

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

IN THE MATTER OF:	)	Docket SRPD03/04SCC-4304
Monitor Polishing and Plating, Inc.	)	
390 South Pasadena Avenue	)	CORRECTIVE ACTION
Pasadena, California 91105	)	CONSENT AGREEMENT
EPA ID # CAD 066233834	)	
	)	
Respondents:	)	Health and Safety Code
Francisco Xavier Mercado	)	Sections 25187
Fred Capriccio	)	
Thad Wilson	)	
Mervin Saathoff	)	
Dave Morgan	)	
_____	)	

INTRODUCTION

1. The Department of Toxic Substances Control ("DTSC"), and Francisco Xavier Mercado, Fred Capriccio, Thad Wilson, Mervin Saathoff, and Dave Morgan ("Respondents") enter into this Corrective Action Consent Agreement (Consent Agreement) and agree as follows:

1.1. Jurisdiction exists pursuant to Health and Safety Code section 25187 which authorizes DTSC to issue an order 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 facility subject to Permit-by-Rule.

1.2. DTSC and the Respondents are collectively referred to in this Consent Agreement as the "Parties."

1.3. The Parties enter into this Consent Agreement to avoid the expense of litigation and to carry out promptly the corrective action described below.

1.4. Each Respondent is either the owner or past owner and/or operator of a former facility subject to Permit-by-Rule located at 390 South Pasadena Avenue, Pasadena, California 91105 ("Facility").

1.5. Respondents either engaged in the management of hazardous waste pursuant to a Permit-by-Rule issued by DTSC on March 25, 1993 or respondents are the current owner of the Facility.

1.6. The terms used in this Consent Agreement are as defined in California Code of Regulations, title 22, section 66260.10, except as otherwise provided.

1.7. Respondents agree to implement all DTSC-approved work plans and to undertake all actions required by the terms and conditions of this Consent Agreement, including any portions of this Consent Agreement incorporated by reference.

1.8. Respondents waive any right to request a hearing on this Consent Agreement pursuant to Health and Safety Code section 25187.

1.9 It is the intent of DTSC and Respondents that this Consent Agreement constitutes an administrative settlement within the meaning of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) section 113 (f)(3)(B), 42 U.S.C. section 9613(f)(3)(B), and is intended to resolve the liability of Respondents to DTSC at this facility only for those costs actually paid by Respondents to DTSC and only for the Work actually performed by Respondents that has been approved by DTSC and implemented in accordance with the terms of this Consent Agreement.

### FINDINGS OF FACT

2.1. On December 31, 1996, Respondent Francisco Xavier Mercado submitted to DTSC a Phase I Environmental Assessment identifying that further investigation is needed to determine the existence, nature, and/or extent of contamination at the Facility pursuant to Health and Safety Code section 25200.14. The Phase I Environmental Assessment identifies two areas of concern ("AOCs") that either have released or may release hazardous waste or hazardous waste constituents into the environment. One area, approximately 30 feet by 30 feet, where sulfuric acid and caustic soda were used and another area, approximately 20 feet by 30 feet, where solutions of nickel, chromium, cadmium and copper were used in the plating process.

2.1.1. In April 1998, Black Rock Geosciences ("BRG") conducted a subsurface soil investigation to assess three areas of concern. On March 25, 2003, DTSC conducted a Phase 1 Environmental Assessment inspection of the Facility and identified the following AOCs:

- AOC #1. Cleaning/etching area
- AOC #2. Plating and anodizing area
- AOC #3. Cyanide destruction area and clarifiers
- AOC #4. Hazardous waste storage area

2.1.2. On July 6, 2004, Trihydro Corporation prepared an additional site assessment report for the Facility. The report concludes: a) the soil gas investigation identified tetrachloroethene; trichloroethene; 1,1,1-trichloroethane; 1,1-dichloroethene and m,p-xylene in shallow soil vapor samples; b) soil samples indicated that arsenic, cadmium, chromium, hexavalent chromium and nickel were detected at concentrations in excess of United States Environmental Protection Agency ("USEPA") residential PRGs; c) arsenic, cadmium, chromium and hexavalent chromium were detected at concentrations in excess of USEPA industrial Preliminary remediation Goals ("PRGs").

