

B. No change in ownership or corporate or partnership status relating to the Facility will in any way alter the Respondent's responsibilities under this Consent Order except as the Director may agree to in writing.

C. The Respondent shall provide a copy of this Consent Order to all contractors, subcontractors, laboratories, and consultants retained to conduct or monitor any portion of the work performed pursuant to this Consent Order within one (1) week of the effective date of this Consent Order or date of such retention, and shall condition all such contracts on compliance with the terms of this Consent Order.

D. The Respondent shall give notice of this Consent Order to any successor in interest prior to transfer of ownership or operation of the Facility and shall notify OEPA no later than thirty (30) days prior to such scheduled transfer.

III. STATEMENT OF PURPOSE

In entering into this Consent Order, the mutual objectives of the OEPA and the Respondent are: (1) to perform a RCRA Facility Investigation (RFI) to document whether or not there is contamination from any releases of hazardous wastes and hazardous constituents at the facility, and should such contamination be documented to determine the nature and extent of any such release which may have occurred at or from the Facility; and if OEPA determines that it is necessary, (2) to perform a Corrective Measures Study (CMS) to identify and evaluate alternatives for the corrective action necessary to prevent or mitigate any migration or release of hazardous wastes or hazardous constituents at or from the Facility. The purpose of this Consent Order is not to address specific violations of Ohio's hazardous waste laws or regulations arising out of the Respondent's activities at the Facility.

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By: Mary Gavin Date 6-23-92

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DIRECTOR'S

IV. DEFINITIONS

Unless otherwise stated in this Consent Order, all terms used in this Consent Order shall have the same meaning as used in Chapter 3734. of the ORC and the regulations adopted thereunder. Unless otherwise stated in this Consent Order, the time within which an act is required to be performed shall be computed pursuant to section 1.14 of the ORC.

V. FINDINGS OF FACT

A. The Respondent was incorporated in the State of Ohio on July 16, 1955, and is a "person" as defined in sections 1.59 and 3734.01 of the ORC and rule 3745-50-10 of the Ohio Administrative Code (OAC).

B. The Respondent is a generator of "hazardous wastes" and an "owner" and "operator" of a hazardous waste management "facility", as those terms are defined in ORC section 3734.01 and OAC rule 3745-50-10, located at 1385 Blatt Boulevard, Blacklick, Franklin County, Ohio 43004. The Respondent engaged in the storage of hazardous wastes at the Facility subject to interim status requirements under Chapters 3745-65 through 3745-69 of the OAC. These activities include, but are not limited to, the storage of hazardous wastes in containers on a pad and in a tank. Since July 1988 and at least until the effective date of this Consent Order, the Respondent has not stored hazardous waste in containers on the pad, and since September 1989 the Respondent has not stored or accumulated hazardous waste in the tank. Both units are currently undergoing closure.

C. The Respondent owned and operated its Facility as a hazardous waste management facility on and after November 19, 1980, the date which renders facilities subject to interim status requirements or the requirement to have a permit under sections 3004 and 3005 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. Sections 6924 and 6925, and under OAC rule 3745-50-40.

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D. Pursuant to section 3010 of RCRA, 42 U.S.C. 6930, the Respondent notified the United States Environmental Protection Agency (U.S. EPA) of its hazardous waste activity at the Facility. In its notification dated August 18, 1980, the Respondent identified itself as a generator of hazardous wastes and an owner/operator of a hazardous waste facility. The Respondent was issued U.S. EPA Identification Number OHD004291654 for the Facility.

E. In its Part A permit application dated November 18, 1980, the Respondent identified itself as handling hazardous wastes at the Facility as identified by the following U.S. EPA Hazardous Waste Numbers: F003, F017, F018, D000 [sic], D001, D002, D003, D006, D007, D008, D009 D010, K078, K079, K081, K086, K088, U002, U056, U112, U154, U158, U161, U220, and U239. On September 28, 1984, the Respondent was issued a U.S. EPA RCRA Part B Permit for the Facility. The U.S. EPA Part B Permit was modified/revised by U.S. EPA on January 7, 1987 to authorize the Respondent to store only F003, F005, D001, D006 and D008 hazardous wastes.

F. The Respondent's Facility is described as follows:

1. The Franklin Steel Company, Inc., began operation as Columbus Steel Drum Company, Inc., in 1955, and changed its name in 1979. The Facility, which is located in Blacklick, Jefferson Township, Franklin County, Ohio, was constructed in 1970. The Facility is approximately 18 acres in size. The Facility is situated in the Gahanna Industrial Park to the east of the City of Gahanna, Ohio. The Respondent reconditions used drums and resells them. The Facility includes an oxidizer, a drum washing and reconditioning building, many conveyor belts for moving drums, numerous drum storage areas, and a wastewater treatment building for pretreatment of wastewater effluent to sewers. The drums received

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at the Facility are both open head drums (those with removable covers) and closed head drums (those with a closed top with bungs in them). Most of the drums are stored on their sides before processing. The open head drums and the closed head drums are separated and treated differently.

The open head drums are turned upside down as they enter the oxidizer so that any residual material drains into the oxidizer. A pit or sump is located beneath the oxidizer to quench the conveyor's drive chain. The oxidizer burns off any residual materials in the drums.

The closed top drums are moved into the drum washing and reconditioning building by conveyor belt. These drums are sprayed with or partially submerged in a caustic solution, then they are rotated and drained. Steel link chains are then placed in the drums, and the drums are rocked. The drums are washed again, rinsed, and sent through a neutralizing solution.

Finally, both the closed top and open top drums are reconditioned, which includes the removal of dents, rounding of drum rims and painting.

