response costs (including oversight costs and interest) incurred by DTSC related to this Consent Order and not reimbursed by the Respondents, as well as any other unreimbursed past and future costs incurred by DTSC in connection with response actions and oversight of response actions at the Site.

6.18.2 Respondents contend they are not liable to DTSC for the costs DTSC has incurred and will incur, if any, responding to the contamination at the Site. Respondents specifically reserve all rights and defenses with respect to any future action brought by DTSC to recover its response costs (including costs that DTSC may incur overseeing response work performed and to be performed by Respondents and interest as provided by law).

6.18.3 In order to further the purposes of this Consent Order, within thirty (30) days of issuance of this Consent Order, Respondents shall pay to DTSC the sum of

twenty thousand dollars (\$20,000) to be credited against DTSC's past costs on the Site. Said payment shall be made by cashiers' or certified check, made payable to Cashier, California Department of Toxic Substances Control, and shall bear on its face both the docket number of this Consent Order and the phrase "Site code 300432-00." Said payment shall be mailed to:

> Department of Toxic Substances Control Accounting/Cashier 1001 I Street P.O. Box 806 Sacramento, CA 95812-0806

Payment of this sum is not intended and shall not be construed as an admission by Respondents of any liability to DTSC for any costs DTSC may incur or may have incurred responding to the contamination at the Site.

Notwithstanding Respondents' reservations of rights set forth in this Consent Order, Respondents' payment of twenty thousand dollars (\$20,000) to DTSC pursuant to this Section is final and non-returnable, and Respondents shall not seek to recover this sum from DTSC in any future action or proceeding.

Beginning with the first quarter after the effective date of this Consent Order, DTSC will bill Respondents quarterly for DTSC's response costs that are incurred after the effective date of this Consent Order. Respondents shall pay DTSC within sixty (60) days of receipt of any DTSC billing. Any billing not paid within sixty (60) days is subject to interest calculated from the date of the billing pursuant to Health and Safety Code section 25360.1. All payments made by Respondents pursuant to this Consent Order shall be by cashier's or certified check made payable to "DTSC," and shall bear on the face of the project code of the Site (Site 300432-00) and the Docket number of this Consent Order. Payments shall be sent to:

> Department of Toxic Substances Control Accounting/Cashier 1001 I Street P.O. Box 806 Sacramento, CA 95812-0806

A photocopy of all payment checks shall also be sent to the person designated by DTSC to receive submittals under this Consent Order.

6.19 <u>Severability</u>. The requirements of this Consent Order are severable, and Respondents shall comply with each and every provision hereof, notwithstanding the effectiveness of any other provision.

6.20 <u>Incorporation of Plans, Schedules and Reports</u>. All plans, schedules, reports, specifications and other documents that are submitted by Respondents pursuant to this Consent Order are incorporated in this Consent Order upon DTSC's

approval or as modified, pursuant to Section 6.7 (DTSC Review and Approval), and shall be implemented by Respondents. Any noncompliance with the documents incorporated in this Consent Order shall be deemed a failure or refusal to comply with this Consent Order.

6.21 <u>Modifications</u>. This Consent Order, and any program, plan or schedule approved by DTSC pursuant to this Consent Order (whether approved as submitted by Respondents or as subsequently modified), may be modified, terminated or revised by mutual written agreement of DTSC and Respondents at any time. Respondents may, by written request, seek modification, termination or revision of this Consent Order, or any portion of this Consent Order, or any program, plan or schedule approved by DTSC pursuant to this Consent Order, at any time. Nothing in this Section is intended, or shall be construed, to affect DTSC's rights under Section 6.7 (DTSC Review and Approval) of this Consent Order.

6.22 <u>Time Periods</u>. Unless otherwise specified, time periods begin from the effective date of this Consent Order and "days" means calendar days.

6.23 <u>Termination and Satisfaction</u>. Respondents' obligations under this Consent Order, except as expressly provided elsewhere in this Consent Order, shall terminate and be deemed satisfied upon Respondents' receipt of written notice from DTSC that Respondents have complied with all the terms and requirements of this Consent Order. DTSC will provide Respondents with a written notice of compliance upon Respondents' performance of all the terms and requirements of this Consent Order and upon DTSC approval of a Remedial Action Plan for the Site.

6.24 <u>Calendar of Tasks and Schedules</u>. This Section is merely for the convenience of listing in one location the submittals required by this Consent Order. If there is a conflict between the date for a scheduled submittal within this Section and the date within the Section describing the specific requirement, the latter shall govern.