2.1.3. In August 2004, Trihydro Corporation installed a vapor extraction system as an interim measure.

2.2. Based on the information available to DTSC, DTSC concludes that further investigation is needed to determine the nature and extent of any release of hazardous waste or hazardous waste constituents at and from the Facility into the environment.

2.3. The hazardous waste and hazardous waste constituents of concern at the Facility are metals, volatile and semi-volatile organic compounds, pH and cyanide.

2.4. Hazardous wastes or hazardous waste constituents have migrated or may migrate from the Facility into the environment through the following pathways: subsurface soils, groundwater, airborne dust particulate matter, and rain surface runoff water.

2.5. The Facility is located in a mixed use area of Los Angeles County consisting of light industrial and residential uses.

2.6. Releases from the Facility may migrate or may have migrated toward subsurface soil, surface runoff water, and groundwater. Workers at the Facility or nearby residents may be exposed to contaminated soil, surface water, or groundwater during work related activities, and/or Facility remodeling or expansion.

### PROJECT COORDINATOR

3. Within 14 days of the effective date of this Consent Agreement, DTSC and Respondents shall each designate a Project Coordinator and shall notify each other in writing of the Project Coordinator selected. Each Project Coordinator shall be responsible for overseeing the implementation of this Consent Agreement and for designating a person to act in his/her absence. All communications between Respondents and DTSC, and all documents, report approvals, and other correspondence concerning the activities performed pursuant to this Consent Agreement shall be directed through the Project Coordinators. Each party may change its Project Coordinator with at least seven days prior written notice.

### WORK TO BE PERFORMED

4. Respondents agree to perform the work required by this Consent Agreement in accordance with the applicable state and federal laws, their implementing regulations, and applicable DTSC and USEPA guidance documents.

### INTERIM MEASURES ("IM")

5.1. Within 30 days of the effective date of this Consent Agreement, Respondents shall submit to DTSC a Workplan for the implementation of Interim Measures ("IM Workplan"). The IM Workplan is subject to approval by DTSC and shall provide for the performance of all IM necessary to achieve stabilization at the Facility.

The IM Workplan shall include a schedule for submitting to DTSC an IM Operation and Maintenance Plan and IM Plans and Specifications. The IM Workplan, IM Operation and Maintenance Plan, and IM Plans and Specifications shall be developed in a manner consistent with the Scope of Work for IM Implementation contained in Attachment 1. The IM Workplan shall include a plan to assess the effectiveness of current Soil Vapor Extraction System, determine the extent of vapor migration in nearby areas, and prevent and/or minimize the spread of contaminants while long-term corrective action alternatives are being evaluated.

5.2. If at any time Respondents identify an immediate or potential threat to human health and/or the environment, discovers new releases of hazardous waste and/or hazardous waste constituents, or discovers new solid waste management units not previously identified, Respondents shall notify DTSC's Project Coordinator orally within 48 hours of discovery and notify DTSC in writing within 10 days of discovery summarizing the findings, including the immediacy and magnitude of the potential threat to human health and/or the environment. Within 30 days of receiving DTSC's written request, Respondents shall submit to DTSC an IM Workplan for approval. The IM Workplan shall include a schedule for submitting to DTSC an IM Operation and Maintenance Plan and IM Plans and Specifications. The IM Workplan, IM Operation and Maintenance Plan, and IM Plans and Specifications shall be developed in a manner consistent with the Scope of Work for Interim Measures Implementation contained in Attachment 1. If DTSC determines that immediate action is required, DTSC's Project Coordinator may orally authorize the Respondents to act prior to DTSC's receipt of the IM Workplan.

5.3. If DTSC identifies an immediate or potential threat to human health and/or the environment, discovers new releases of hazardous waste and/or hazardous waste constituents, or discovers new solid waste management units not previously identified, DTSC will notify Respondents in writing. Within 30 days of receiving DTSC's written notification, Respondents shall submit to DTSC for approval an IM Workplan that identifies IM that will mitigate the threat. The IM Workplan shall include a schedule for submitting to DTSC an IM Operation and Maintenance Plan and IM Plans and Specifications. The IM Workplan, IM Operation and Maintenance Plan, and IM Plans and Specifications shall be developed in a manner consistent with the Scope of Work for IM Implementation contained in Attachment 1. If DTSC determines that immediate action is required, DTSC's Project Coordinator may orally authorize Respondents to act prior to receipt of the IM Workplan.