2. The Facility includes the following known "waste management units", as defined in OAC rule 3745-50-10(A)(127), and as shown in Map I, attached hereto:

- a. Unnamed Drainage Ditch

This unnamed tributary runs south of the Facility, nearly parallel to Mc Cormick Boulevard, and eventually empties into Blacklick Creek. This tributary has been the point of discharge for much of the surface run off

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and drainage at the Facility.

b. Field Drainage Tiles

The Facility is drained by underlying, fifteen inch drainage tiles. One line of tiles runs from Blatt Boulevard along the east side of the reconditioning building to the southwest corner of the oxidizer building. Another line of tiles runs from the western boundary of the Facility in a line parallel to the south side of the reconditioning building. This line connects with the tiles described above. A third line of tiles extends in a southeasterly direction from the point where the two other lines connect near the oxidizer, and this line of tiles empties into the unnamed tributary to Blacklick Creek.

c. Former Sludge Pile Area

Caustic sludges from the clarifier system and the oxidizer quench pit were piled on open ground.

d. Drum Storage Area #1

This area is located south and west of the reconditioning building, north of the railroad tracks, east of Research Drive, and west of the oxidizer and conveyor belt going from the oxidizer to the reconditioning building. Drums accepted for refurbishing were stored in this area.

e. Drum Storage Area #2

This area is located south of Blatt Boulevard, north of the railroad tracks, east of the oxidizer and conveyor belt, and west of the drainage swale. Drums accepted for

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refurbishing were stored in this area.

f. Drum Storage Area #3

This area is located south of Blatt Boulevard, north of the railroad tracks, east of the drainage swale, and west of the tree line that runs between the railroad tracks and Blatt Boulevard, where it curves north. Drums accepted for refurbishing were stored in this area.

g. Drum Storage Area #4

This area is the northernmost drum storage area. It is located northeast of Drum Storage Area #3, near where Blatt Boulevard comes to an end along the northern boundary of the Facility. There is a drainage ditch along the area's southern boundary. Drums accepted for refurbishing were stored in this area.

h. Sanitary Sewers

Sanitary sewer lines run along the western boundary of the Facility parallel to Blatt Boulevard.

i. Valve Pit

On the south side of the reconditioning building, there is a gravel lined pit which contains a valve for a sewer line.

j. Caustic Rinse System and Caustic Sludge Holding Tank

The system and tank are used to rinse drums and to hold residue from the rinsing process. They are located adjacent to the reconditioning building.

k. Holding Ponds Discharging to Siphon Dam Outfall

These ponds are located near the southern end of the

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oxidizer and within Drum Storage Area #2. The ponds intermittently fill with surface drainage containing organic contaminants and back up behind the siphon dam. Overflow from the ponds discharges to the unnamed tributary to Blacklick Creek through the field drainage tiles.

l. Oxidizer

The oxidizer processes open head drums which are received from off-site as a means of removing any residual materials.

m. Oxidizer Pit, Cement Pad and Luggerboxes

A pit or sump directly beneath the oxidizer building quenches the units' conveyor chain. Luggerboxes sitting on a cement pad are located adjacent to the oxidizer pit. The luggerboxes are used to hold sludge from the pit.

n. Conveyor Belt from Oxidizer Building

This belt transports drums from the oxidizer to the drum washing and reconditioning building.

o. Shot Blast Dust Collectors/Bag Houses

Areas where filter media are used to collect dust from the shot blast operation. Historically dust was stored in 55 gallon drums. Currently dust is stored in fabric filter bags. This area is located at the northeast corner of the reconditioning building.

p. Shot Blast Dust Filter Storage Area

Area where the 55 gallon drums containing dust from the shot blast operation were stored. This area is located

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at the northeast corner of the reconditioning building. Drums were stored along an earthen dike that parallels Blatt Boulevard.

q. Underground Storage Tank (UST)

A 6000 gallon UST was permitted to store F003 and F005 hazardous wastes. Respondent holds a U.S. EPA Part B Permit for this unit. The unit is currently undergoing RCRA closure and the tank has been removed from the ground.

r. Concrete Drum Storage Area

This area is located immediately south of the oxidizer building. Drums containing a variety of hazardous wastes were stored in this area. Respondent held an Ohio EPA Part A Permit for this unit, and also used the unit to accumulate hazardous waste for less than 90 days as a generator. The unit is currently undergoing RCRA closure.

3. Geology and Hydrogeology:

The soils at the Facility are moderately well drained to very poorly drained silt loam and silt clay loam with a seasonal high perched water table at or near ground surface. The soils are very strongly acidic to mildly alkaline.

Underlying the soils, irregular layers of sand and gravel are interbedded in layers of clayey till. The sand and gravel become more prominent on the east side of the Facility and form a buried valley aquifer. The sand and gravel aquifer is believed to be the source of water for the Jefferson Township Well Field which is

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located within one mile northeast of the Facility.

A number of private residences with wells are located within one mile of the Facility. Some of these private wells are believed to utilize the aquifer located in the sand and gravel layers for their water supply.

Bedrock composed mainly of shale underlies the Facility. The elevation of this bedrock surface is thought to decrease to the east of the Facility to form the western wall of the buried valley sand and gravel aquifer.

G. Accumulated OEPA data which showed contamination at the Facility indicates that there have been releases of hazardous wastes and/or hazardous constituents identified in Appendix IX of 40 CFR Part 264 and the Appendix to OAC rule 3745-54-98. The Director bases this determination on the following:

1. An OEPA Emergency Response incident report dated February 25, 1980, documents a spill of 15,000 to 20,000 gallons of hazardous waste sludge from the caustic clarifier at the Facility caused by an overflow of the system. The sludge entered into surface waters which entered the unnamed tributary to Blacklick Creek.
2. Analytical results of sediment samples taken by OEPA from the unnamed tributary to Blacklick Creek on March 27, 1980, revealed the following:
 - a. Sediment sample taken upstream from the outfall from the underground field drainage tiles to the unnamed tributary:

<u>PARAMETER</u>	<u>CONCENTRATION(ug/l)</u>
Lead	29.0
Nickel	200.0
Zinc	3440.0
Phenol	114.0

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b. Sediment sample taken downstream from the outfall from the underground field drainage tiles to the unnamed tributary:

<u>PARAMETER</u>	<u>CONCENTRATION(ug/l)</u>
Cadmium	100.0
Chromium	1800.0
Lead	10600.0
Zinc	9200.0
Phenol	4.0

3. Analytical results of a sample taken by OEPA on November 11, 1980, of water from the holding pond at the Facility revealed the following:

<u>PARAMETER</u>	<u>CONCENTRATION(ug/l)</u>
Chromium	170.0
Lead	500.0
Phenol	178.0

4. Analytical results of a sample taken by OEPA on September 17, 1980, of water from the sanitary sewer at the Facility revealed the following:

<u>PARAMETER</u>	<u>CONCENTRATION</u>
Cyanide	2.98 mg/l
Cadmium	80.0 ug/l
Chromium	800.0 ug/l
Lead	26100.0 ug/l
Mercury	5.0 ug/l
Nickel	100.0 ug/l

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5. Analytical results of a sample taken by OEPA on November 24, 1980, of water from the holding pond at the Facility revealed the following:

<u>PARAMETER</u>	<u>CONCENTRATION</u>
Cyanide	0.022 mg/l
Chromium	40.0 ug/l
Lead	180.0 ug/l
Zinc	380.0 ug/l
Phenol	84.0 ug/l

6. Analytical results of soil samples taken by OEPA on December 18, 1980, revealed the presence of cadmium in concentrations of 7.4

ppm, using the Extraction Procedure Toxicity Test found in 40 CFR Appendix II ("EP Tox"), in soils at the Facility.