<u>Calendar</u>	of Tasks	and Sche	<u>dules</u>

TASK		SCHEDULE
1	Identify Project Coordinator; Section 6.1;	Within 10 days from the date this Consent Order is signed by DTSC.
2	Identify Project Engineer/Geologist; Section 6.2;	Within 30 days from the date this Consent Order is signed by DTSC.
3	Attend Site Remediation Strategy Meeting; Section 5.1.4;	Within 30 days from the date this Consent Order is signed by DTSC.

	TASK	<u>SCHEDULE</u>
4.	Submit RI/FS Workplan for soil RI phase; Section 5.2.2; Submit RI/FS Workplan for groundwater RI phase, if necessary; Section 5.2.2;	Within 60 days of the effective date of this Consent Order.
	Submit Scoping Document; Section 5.2.2(b);	Within 30 days of the effective date of this Consent Order.
5.	Submit Treatability Studies; Section 5.3;	As required during Site characterization or as requested by DTSC.
6.	Submit RI Report for the soil RI phase; Section 5.4; Submit RI Report for groundwater RI phase, if necessary; Section 5.4	Per approved RI/FS Workplan Schedule.
7.	Submit Baseline Risk Assessment; Section 5.5;	Within 60 days from submittal of RI Report.
8.	Submit FS Report; Section 5.6;	Within 30 days from submittal of RI Report.
9.	Submit Public Participation Plan; submit and distribute Fact Sheets; Section 5.7	Within 45 days of DTSC determination that Public Participation Plan is necessary; for projected or completed key milestones, as specified in Public Participation Plan or when requested by DTSC.
10.	Submit Initial Study and Checklist; Section 5.8;	Within 30 days after approval of FS Report.
11.	Submit Draft RAP; Section 5.9;	Within 30 days after approval of FS Report.
	Submit Responsiveness Summary;	Within 10 days of closure of public comment period.
	Submit Final RAP;	Within 15 days of receipt of DTSC's comments.

6.25 <u>Parties Bound</u>. This Consent Order applies to and is binding upon Respondents, and their officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors and assignees, including but not limited to, individuals, partners, and subsidiary and parent corporations. Respondents shall provide a copy of this Consent Order to all contractors, subcontractors, laboratories, and consultants that are retained to conduct any work performed under this Consent Order, within 15 days after the effective date of this Consent Order or the date of retaining their services, whichever is later. Respondents shall condition any such contracts upon satisfactory compliance with this Consent Order. Notwithstanding the terms of any contract, Respondents are responsible for compliance with this Consent Order and for ensuring that their subsidiaries, employees, contractors, consultants, subcontractors, agents and attorneys comply with this Consent Order.

6.26 <u>Change in Ownership</u>. No change in ownership or corporate or partnership status relating to the Site shall in any way alter Respondents' responsibility under this Consent Order. No conveyance of title, easement, or other interest in the Site, or a portion of the Site, shall affect Respondents' obligations under this Consent Order. Unless DTSC agrees in writing that such obligations may be transferred to a third party, Respondents shall be responsible for and liable for any failure to carry out all activities required of Respondents by the terms and conditions of this Consent Order, regardless of Respondents' use of employees, agents, contractors, or consultants to perform any such tasks. Respondents shall provide a copy of this Consent Order to any subsequent owners or successors before ownership rights or stock or assets in a corporate acquisition are transferred.

6.27 <u>Dispute Resolution</u>. The parties agree to use their best efforts to resolve all disputes informally. The parties agree that the procedures contained in this Section are the required administrative procedures for resolving disputes arising under this Consent Order. If Respondents fail to follow the procedures contained in this Section, they shall have waived their right to further contest the disputed issue. Respondents reserve their legal rights to contest or defend against any final decision rendered by DTSC under this Section. Disputes regarding DTSC billings shall follow the procedures set forth in Section 6.27.3.

6.27.1 Respondents shall first seek resolution with DTSC's assigned project manager and unit chief. If the issue is not resolved after review by the unit chief, Respondents shall seek resolution with the DTSC branch chief by presenting in a letter the issues in dispute, the legal or other basis for Respondents' position, and the remedy sought. The branch chief shall issue a written decision with an explanation for the decision within thirty (30) business days after receipt of the letter from Respondents.