5.4. All IM Workplans shall ensure that the IM are designed to mitigate current or potential threats to human health and/or the environment, and should, to the extent practicable, be consistent with the objectives of, and contribute to the performance of, any remedy that may be required at the Facility.

5.5. Concurrent with the submission of an IM Workplan, Respondents shall submit to DTSC a Health and Safety Plan in accordance with the Scope of Work for a Health and Safety Plan contained in Attachment 2.

5.6. Concurrent with the submission of an IM Workplan, Respondents shall submit to DTSC for approval a Community Profile in accordance with Attachment 3. Based on the information provided in the Community Profile, if DTSC determines that there is a high level of community concern about the Facility, DTSC may require Respondents to prepare a Public Participation Plan.

## FACILITY INVESTIGATION ("FI")

6.1. Within 30 days of the effective date of this Consent Agreement, Respondents shall submit to DTSC a Workplan for a Facility Investigation ("FI Workplan") to determine the nature and extent of any release of hazardous waste or hazardous waste constituents at and from the facility into the environment, and to address the DTSC's comments attached as Exhibit A. FI Workplan is subject to approval by DTSC and shall be developed in a manner consistent with the Scope of Work for a FI contained in Attachment 4. DTSC will review the FI Workplan and notify Respondents in writing of DTSC's approval or disapproval.

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

6.3. Respondents shall submit a FI Report to DTSC for approval in accordance with DTSC-approved FI Workplan schedule. The FI Report shall be developed in a manner consistent with the Scope of Work for a FI contained in Attachment 4. If there is a phased investigation, separate FI Reports and a report that summarizes the findings from all phases of the FI must be submitted to DTSC. DTSC will review the FI Report(s) and notify Respondents in writing of DTSC's approval or disapproval.

6.4. Concurrent with the submission of a FI Workplan, Respondents shall submit to DTSC a Health and Safety Plan in accordance with Attachment 2. If Workplans for both an IM and FI are required by this Consent Agreement, Respondents may submit a single Health and Safety Plan that addresses the combined IM and FI activities.

6.5. DTSC may require Respondents to prepare a FI Summary Fact Sheet. If required, Respondents shall submit a FI Summary Fact Sheet to DTSC that summarizes the findings from all phases of the FI. The FI Summary Fact Sheet shall be submitted to DTSC in accordance with the schedule contained in the approved FI Workplan. DTSC will review the FI Summary Fact Sheet and notify Respondents in writing of DTSC's approval or disapproval, including any comments and/or modifications. When DTSC approves the FI Summary Fact Sheet, Respondents shall mail the approved FI Summary Fact Sheet to all individuals on a mailing list established pursuant to California Code Regulations, title 22, section 66271.9(c)(1)(D), within 15 calendar days of receipt of written approval.

6.6. Concurrent with the submission of a FI Workplan, Respondents shall submit to DTSC for approval a Community Profile in accordance with Attachment 3. Based on the information provided in the Community Profile and any Supplement to the

Community Profile, if DTSC determines that there is a high level of community concern about the Facility, Respondents shall prepare a Public Participation Plan

### RISK ASSESSMENT

7. Based on the information available to DTSC, Respondents may be required to conduct a Risk Assessment to evaluate potential human health risk and ecological risk and to establish site-specific action levels and cleanup standards. If DTSC determines that a Risk Assessment is required, Respondents shall submit to DTSC for approval a Risk Assessment Workplan within 60 days of receipt of DTSC's determination. Respondents shall submit to DTSC for approval a Risk Assessment Report in accordance with DTSC-approved Risk Assessment Workplan schedule.

### ADDITIONAL WORK

8.1. If DTSC determines that further investigation and remediation are necessary at the Facility, DTSC and Respondents will negotiate another consent agreement or amend this Consent Agreement to address the additional work. If another consent agreement or an amendment is not reached within 60 days, DTSC reserves its right to issue an order or take any other action provided for by law. DTSC's costs incurred in negotiating the subsequent consent agreement or the amendment are considered costs incurred pursuant to this Consent Agreement and are payable under this Consent Agreement.