7. Analytical results of a sample taken by OEPA on December 29, 1980, of discharge from the underground field drainage tiles at the Facility revealed the following:

<u>PARAMETER</u>	<u>CONCENTRATION</u>
Cyanide	0.021 mg/l
Aluminum	3600.0 ug/l
Chromium	80.0 ug/l
Lead	225.0 ug/l
Manganese	260.0 ug/l
Mercury	0.5 ug/l
Nickel	100.0 ug/l
Zinc	570.0 ug/l

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8. Analytical results of a sample taken by OEPA on December 11, 1984, of a puddle on soils near a shot blast dust bin at the Facility revealed the following:

<u>PARAMETER</u>	<u>CONCENTRATION (ug/l)</u>
Cadmium	236.0
Chromium	2030.0
Lead	36200.0
Zinc	22000.0

9. Analytical results of a sample taken by OEPA on December 5, 1985, of water from the holding pond at the Facility revealed the following:

<u>PARAMETER</u>	<u>CONCENTRATION</u>
Methylene Chloride	1753.210 ug/l
1,1-dichloroethene	61.369 ug/l
1,1-dichloroethane	42.196 ug/l
Trans-1,2-dichloroethene	32.510 ug/l
Chloroform	28.744 ug/l
Trichloroethane	726.279 ug/l
1,1,2-trichloroethane	90.548 ug/l
Tetrachloroethene	1444.340 ug/l
Toluene	801.081 ug/l
Ethylbenzene	172.001 ug/l
1,1,1-trichloroethane	15453.770 ug/l
Isophorone	1191.190 ug/l
Naphthalene	144.040 ug/l
N - nitrosodiphenyl amine	43.896 ug/l

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Di-N-butyl phthalate	144.404 ug/l
Benzylbutyl phthalate	56.388 ug/l
Bis (2-ethylhexyl) phthalate	88.490 ug/l
Di-n-octyl phthalate	35.056 ug/l
Phenol	1443.700 ug/l
Carbon tetrachloride	917.308 ug/l
Arsenic	22.0 ug/l
Cadmium	14.8 ug/l
Chromium	550.0 ug/l
Lead	1630.0 ug/l
Cyanide	0.58 mg/l

A letter dated December 30, 1985, to OEPA from legal counsel for Respondent, describes the release of oxidizer sludge as an explanation for the above listed sampling results.

10. Analytical results of soil samples taken by OEPA on March 20, 1987, prior to soil excavation and disposal, revealed the following:

- a. Sample TL-1: black granular material composite from six foot by six foot area on the ground in Drum Storage Area number 2:

<u>PARAMETER</u>	<u>CONCENTRATION</u>
Toluene	890.0 ppm
Xylene	1125.0 ppm
Total Chromium	7130.0 ppm
Total Lead	6650.0 ppm
Total Cadmium	17.9 ppm
EP Tox Lead	5990.0 ug/l
EP Tox Chromium	990.0 ug/l

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- b. Sample TL-2: Composite of yellow, green, violet, red and grey granular material from a 45 foot by 45 foot area on the ground in Drum Storage Area number 2:

<u>PARAMETER</u>	<u>CONCENTRATION (ppm)</u>
Lead	4430.0
Selenium	4.8
Cadmium	40.6
Chromium	559.0
Arsenic	6.5

11. An OEPA field report dated May 28, 1987, contained the following notation: "After touring the closed head process area, we toured a portion of the empty drum storage area, ... [and walked past] an area where [Respondent] had recently moved drums... and noted a grey rubbery substance on the ground. It had apparently come from a drum. As the tour continued, many areas of [the] ground were stained and a solvent smell was noticed." Analytical results of samples taken of the grey rubbery substance on May 28, 1987, indicated that it exhibited the characteristic of EP Tox for lead in the amount of 9700 ug/l.
12. The Respondent's September 13, 1990 certification of RCRA closure report contains the following information regarding soils surrounding the permitted hazardous waste storage pad at the Facility:
- a. Samples taken prior to soil excavation:

<u>PARAMETER</u>	<u>CONCENTRATION</u>
Vinyl Chloride	3900.0 ug/l
Chloroethane	1400.0 ug/l
Acetone	2500.0 ug/l
MEK (2-butanone)	2500.0 ug/l
Tetrachloroethene	93.0 ug/l
Total Xylenes	23000.0 ug/l
Methylene Chloride	220.0 ug/l
Ethylbenzene	50.0 ug/l
Toluene	24.0 ug/l
Cadmium	20.6 mg/kg
Chromium	192.45 mg/kg
Lead	442.7 mg/kg
Silver	3.59 mg/kg

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- b. Samples taken from soils remaining in ground after excavation:

<u>PARAMETER</u>	<u>CONCENTRATION</u>
Methylene Chloride	13.0 ug/kg
Acetone	36.0 ug/kg

1,2 Dichlorethane	29.0 ug/kg
Ethylbenzene	11.0 ug/kg
Dichlorodifluoromethane	78.0 ug/kg
Toluene	8.0 mg/kg
Lead	100.8 mg/kg
Silver	2.5 mg/kg

13. The Respondent's September 13, 1990 certification of RCRA closure report contains the following information regarding soils surrounding the permitted hazardous waste underground storage tank at the Facility:

a. Samples taken prior to soil excavation:

<u>PARAMETER</u>	<u>CONCENTRATION</u>
MEK (2-butanone)	44000.0 ug/kg
Tetrachloroethene	430.0 mg/kg
Ethylbenzene	2800.0 mg/kg
MiBk (4-methyl, 2-pentanone)	3400.0 mg/kg
Total Xylenes	11000.0 mg/kg
Acetone	6900.0 mg/kg
Cadmium	38.38 mg/kg
Chromium	241.53 mg/kg
Lead	1518.01 mg/kg

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b. Samples taken of soils remaining in ground after soil excavation:

<u>PARAMETER</u>	<u>CONCENTRATION</u>
Acetone	120.0 ug/kg
Ethylbenzene	40.0 ug/kg
Xylene	10.0 ug/kg

H. The Director of OEPA has determined that there have been releases of hazardous wastes or hazardous constituents into the environment from activities or operations at the Respondent's Facility.