6.27.2 If Respondents disagree with the branch chief's decision, Respondents may appeal to the Statewide Cleanup Operations Division Chief. To appeal to the division chief, Respondents must prepare a letter stating the reasons why the branch chief's decision is not acceptable. Attached to the letter shall be (a) Respondents' original statement of dispute, (2) supporting documents, and (3) copies of any responses prepared by the project manager, unit chief, and branch chief. This letter and attachments shall be sent to the division chief within ten (10) business days from the date of Respondents receipt of the branch chief's response. The division chief or designee shall review Respondents' letter and supporting documents, consider the issues raised and render a written decision to Respondents within thirty (30) business days of receipt of Respondents' letter. The decision of the division chief, or designee, shall constitute DTSC's administrative decision on the issues in dispute.

6.27.3 If Respondents dispute a DTSC billing, or any part thereof, Respondents shall notify DTSC's assigned project manager and attempt to informally resolve the

dispute with DTSC's project manager and branch chief. If Respondents desire to formally request dispute resolution with regard to the billing, Respondents shall file a request for dispute resolution in writing within 45 days of the date of the billing in dispute. The written request shall describe all issues in dispute and shall set forth the reasons for the dispute, both factual and legal. If the dispute pertains only to a portion of the costs included in the invoice, Respondents shall pay all costs that are undisputed in accordance with Section 6.18 (Cost Recovery). The filing of a notice of dispute pursuant to this Section shall not stay the accrual of interest on any unpaid costs pending resolution of the dispute. The written request shall be sent to:

Special Assistant for Cost Recovery and Reimbursement Policy Department of Toxic Substances Control P.O. Box 806 Sacramento, CA 95812-0806

A copy of the written request for dispute resolution shall also be sent to the person designated by DTSC to receive submittals under this Consent Order. A decision on the billing dispute will be rendered by the Special Assistant for Cost Recovery and Reimbursement Policy or other DTSC designee.

6.27.4 The existence of a dispute shall not excuse, stay, or suspend any other compliance obligation or deadline required pursuant to this Consent Order.

## VII. EFFECTIVE DATE

The effective date of this Consent Order shall be the date on which this Consent Order is signed by all the Parties.

### VIII. EFFECT OF CONSENT ORDER

8.1 By entering into this Consent Order, or by taking any action in accordance with it, Respondents expressly deny and do not admit any allegations, findings, determinations or conclusion contained herein, nor do the Respondents admit liability for any purpose or admit any issues of law or fact or any responsibility for the alleged release or threat of release of any hazardous substance into the environment. Respondents agree not to contest the jurisdiction of DTSC or the authority or ability of DTSC and the undersigned Respondents to enter into this Consent Order or to enforce the same.

8.2 In the event DTSC takes action against Respondents for noncompliance with this Consent Order, for purposes of such action only, Respondents shall not contest DTSC's findings, conclusions and determinations in Section II (Findings of Fact), Section III (Conclusions of Law) and Section IV (Determinations) in any such action.

8.3 This Consent Order addresses only a portion of the work to be performed at the Site. Nothing in this Consent Order is intended to preclude, nor shall it be

construed to preclude, DTSC from exercising its authority to order Respondents to take any additional response action at the Site.

8.4 Nothing in this Consent Order is intended to preclude, nor shall it be construed to preclude, DTSC from exercising its authority under any law, statute or regulation. Furthermore, nothing in this Consent Order is intended, nor shall it be construed, to preclude any other state agency, department, board or entity from exercising its authority under any law, statute or regulation.

# IX. PENALTIES AND PUNITIVE DAMAGES FOR NONCOMPLIANCE

9.1 Failure to comply with the terms of this Consent Order may subject each Respondent to civil penalties and to punitive damages up to three times the amount of any costs incurred by DTSC as a result of such noncompliance, as provided by Health and Safety Code sections 25359, 25359.2, 25359.4 and 25367(c) and any other applicable provisions of law.

9.2 Health and Safety Code section 25359.4.5 provides that a responsible party who is in compliance with this Consent Order, or with another order or agreement concerning the same response actions required by this Consent Order, may seek treble damages from any person named as a Respondent in this Consent Order, or in such other order or agreement, who is subject to contribution and who fails or refuses to comply with this Consent Order or such other order without sufficient cause.

## X. SIGNATORIES

10.1 Each undersigned representative of the Parties to this Consent Order certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Order and to execute and legally bind the Parties to this Consent Order.

10.2 This Consent Order may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one and the same document.

IT IS HEREBY AGREED AND ORDERED.