8.2. DTSC may determine or Respondents may propose that certain tasks, including investigatory work, engineering evaluation, or procedure/methodology modifications are necessary in addition to, or in lieu of, the tasks and deliverables included in any part of DTSC-approved workplans. DTSC shall request in writing that Respondents perform the additional work and shall specify the basis and reasons for DTSC's determination that the additional work is necessary. Within 14 days after the receipt of such determination, Respondents may confer with DTSC to discuss the additional work DTSC has requested. If required by DTSC, Respondents shall submit to DTSC a workplan for the additional work. Such workplan shall be submitted to DTSC within 30 days of receipt of DTSC's determination or according to an alternate schedule established by DTSC. Upon approval of a workplan, Respondents shall implement it in accordance with the provisions and schedule contained therein. The need for, and disputes concerning, additional work are subject to the dispute resolution procedures specified in this Consent Agreement. If DTSC determines that further investigation and remediation are necessary at the Facility, DTSC and Respondents will negotiate another consent agreement or amend this Consent Agreement to address the additional work. If another consent agreement or an amendment is not reached within 30 days, DTSC reserves its right to issue an order or take any other action provided for by law. DTSC's costs incurred in negotiating the subsequent consent agreement or the

amendment are considered costs incurred pursuant to this Consent Agreement and are payable under this Consent Agreement.

## CALIFORNIA ENVIRONMENTAL QUALITY ACT

9. DTSC must comply with the California Environmental Quality Act ("CEQA") insofar as activities required by this Consent Agreement are projects subject to CEQA. Respondents shall provide all information necessary to facilitate any CEQA analysis. DTSC will make an initial determination regarding the applicability of CEQA. If the activities are not exempt from CEQA, DTSC will conduct an Initial Study. Based on the results of the Initial Study, DTSC will determine if a Negative Declaration or an Environmental Impact Report ("EIR") should be prepared. DTSC will prepare and process any such Negative Declaration. However, should DTSC determine that an EIR is necessary; such an EIR would be prepared under a separate agreement between DTSC and Respondents.

## DTSC APPROVAL

10.1. Respondents shall revise any workplan, report, specification, or schedule in accordance with DTSC's written comments. Respondents shall submit to DTSC any revised documents by the due date specified by DTSC. Revised submittals are subject to DTSC's approval or disapproval.

10.2. Upon receipt of DTSC's written approval, Respondents shall commence work and implement any approved workplan in accordance with the schedule and provisions contained therein.

10.3. Any DTSC-approved workplan, report, specification, or schedule required under this Consent Agreement shall be deemed incorporated into this Consent Agreement.

10.4. Verbal advice, suggestions, or comments given by DTSC representatives will not constitute an official approval or decision.

## SUBMITTALS

11.1. Beginning with the first full month following the effective date of this Consent Agreement, Respondents shall provide DTSC with quarterly progress reports of corrective action activities conducted pursuant to this Consent Agreement. Progress reports are due on the first day of the first month following the close of each reporting period. The progress reports shall conform to the Scope of Work for Progress Reports contained in Attachment 7. DTSC may adjust the frequency of progress reporting to be consistent with site-specific activities.

11.2. Any report or other document submitted by Respondents pursuant to this Consent Agreement shall be signed and certified by the project coordinator, a responsible corporate officer, or a duly authorized representative.

11.3. The certification required by paragraph 11.2 above, shall be in the following form:

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

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

11.4. Respondents shall provide two copies of all documents, including but not limited to, workplans, reports, and correspondence. Submittals specifically exempted from this copy requirement are all progress reports and correspondence of less than 15 pages, of which one copy is required.

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

### PROPOSED CONTRACTOR/CONSULTANT

12. All work performed pursuant to this Consent Agreement shall be under the direction and supervision of a professional engineer or registered geologist, registered in California, with expertise in hazardous waste site cleanup. Respondents' contractor or consultant shall have the technical expertise sufficient to fulfill his or her responsibilities. Within 14 days of the effective date of this Consent Agreement, Respondents shall notify DTSC Project Coordinator in writing of the name, title, and qualifications of the professional engineer or registered geologist and of any contractors or consultants and their personnel to be used in carrying out the terms of this Consent Agreement.