I. The placement of wastes from and at the Facility may cause or contribute to water pollution or soil contamination.

J. Hazardous wastes or hazardous constituents may further migrate from the Facility into the environment via the following pathways: unnamed drainage ditch which acts as a tributary to Blacklick Creek, field drainage tiles, groundwater, surface water, air, sediment, and soil.

VI. OEPA'S CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the Findings of Fact set out above, and after consideration of the administrative record, the Director has made the following conclusions of law and determinations:

- A. The Respondent is a "person" within the meaning of sections 1.59 and 3734.01 of the ORC and rule 3745-50-10 of the OAC.
- B. The Respondent is the owner or operator of a facility that has operated or is operating subject to Chapter 3734. of the ORC.
- C. Certain wastes and waste constituents which have been found at the Facility are hazardous wastes or hazardous constituents as defined by ORC section 3734.01 and by rules 3745-51-03 and 3745-50-10 of the OAC.
- D. The discharge, deposit, injection, dumping, leaking, spilling, or placing of industrial waste, hazardous waste, or other wastes into or on surface and ground waters constitutes pollution of the "waters of the State," as that term is defined in ORC section 6111.01(H), and is prohibited by ORC section 6111.04.
- E. The discharge, deposit, injection, dumping, spilling, leaking, emitting or placing of hazardous waste onto any land or ground without an Ohio hazardous waste facility installation and operation permit authorizing such activity constitutes unlawful disposal of hazardous waste, and is prohibited by ORC section 3734.02.
- F. The Director of OEPA has determined that the actions required by this Consent Order are necessary to abate or prevent air or water pollution or soil contamination at and from the Facility or to protect public health, safety, and the environment, pursuant to ORC section 3734.20.

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VII. WORK TO BE PERFORMED

Pursuant to sections 3734.13, 3734.20, and 6111.03 of the ORC, the Respondent agrees and hereby is ordered to perform the following acts in the manner and by the dates specified herein. All work undertaken pursuant to this Consent Order shall be performed at a minimum, in a manner consistent with the following: the attached Scope of Work documents (Attachment I, Generic Scope of Work RCRA Facility Investigation, and Attachment II, Generic Scope of Work for a Corrective Measures Study), including the OEPA-approved RCRA Facility Investigation (RFI) Workplan and Report, Corrective Measures Study (CMS) Workplan and Report; the ORC and its implementing regulations; and relevant OEPA and U.S. EPA guidance documents. The attached Scopes of Work are not specific to this facility, and are to be used by the parties as a general outline in developing the facility specific workplans. Relevant U.S. EPA guidance documents include, but are not limited to: the "RCRA Facility Investigation (RFI) Guidance" (EPA 530/SW-39-031); "RCRA Groundwater Monitoring Technical Enforcement Guidance Document" (OSWER Directive 9950.1, September 1986); "Test Methods for Evaluating Solid Waste" (SW-846, Third Edition with current revisions); and "Construction Quality Assurance for Hazardous Waste Land Disposal Facilities" (EPA 530/SW-85-031, July 1986). Relevant OEPA documents include, but are not limited to: "How Clean is Clean, Final, Ohio EPA, Division of Emergency and Remedial Response, Policy No. DERR-00-RR-009, July 1991."

A. If in the course of conducting the work called for in this Consent Order the Respondent identifies a substantial threat to human health or the environment from the Facility, the Respondent shall orally notify OEPA immediately, and in writing within fourteen (14) days, summarizing the immediacy and magnitude of the substantial threat to human health or the

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environment. Within thirty (30) days of notifying OEPA, the Respondent shall submit to OEPA an Interim Measures (IM) Workplan for approval that identifies interim measures which mitigate this threat and are consistent with and integrated into any long term solution for corrective measures at the Facility.

B. Within ninety (90) days of the effective date of this Consent Order, Respondent shall submit to OEPA a RFI Workplan for the Facility. The RFI Workplan is subject to approval by OEPA and shall be performed in a manner consistent with the RFI Scope of Work contained in Attachment I to this Consent Order, which is incorporated by reference as if fully set forth herein. The parties recognize that some of the tasks contained in the Scopes of Work (Attachments I and II) may not be applicable to the specific Work Plans to be developed for this Facility pursuant to this Consent Order. It is the responsibility of the Respondent to demonstrate that any particular task in the Scopes of Work is not applicable to the Facility specific Work Plans. The RFI Workplan shall be developed at a minimum in accordance with RCRA, its implementing regulations, and relevant U.S. EPA guidance documents.

C. The RFI Workplan shall be designed to define the presence, magnitude, extent, direction, and rate of movement of any hazardous wastes or hazardous constituents within and beyond the Facility boundary. The RFI Workplan shall document the procedures the Respondent shall use to conduct those investigations necessary: (1) to characterize the potential pathways of contaminant migration; (2) to characterize the source(s) of contamination; (3) to define the degree and extent of contamination; (4) to identify actual or potential receptors; and (5) to support the development of alternatives from which corrective measures will be selected by OEPA. A specific schedule for implementation of all activities shall be included in the RFI

Workplan. The schedule in the RFI Workplan shall not exceed a period of four (4) years for implementation of all RFI activities.

D. In accordance with the provisions of Attachment I, Task III, the RFI Workplan shall include: (1) a Project Management Plan; (2) a Data Collection Quality Assurance Plan; (3) a Data Management Plan; (4) a Health and Safety Plan; and (5) a Community Relations Plan.