DATE:<u>11/25/02</u>

[original signed by David I. Bell] Alpha Therapeutic Corporation

By: <u>David I Bell</u> Name of Respondent's Representative

Title: <u>V.P. General Counsel</u> Title of Respondent's Representative

## IT IS HEREBY AGREED AND ORDERED.

DATE:<u>9/19/02</u>

[original signed by John Wagner] Alpha/Owens Corning (AOC) LLC

By: <u>John Wagner</u> Name of Respondent's Representative

Title: <u>Director, Envir. Affairs</u> Title of Respondent's Representative

# IT IS HEREBY AGREED AND ORDERED.

DATE:9/20/02 [original signed by Gayl Swinehart] Betterbilt Chemicals

> By: <u>Gayle Swinehart</u> Name of Respondent's Representative

Title: <u>President</u> Title of Respondent's Representative
DATE:<u>9/23/02</u>
[original signed by Stele Thomson]
Cambro Manufacturing

By: <u>Stele Thomson</u> Name of Respondent's Representative

Title: <u>V.P. Manufacturing</u> Title of Respondent's Representative

DATE:12/9/02

[original signed by Gerard B. Douglas] Catalina Yachts

By: <u>Gerard B. Douglas</u> Name of Respondent's Representative

Title: <u>V.P.</u> Title of Respondent's Representative

DATE:<u>12/2/02</u>

[original signed by Theresa Hensley] Century Laminators

By: <u>Theresa Hensley</u> Name of Respondent's Representative

Title: <u>CFO</u> Title of Respondent's Representative

DATE:<u>10/14/02</u>

[original signed by Wayne K. Harris] Century Plastics

By: <u>Wayne K. Harris</u> Name of Respondent's Representative

Title: <u>Vice President</u> Title of Respondent's Representative

DATE:<u>9/20/02</u>

[original signed by Louis A. Garasi] Gruber Systems, Inc.

By: <u>Louis A. Garasi</u> Name of Respondent's Representative

Title: <u>CEO</u> Title of Respondent's Representative

DATE:<u>10/9/02</u>

[original signed by William McCollum] Harrington Industrial Plastics

By: <u>William McCollum</u> Name of Respondent's Representative

Title: <u>Chairman of the Board</u> Title of Respondent's Representative

DATE:<u>11/26/02</u>

[original signed by Lawrence Burroughs] Hydro Systems, Inc.

By: <u>Lawrence Burroughs</u> Name of Respondent's Representative

Title: <u>VP MFG</u> Title of Respondent's Representative

DATE:<u>09/19/02</u>

[original signed by Brent Gesch] JBI Inc.

By: <u>Brent Gesch</u> Name of Respondent's Representative

Title: <u>Assistant To The President</u> Title of Respondent's Representative

DATE:<u>9/27/02</u>

[original signed by Ann Palmer] Park International Corporation

By: <u>Ann Palmer</u> Name of Respondent's Representative

\_\_\_\_\_

Title: <u>President</u> Title of Respondent's Representative

DATE:<u>12/9/02</u>

[original signed by Gerard B. Douglas] Performance Catamarans

By: <u>Gerard B. Douglas</u> Name of Respondent's Representative

Title: <u>V.P.</u> Title of Respondent's Representative

DATE:10/15/02

[original signed by Robert R. Black] Plastics Research Corporation

By: <u>Robert R. Black</u> Name of Respondent's Representative

Title: <u>President</u> Title of Respondent's Representative

DATE:<u>9/19/02</u>

[original signed by Gary Uecker] Resinart

By: <u>Gary Uecker</u> Name of Respondent's Representative

Title: <u>President</u> Title of Respondent's Representative

DATE:<u>10/3/02</u>

[original signed by David G. Franz, Jr.] Semtech Corporation

By: <u>David G. Franz, Jr.</u> Name of Respondent's Representative

Title: <u>Vice President & CFO</u> Title of Respondent's Representative

DATE:<u>9/30/02</u>

[original signed by Scott Seidlin] Silvestri Studios

By: <u>Scott Seidlin</u> Name of Respondent's Representative

Title: <u>Corporate Secretary</u> Title of Respondent's Representative

DATE:<u>9/30/02</u>

[original signed by Kaz Kishita] Three Bond International, Inc.

By: <u>Kaz Kishita</u> Name of Respondent's Representative

Title: <u>Vice President</u> Title of Respondent's Representative

DATE:<u>9/23/02</u>

[original signed by David L. Hirsch] Watkins Manufacturing Corporation

By: <u>David L. Hirsch</u> Name of Respondent's Representative

Title: <u>Risk Management Counsel</u> Title of Respondent's Representative

DATE:<u>12/17/02</u>

[original signed by Thomas M. Cota]

Mr. Thomas M. Cota, Chief Southern California Cleanup Operations Branch – Cypress Office Department of Toxic Substances Control

cc: Site Mitigation Program Headquarters, Planning & Policy Cost Recovery Unit Office of Legal Counsel