### QUALITY ASSURANCE

13.1. All sampling and analyses performed by Respondents under this Consent Agreement shall follow applicable DTSC and USEPA guidance for sampling and analysis. Workplans shall contain quality assurance/quality control and chain of custody procedures for all sampling, monitoring, and analytical activities. Any deviations from the approved workplans must be approved by DTSC prior to

implementation, must be documented, including reasons for the deviations, and must be reported in the applicable report.

13.2. The names, addresses, and telephone numbers of the California State certified analytical laboratories Respondents proposes to use must be specified in the applicable workplans.

#### SAMPLING AND DATA/DOCUMENT AVAILABILITY

14.1. Respondents shall submit to DTSC upon request the results of all sampling and/or tests or other data generated by its employees, agents, consultants, or contractors pursuant to this Consent Agreement.

14.2. Respondents shall notify DTSC in writing at least seven days prior to beginning each separate phase of field work approved under any workplan required by this Consent Agreement. If Respondents believes it must commence emergency field activities without delay, Respondents may seek emergency telephone authorization from DTSC Project Coordinator or, if the Project Coordinator is unavailable, his/her Branch Chief, to commence such activities immediately.

14.3. At the request of DTSC, Respondents shall provide or allow DTSC or its authorized representative to take split or duplicate samples of all samples collected by pursuant to this Consent Agreement. Similarly, at the request of Respondents, DTSC shall allow Respondents or its authorized representative to take split or duplicate samples of all samples collected by DTSC under this Consent Agreement.

#### ACCESS

15. Subject to the Facility's security and safety procedures, Respondents agree to provide DTSC and its representatives access at all reasonable times to the Facility and any off-site property to which access is required for implementation of this Consent Agreement and shall permit such persons to inspect and copy all records, files, photographs, documents, including all sampling and monitoring data, that pertain to work undertaken pursuant to this Consent Agreement and that are within the possession or under the control of Respondents or its contractors or consultants.

#### RECORD PRESERVATION

16.1. Respondents shall retain, during the pendency of this Consent Agreement and for a minimum of six years after its termination, all data, records, and documents that relate in any way to the performance of this Consent Agreement or to hazardous waste management and/or disposal at the Facility. Respondents shall notify DTSC in writing 90 days prior to the destruction of any such records, and shall provide DTSC with the opportunity to take possession of any such records. Such written

notification shall reference the effective date, caption, and docket number of this Consent Agreement and shall be addressed to:

Stephen W. Lavinger, Chief  
Tiered Permitting Corrective Action Branch  
Hazardous Waste Management Program  
Department of Toxic Substances Control  
5796 Corporate Avenue  
Cypress, California 90630

16.2. If Respondents retain or employ any agent, consultant, or contractor for the purpose of carrying out the terms of this Consent Agreement, Respondents will require any such agents, consultants, or contractors to provide Respondents a copy of all documents produced pursuant to this Consent Agreement.

16.3. All documents pertaining to this Consent Agreement shall be stored in a central location at the Facility, or at a location otherwise agreed to by the Parties, to afford easy access by DTSC and its representatives.

#### DISPUTE RESOLUTION

17.1. 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 sole administrative procedures for resolving disputes arising under this Consent Agreement. If Respondents fail to follow the procedures contained in this section, it shall have waived its right to further consideration of the disputed issue.

17.2. If Respondents disagree with any written decision by DTSC pursuant to this Consent Agreement, Respondents' Project Coordinator shall orally notify DTSC's Project Coordinator of the dispute. The Project Coordinators shall attempt to resolve the dispute informally.

17.3. If the Project Coordinators cannot resolve the dispute informally, Respondents may pursue the matter formally by placing its objection in writing. Respondents' written objection must be forwarded to Stephen W. Lavinger, Chief, Tiered Permitting Corrective Action Branch with a copy to DTSC's Project Coordinator. The written objection must be mailed to the Branch Chief within 14 days of Respondents' receipt of DTSC's written decision. Respondents' written objection must set forth the specific points of the dispute and the basis for Respondents' position.