E. Upon completion of the RFI, if OEPA deems necessary the Respondent shall conduct a CMS in accordance with the CMS Scope of Work in Attachment II to this Consent Order, which is incorporated by reference as if fully set forth herein.

F. Upon OEPA's selection of the corrective measures, if the Respondent has complied with the terms of this Consent Order, OEPA shall provide a ninety (90) day period for negotiation of an Administrative Order on Consent for implementation of the selected corrective measures.

G. OEPA shall review the proposed Workplans and inform the Respondent in writing of the approval, approval with modifications, or disapproval of the Workplans or any part thereof. In the event of any disapproval, OEPA shall specify the deficiencies and reasons for disapproval and any necessary modifications. Within forty-five (45) days of receipt of OEPA's disapproval of any Workplan, the Respondent shall amend such Workplan, making the changes required by OEPA, and shall resubmit the Workplan. The OEPA shall approve, approve with modifications, or disapprove the Workplan. If the Workplan is approved or approved with modifications, it shall be deemed the approved Workplan.

H. Within thirty (30) days of OEPA approval of any Workplan, the Respondent shall commence work, and shall implement the tasks required by the Workplan in accordance with the standards, specifications, and schedule

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stated in the Workplan as approved or modified by OEPA.

I. Beginning with the month following the effective date of this Consent Order, the Respondent shall provide OEPA with progress reports for each month by the tenth calendar day of the following month. The progress reports shall conform to requirements in relevant Scope of Work documents contained in Attachments I and II.

J. The Respondent shall provide draft and final RFI and CMS reports to OEPA in accordance with the schedule contained in this Consent Order and its Attachments.

K. A responsible corporate official shall personally attest to the accuracy of information contained in each of the Respondent's reports, certifications of compliance, and documents evidencing that compliance. The term "responsible official" means a responsible corporate officer, as defined in OAC rule 3745-50-42:

(A)(1)For a corporation: by a responsible corporate officer. . .

a "responsible corporate officer" means: (a) A president, secretary, treasurer or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (b) The manager of one or more manufacturing, production or operation facilities employing more than two hundred fifty persons or having gross annual sales or expenditures exceeding twenty-five million dollars (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with the corporate procedures.

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By: Mary Gavin Date 6-23-92

(2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively.

The certification statement for the Responsible Corporate Official in the Respondent's reports to the OEPA shall provide as follows:

"I certify that the information contained in or accompanying this (submission)(document) is true, accurate, and complete."

"As to (the)(those) identified portion(s) of (submission)(document) for which I cannot personally verify (its)(their) truth and accuracy, based upon my inquiry of the person or persons responsible for managing the facility, or those persons directly responsible for meeting the obligations under these Orders, I certify that the information contained in or accompanying this certification is to the best of my knowledge and belief, true, accurate, and complete."

L. OEPA shall review all draft or final reports, and notify the Respondent in writing of OEPA's approval, approval with modifications or disapproval of the report or any part thereof. In the event of any disapproval or modifications, OEPA shall specify in writing the deficiencies and reasons for such disapproval or modifications. Within forty-five (45) days of receipt of OEPA's disapproval of any report, Respondent shall amend and submit a revised report to OEPA.

M. Two copies of all documents, including Workplans, draft and final reports, progress reports, and other correspondence to be submitted pursuant to this Consent Order shall be hand delivered or sent by certified mail, return receipt requested, to the OEPA Project Coordinator designated pursuant to Section XIII of this Consent Order.

N. All work performed pursuant to this Consent Order shall be under the

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direction and supervision of a professional engineer or geologist with expertise in hazardous waste site cleanup. Within thirty (30) days of the effective date of this Consent Order, the Respondent shall notify OEPA in writing of the name, title, and qualifications of the engineer or geologist, and of any contractors or subcontractors and their personnel to be used in carrying out the terms of this Consent Order.

O. OEPA may determine that certain tasks, including investigatory work or engineering evaluation, are necessary in addition to the tasks and deliverables included in the RFI and the CMS Workplans when new information indicates that such additional work is necessary in order to accomplish the purposes and objectives of the RFI/CMS as set forth in the Statement of Purpose and Generic SOW for this Consent Order. OEPA shall request in writing that the Respondent perform the additional work and shall specify the basis and reasons for OEPA's determination that the additional work is necessary. Within thirty (30) days after receipt of such request, the Respondent shall have the opportunity to meet with OEPA to discuss the additional work OEPA has requested. Thereafter, the Respondent shall perform the additional work OEPA has requested according to an OEPA-approved Workplan. All additional work performed by the Respondent under this paragraph shall be performed in a manner consistent with this Consent Order.

VIII. QUALITY ASSURANCE

Throughout all sample collection and analysis activities, the Respondent shall use OEPA-approved quality assurance, quality control, and chain-of-custody procedures as specified in the approved Workplans. In addition, the Respondent shall:

A. Ensure that laboratories used by the Respondent for analyses shall

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perform such analyses according to U.S. EPA methods included in "Test Methods for Evaluating Solid Waste" (SW-846, Third Edition, with current revisions) or other methods deemed satisfactory to OEPA. If methods other than U.S. EPA methods are to be used, the Respondent shall submit all protocols to be used for analyses to OEPA for approval within thirty (30) days prior to the commencement of such analyses; and

B. Ensure that laboratories used by the Respondent for analyses participate in a quality assurance/quality control program equivalent to that which is followed by U.S. EPA. As part of such a program, and upon request by OEPA, such laboratories shall perform analyses of samples provided by OEPA to demonstrate the quality of the analytical data.

IX. PUBLIC COMMENT AND PARTICIPATION

A. Upon approval by OEPA of a CMS Final Report, OEPA shall make the RFI Final Report, the CMS Final Report, a summary of OEPA's proposed corrective measures, and OEPA's justification for proposing selection of the corrective measures available to the public for review and comment for at least thirty (30) days.

B. Following the public review and comment period, OEPA shall notify the Respondent of the corrective measures selected by OEPA. If the corrective measures recommended in the CMS Final Report are not the corrective measures selected by OEPA after consideration of public comments, OEPA shall inform the Respondent in writing of the reasons for such decision, and the Respondent shall modify the RFI Final Report and/or the CMS Final Report based upon public comment if directed to do so by OEPA.