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

17.5. After the formal discussion period, DTSC will provide Respondents with its written decision on the dispute. DTSC's written decision will reflect any agreements reached during the formal discussion period and be signed by the Branch Chief or his/her designee.

17.6. During the pendency of all dispute resolution procedures set forth above, the time periods for completion of work required under this Consent Agreement that are affected by such dispute shall be extended for a period of time not to exceed the actual time taken to resolve the dispute. The existence of a dispute shall not excuse, toll, or suspend any other compliance obligation or deadline required pursuant to this Consent Agreement.

### RESERVATION OF RIGHTS

18.1. DTSC reserves all of its statutory and regulatory powers, authorities, rights, and remedies, which may pertain to Respondents' failure to comply with any of the requirements of this Consent Agreement. Respondents reserve all of their statutory and regulatory rights, defenses and remedies, as they may arise under this Consent Agreement. This Consent Agreement shall not be construed as a covenant not to sue, release, waiver, or limitation on any powers, authorities, rights, or remedies, civil or criminal, that DTSC or Respondents may have under any laws, regulations or common law.

18.2. DTSC reserves the right to disapprove of work performed by Respondents pursuant to this Consent Agreement and to request that Respondents perform additional tasks.

18.3. DTSC reserves the right to perform any portion of the work consented to herein or any additional site characterization, feasibility study, and/or remedial actions it deems necessary to protect human health and/or the environment. DTSC may exercise its authority under any applicable state or federal law or regulation to undertake response actions at any time. DTSC reserves its right to seek reimbursement from Respondents for costs incurred by the State of California with respect to such actions. DTSC will notify Respondents in writing as soon as practicable regarding the decision to perform any work described in this section.

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

18.5. This Consent Agreement is not intended to be nor shall it be construed to be a permit. This Consent Agreement is not a substitute for, and does not preclude DTSC from requiring, any hazardous waste facility permit, post closure permit, closure plan or post closure plan. The Parties acknowledge and agree that DTSC's approval of any workplan, plan, and/or specification does not constitute a warranty or representation that the workplans, plans, and/or specifications will achieve the required cleanup or performance standards. Compliance by Respondents with the terms of this Consent Agreement shall not relieve Respondents of its obligations to comply with the Health

and Safety Code or any other applicable local, state, or federal law or regulation.

#### OTHER CLAIMS

19. Except as provided in this Consent Agreement, nothing in this Consent Agreement shall constitute or be construed as a release by DTSC or Respondents from any claim, cause of action, or demand in law or equity against any person, firm, partnership, or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken or migrating from the Facility.

#### COMPLIANCE WITH WASTE DISCHARGE REQUIREMENTS

20. Respondents shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board.

#### OTHER APPLICABLE LAWS

21. All actions required by this Consent Agreement shall be conducted in accordance with the requirements of all local, state, and federal laws and regulations. Respondents shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

#### REIMBURSEMENT OF DTSC'S COSTS

21.1. Respondents shall pay DTSC's costs incurred in the implementation of this Consent Agreement.

21.2. An estimate of DTSC's costs is attached as Exhibit B showing the amount of \$35,791. It is understood by the Parties that this amount is only a cost estimate for the activities shown on Exhibit A and it may differ from the actual costs incurred by DTSC in overseeing these activities or in implementing this Consent Agreement. DTSC will provide additional cost estimates to Respondents as the work progresses under the Consent Agreement.

21.3. Respondents shall make an advance payment to DTSC in the amount of \$17,895 within 30 days of the effective date of this Consent Agreement. If the advance payment exceeds DTSC's costs, DTSC will refund the balance within 120 days after the execution of the Acknowledgment of Satisfaction pursuant to Section 23 of this Consent Agreement.

21.4. DTSC will provide Respondents with a billing statement at least quarterly, which will include the name(s) of the employee(s), identification of the activities, the amount of time spent on each activity, and the hourly rate charged. If Respondents do not pay an invoice within 60 days of the date of the billing statement, the amount is subject to interest as provided by Health and Safety Code section 25360.1.

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

21.6. Any dispute concerning DTSC's costs incurred pursuant to this Consent Agreement is subject to the Dispute Resolution provision of this Consent Agreement and the dispute resolution procedures as established pursuant to Health and Safety Code section 25269.2. DTSC reserves its right to recover unpaid costs under applicable state and federal laws.