C. The public records supporting the selection of the corrective measures will be available for public review at OEPA, Central District Office.

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X. ON-SITE AND OFF-SITE ACCESS

A. In the course of conducting the work called for in this Consent Order OEPA representatives are authorized, upon proper identification and upon stating the purpose and necessity, to enter at reasonable times and freely move about all property at the Facility for the purposes of, inter alia: interviewing Facility personnel and contractors; inspecting records, operating logs, and contracts related to the Facility; reviewing the progress of the Respondent in carrying out the terms of this Consent Order; conducting such tests, sampling, or monitoring as OEPA or its Project Coordinator deem necessary; using a camera, sound recording, or other documentary production equipment; and verifying the reports and data submitted to OEPA by the Respondent. The Respondent shall permit OEPA representatives to inspect and copy all records, files, photographs, documents, and other written material writings, including all sampling and monitoring data, that pertain to work undertaken pursuant to this Consent Order.

B. To the extent that work required by this Consent Order, or by any approved Workplans prepared pursuant hereto, must be done on property not owned or controlled by the Respondent, the Respondent will use its best efforts to obtain site access agreements from the present owner(s) of such property within thirty (30) days of approval of any Workplan for which site access is required. Best efforts as used in this paragraph shall include, at a minimum, a certified letter from the Respondent to the present owners of the property requesting access agreements to permit the Respondent and OEPA and its authorized representatives access to the property. A copy of each access agreement shall be provided to OEPA. In the event that agreements for access are not obtained within thirty (30) days of approval

of any Workplan, the Respondent shall notify OEPA in writing within sixty (60) days of the Workplan approval regarding both the efforts undertaken to obtain access and its failure to obtain the agreements.

C. Nothing in this Consent Order limits or otherwise affects OEPA's right of access and entry pursuant to applicable law, including ORC Chapters 3734. and 6111.

XI. SAMPLING AND DATA/DOCUMENT AVAILABILITY

A. The Respondent shall submit to OEPA the results of all sampling and/or tests or other data generated by, or on behalf of the Respondent, in accordance with the requirements of this Consent Order and its Attachments.

B. The Respondent shall notify OEPA at least fourteen (14) days (unless otherwise agreed by the Site Coordinators) before engaging in any field activities, such as well drilling, installation of equipment, or sampling, for which the OEPA Site Coordinator has indicated in writing, upon review of the final Sampling and Analysis Plan of the Work Plan, that (s)he may wish to observe the activities or obtain split or duplicate samples. At the request of OEPA, the Respondent shall provide or allow OEPA or its authorized representative to take split samples of all samples collected by the Respondent pursuant to this Consent Order. Similarly, at the request of the Respondent, OEPA shall allow the Respondent or its authorized representatives to take split or duplicate samples of all samples collected by OEPA under this Consent Order. OEPA will notify the Respondent at least fourteen (14) (unless otherwise agreed by the Site Coordinators) days before conducting any sampling under this Consent Order.

C. Any records received by OEPA pursuant to this Consent Order are considered public records unless otherwise provided in section 149.43 of the ORC. The Respondent may assert a trade secret claim covering all or part of

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any information submitted to OEPA pursuant to this Consent Order, in accordance with ORC Chapters 3734. or 6111., or with OAC Chapter 3745. If no such trade secret claim accompanies this information when it is submitted to OEPA, it may be made available to the public by OEPA without further notice to the Respondent. The Respondent agrees not to assert any trade secret claim with regard to any discharge or emission data.

XII. RECORD PRESERVATION

The Respondent agrees that it shall preserve during the pendency of this Consent Order and for ten (10) years after its termination, all data, records, and documents in its possession or in the possession of its divisions, officers, employees, agents, contractors, successors, and assigns, which relate in any way to this Consent Order. After ten (10) years, the Respondent shall make such records available to OEPA for inspection or shall provide copies of any such records to OEPA. The Respondent shall notify OEPA thirty (30) days prior to the destruction of any such records, and shall provide OEPA with the opportunity to take possession of any such records.

XIII. PROJECT COORDINATOR

A. Within ten (10) days after the effective date of this Consent Order, the OEPA and the Respondent each shall designate a Project Coordinator in writing, and shall notify each other of such designation. Each Project Coordinator shall be responsible for overseeing the implementation of this Consent Order. The OEPA Project Coordinator will be OEPA's designated representative at the Facility. All communications between the Respondent and the OEPA and all documents, reports, approvals and other correspondence concerning the activities performed pursuant to the terms and conditions of this Consent Order, shall be directed as indicated in Section XIV of this

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By: Maria Cavin Date 6-23-92

Consent Order.

B. The parties agree to provide at least fourteen (14) days, or such other time as may be reasonable under the circumstances, written notice prior to changing Project Coordinators.

C. If the OEPA Project Coordinator determines that activities in compliance or noncompliance with this Consent Order have caused or may cause air or water pollution or soil contamination, or cause a threat to public health or safety, OEPA may order the Respondent to stop further implementation of this Consent Order for such a period of time as may be needed to abate any such pollution, contamination or threat and/or undertake any immediate action which OEPA determines is necessary to abate such pollution, contamination or threat.

D. The absence of the OEPA Project Coordinator from the Facility shall not be cause for the stoppage of work.

XIV. NOTIFICATION

Unless otherwise specified, reports, correspondence, approval, disapproval, notices, or other submissions relating to or required under this Consent Order shall be in writing and shall be hand delivered or sent by certified mail, return receipt requested, as follows:

1. Two copies of all documents to be submitted to OEPA shall be sent

to:

Ohio EPA
1800 WaterMark Drive
P.O. Box 1049
Columbus, Ohio 43266-0149
Attn: Manager, Technical Program Support Section,
Division of Emergency and Remedial Response

2. Two copies of all documents to be submitted to OEPA shall be sent

to:

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By: Mary Carvin Date 6-23-92

Ohio EPA
Central District Office
2305 Westbrooke Dr., Bldg. C
Columbus, Ohio 43228
Attn: Project Coordinator, Franklin Steel Company

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official document as filed in the records of the Ohio
Environmental Protection Agency.