21.7. All payments shall be made within 30 days of the date of the billing statement by check payable to the Department of Toxic Substances Control and shall be sent to:

Accounting Unit  
Department of Toxic Substances Control  
P. O. Box 806/1001 "I" Street  
Sacramento, California 95812-0806

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

#### MODIFICATION

22.1. This Consent Agreement may be modified by mutual agreement of the Parties. Any agreed modification shall be in writing, shall be signed by the Parties, shall have as its effective date the date on which it is signed by the Parties, and shall be deemed incorporated into this Consent Agreement.

22.2. Any requests for revision of an approved workplan requirement must be in writing. Such requests must be timely and provide justification for any proposed workplan revision. DTSC has no obligation to approve such requests, but if it does so, such approval will be in writing and signed by the Chief, Tiered Permitting and Corrective Action Branch, Hazardous Waste Management Program, Department of Toxic Substances Control, or his or her designee. Any approved workplan revision shall be incorporated by reference into this Consent Agreement.

#### TERMINATION AND SATISFACTION

23. The provisions of this Consent Agreement shall be deemed satisfied upon the execution by the Parties of an Acknowledgment of Satisfaction

(Acknowledgment) DTSC will prepare the Acknowledgment for Respondents' signature. The Acknowledgment will specify that Respondents have demonstrated to the satisfaction of DTSC that the terms of this Consent Agreement including payment of DTSC's costs have been satisfactorily completed. The Acknowledgment will affirm Respondents' continuing obligation to preserve all records after the rest of the Consent Agreement is satisfactorily completed.

EFFECTIVE DATE

24. The effective date of this Consent Agreement shall be the date on which this Consent Agreement is signed by the Parties. Except as otherwise specified, "days" means calendar days.

SIGNATORIES

25. Each undersigned representative certifies that he or she is fully authorized to enter into this Consent Agreement.

DATE: August 9, 2006 BY: Original signed by Francisco Xavier Mercado  
Francisco Xavier Mercado

DATE: August 15, 2006 BY: Original signed by Fred Capriccio  
Fred Capriccio

DATE: July 27, 2006 BY: Original signed by Thad Wilson  
Thad Wilson

DATE: July 27, 2006 BY: Original signed by Mervin Saathoff  
Mervin Saathoff

DATE: \_\_\_\_\_ BY: Original signed by Dave Morgan  
Dave Morgan

DATE: August 24, 2006 BY: Original signed by Stephen W. Lavinger  
Stephen W. Lavinger, Chief  
Tiered Permitting Corrective Action Branch  
Hazardous Waste Management Program  
Department of Toxic Substances Control

## ATTACHMENT 3

### COMMUNITY PROFILE OUTLINE

FOR \_\_\_\_\_

The following items should be included in the Community Profile:

#### SITE DESCRIPTION

- Description of proposed project.
- Map.
- Description of the site/facility location.
- Description of the surrounding land uses and environmental resources (including proximity to residential housing, schools, churches, etc.).
- Visibility of the site to neighbors.
- Demographics of community in which the site is located (e.g., socioeconomic level, ethnic composition, specific language considerations, etc.). This information may be found in local libraries (e.g., census records).

#### LOCAL INTEREST

- Contacts with community members - any inquiries from community members, groups, organizations, etc. (include names, phone numbers, and addresses on the key contact list).
- Community interactions - any current meetings, events, presentations, etc.
- Media coverage - any newspaper, magazine, television, etc., coverage.
- Government contacts - city and county staff, state and local elected officials.

#### KEY CONTACT LIST

- Names, addresses, and phone numbers of city manager, city/county planning department staff, local elected officials, and other community members with whom previous contact has been made.

PAST PUBLIC INVOLVEMENT ACTIVITIES

Any ad hoc committees, community meetings, workshops, letters, newsletters, etc., about the site or similar activity.

KEY ISSUES AND CONCERNS

Any specific concerns/issues raised by the community regarding the site/facility or any activities performed on the site/facility.

Any anticipated concerns/issues regarding the site/facility.

Any general environmental concerns/issues in the community.

PP Review \_\_\_\_\_ Date \_\_\_\_\_