By: Mary Gavin Date 6-23-92

3. Documents to be submitted to the Respondent shall be sent to:

Franklin Steel Company, Inc.
1385 Blatt Boulevard
Blacklick, Ohio 43004
Attn: Gary C. Weckerly

6/23/92
Mary Gavin

XV. DISPUTE RESOLUTION

A. The parties shall use their best efforts to resolve informally and in good faith, all disputes or differences of opinion relating to the conduct of activities under this Consent Order. If, however, disputes arise concerning this Consent Order, including but not limited to, the implementation of the RFI or CMS Workplans, approval of documents, scheduling of any work, or any other obligations assumed hereunder, which the parties are unable to resolve informally, the Respondent shall present a written notice of such dispute to OEPA, within seven (7) days of its knowledge of the dispute. The written notice of dispute shall set forth the specific points of dispute, the position of the Respondent and the basis therefor, and any actions which the Respondent considers necessary to resolve the dispute.

B. Within twenty (20) days of receipt of a written notice from the Respondent pursuant to Paragraph A of this Section, OEPA shall provide a written response to the Respondent setting forth its position and the basis therefor. During the time period between receipt of the written notice from the Respondent and issuance of OEPA's written response, the parties shall attempt to negotiate in good faith a resolution of the differences. During the twenty (20) day period during which OEPA must formulate its response to the Respondent, the Respondent shall have the opportunity to discuss

resolution of the dispute with a Section Manager, or someone of equal authority, or her/his designee, Division of Emergency and Remedial Response.

C. Following expiration of the time period described in Paragraph B above, if OEPA concurs with the position of the Respondent, the dispute shall be deemed resolved in favor of the Respondent. The Respondent shall be provided with written notification of such dispute resolution, and this Consent Order will be modified, if necessary, to include any extension of time or variances of work.

D. Following expiration of the time period described in Paragraph B above, the OEPA does not concur with the position of the Respondent, OEPA shall resolve the dispute, based upon and consistent with the terms and objectives of this Consent Order, and shall provide a written statement of the dispute resolution to the Respondent.

E. During the pendency of the dispute resolution procedures set forth in this Section, the time period for completion of work and/or obligations to be performed under this Consent Order, which are affected by such dispute, may be extended, upon written agreement of OEPA and the Respondent, for a period of time not to exceed the actual time taken to resolve the dispute. Elements of the work and/or obligations not affected by the dispute shall be completed in accordance with the schedules contained in the RFI and CMS Workplans.

F. Upon resolution of any dispute, whether informally or using the procedures in this Section, the Respondent shall proceed with the work according to the statement of resolution.

XVI. UNAVOIDABLE DELAYS

A. The Respondent shall perform the requirements of this Consent Order within the time limits established herein, unless performance is prevented

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By: Mary Cavins Date 6-23-92

or delayed by events which constitute an unavoidable delay, or unless OEPA orders the Respondent to cease implementation of the Consent Order pursuant to Section XIII C. of this Consent Order. The Respondent shall have the burden of proving such an unavoidable delay. An unavoidable delay is defined as any event arising from causes not foreseeable and beyond the control of the Respondent which could not be overcome by due diligence and which delays or prevents performance by a date required by this Consent Order. Such events do not include increased costs of performance, changed economic circumstances, or normal precipitation events.

B. The Respondent shall notify OEPA in writing within fourteen (14) days after it becomes aware of an event which the Respondent knows or should know constitute an unavoidable delay. Such notice shall estimate the anticipated length of delay, including necessary demobilization and remobilization, its cause, measures taken or to be taken to minimize the delay, and an estimated time table for implementation of these measures. Failure to comply with the notice provision of this Section shall constitute a waiver of Respondent's right to assert an unavoidable delay.

C. If the delay has been or will be caused by circumstances not foreseeable and beyond the Respondent's control, which could not have been overcome by due diligence, the item for performance of that element of the relevant Scope of Work may be extended, upon OEPA written approval, for a period equal to the delay resulting from such circumstances. This shall be accomplished through an amendment to this Consent Order pursuant to Section XXII. Such an extension does not alter the schedule for performance or completion of other tasks required by any Scope of Work documents unless these are also specifically altered by amendment of the Consent Order. In the event that OEPA and Respondent cannot agree that any delay or failure

has been or will be caused by circumstances not reasonably foreseeable and beyond the control of the Respondent, which could not have been overcome by due diligence, or if there is no agreement on the length of the extension, the dispute shall be resolved in accordance with the Dispute Resolution provisions of Section XV. of this Consent Order.

XVII. RESERVATION OF RIGHTS

A. The OEPA expressly reserves all rights and defenses that it may have, including the right to disapprove of work performed by the Respondent pursuant to this Consent Order; and including the right to request that the Respondent perform tasks in addition to those stated in the Scope of Work documents in order to accomplish the purposes and objectives of the RFI/CMS as set forth in the Statement of Purpose for this Consent Order.

B. OEPA hereby reserves all of its statutory and regulatory powers, authorities, rights, and remedies, both legal and equitable, which may pertain to the Respondent's failure to comply with any of the requirements of this Consent Order. The Consent Order shall not be construed as a covenant not to sue, a release, a waiver, or a limitation of any rights, remedies, powers and/or authorities, civil or criminal, which OEPA has under RCRA, the Comprehensive Environmental Response, Compensation and Recovery Act (CERCLA), the ORC, the OAC, or any other statutory, regulatory, or common law enforcement authority of the State of Ohio. The Respondent hereby reserves all of its claims, defenses, arguments, or causes of action which it may assert in response to any Ohio EPA action referenced in this paragraph.

C. Compliance by the Respondent with the terms of this Consent Order shall not relieve the Respondent of its obligations to comply with RCRA or any other applicable local, state, or federal laws and regulations.

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D. The entry of this Consent Order and the Respondent's consent to comply shall not limit or otherwise preclude OEPA from taking additional enforcement action pursuant to Chapters 3734. and 6111. of the ORC should OEPA determine that such actions are warranted.

E. This Consent Order is not intended to be nor shall it be construed to be a permit. This Consent Order does not relieve the Respondent of any obligation to obtain and comply with any local, state, or federal permits.

F. OEPA reserves the right to perform any portion of the work consented to herein or any additional site characterization, feasibility study, response action or corrective action as OEPA may deem necessary to abate or prevent air or water pollution or soil contamination from the Facility or to protect public health or safety. OEPA may exercise its authority under Section 3734.20 of the ORC to undertake removal actions or remedial actions at any time. OEPA reserves its right, pursuant to ORC Section 3734.20, to seek reimbursement from the Respondent for such additional costs incurred by the State of Ohio. Notwithstanding compliance with the terms of the Consent Order, the Respondent is not released from liability, if any, for the costs of any response actions taken by OEPA.

XVIII. OTHER CLAIMS AND PARTIES

Nothing in this Consent Order shall constitute or be construed as a release from any claim, cause of action, or demand in law or equity against any person, firm, partnership, or corporation 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 from the Facility.

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XIX. OTHER APPLICABLE LAWS

All action required to be taken by the Respondent pursuant to this Consent Order shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. The Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

XX. INDEMNITY

The Respondent agrees to indemnify, save, and hold harmless OEPA and its employees and agents, from any and all claims or causes of action arising from or on account of acts or omissions of the Respondent, or its agents, independent contractors, receivers, trustees, and assigns, in carrying out the activities required by this Consent Order. This indemnification shall not be construed in any way as affecting or limiting the rights or obligations of the Respondent or OEPA under their various contracts.

XXI. REIMBURSEMENT OF COSTS

A. The Respondent shall reimburse OEPA for all oversight costs and response costs incurred by OEPA in connection with this Consent Order after the effective date hereof. The Respondent shall also reimburse OEPA for all costs incurred by OEPA in connection with the development and implementation of this Consent Order prior to the effective date of this Consent Order. Within sixty (60) days of the end of each calendar year, OEPA will submit to the Respondent itemized statements of such costs of the OEPA for the previous year. OEPA shall provide to Respondent itemized statements of oversight and response costs on a quarterly basis.

Payment shall be due and owing upon receipt of the itemized statements from OEPA. The Respondent shall pay such sums, within forty-five (45) days,

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By: Mary Calvin Date 6-23-92

as follows: payment to OEPA shall be made by check payable to "Treasurer, State of Ohio" and shall be forwarded to the Fiscal Officer, Division of Emergency and Remedial Response, Ohio EPA, P.O. Box 1049, 1800 WaterMark Drive, Columbus, Ohio 43266-0149

B. A copy of the transmittal letter and a photocopy of the check shall be sent to the OEPA Site Coordinator.

C. A copy of the transmittal letter and a photocopy of the check shall be sent to Legal Counsel for Director of Environmental Protection, Ohio EPA, at the address above.

D. In the event that the Respondent fails to complete the RFI/CMS in compliance with the terms of this Consent Order, OEPA reserves its right to bring an action against the Respondent to enforce this Consent Order for recovery of past response costs in connection with the Facility and any costs incurred in oversight of Respondent's implementation of this Consent Order (which are not paid pursuant to paragraph A of this Article) and all costs associated with OEPA's performance of the RFI/CMS or any part thereof. Nothing in this Consent Order shall be construed as a waiver of any right that OEPA may have to seek reimbursement of any response costs from any person not a party hereto.

XXII. SUBSEQUENT AMENDMENT

A. This Consent Order may be amended only by mutual agreement of OEPA and Respondent. Any such amendment shall be in writing, shall be signed by authorized representatives of both parties, shall have as their effective date the date on which it is entered into the journal of the Director of OEPA.

B. Any reports, plans, specifications, schedules, and attachments required by this Consent Order shall be provided to OEPA for approval. Any

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By: Mary Carvin Date 6-23-92

noncompliance with such OEPA-approved reports, plans, specifications, schedules, and attachments shall be considered a violation of this Consent Order.

C. No informal advice, guidance, suggestions, or comments by OEPA regarding reports, plans, specifications, schedules or any other written materials submitted by the Respondent will be construed as relieving the Respondent of its obligation to obtain written approval, if and when required by this Consent Order.

XXIII. SEVERABILITY

If any provision or authority of this Consent Order or the application of this Consent Order to any party or circumstances is held by any judicial or administrative authority to be invalid, the application of such provisions to other parties or circumstances and the remainder of this Consent Order shall remain in force and shall not be affected thereby.

XXIV. TERMINATION AND SATISFACTION

The provisions of this Consent Order shall terminate when the Respondent demonstrates in writing and certifies to the satisfaction of the OEPA that all obligations under this Consent Order have been performed and the OEPA approves in writing this certification.

This certification shall be signed by a responsible corporate official of the Respondent's corporation, as defined in section VII. K. of this Consent Order. The certification shall make the following attestation: "Based upon my inquiry of the person or persons responsible for managing the facility, or those persons directly responsible for meeting the obligations under these Orders, I certify that the information contained in or accompanying this certification is to the best of my knowledge and belief, true, accurate, and complete."

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Sy: Mary Gavin Date 6-23-92

RECEIVED
JUNE 23 1992
ADMINISTRATIVE

XXV. EFFECTIVE DATE/WAIVER

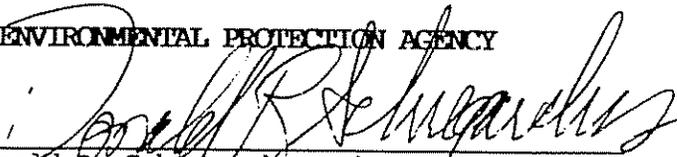
The effective date of this Consent Order shall be the date on which it is entered into the journal of the Director of OEPA. Because the Consent Order was entered into with the consent of both parties, the Respondent agrees to waive its right to appeal the issuance, terms, and service of this Consent Order, and it hereby waives any and all rights it may have to seek judicial review of said Consent Order either in law or in equity. Notwithstanding the preceding, the OEPA and the Respondent agree that in the event that this Consent Order is appealed by any other party to the Environmental Board of Review, or to any court, the Respondent retains the right to intervene and participate in such appeal. In such event, the Respondent shall not contest any findings of fact and conclusions of law contained in this Consent Order and shall continue to comply with this Consent Order notwithstanding such appeal and intervention unless said Consent Order is stayed, vacated, or modified.

XXVI. SIGNATORIES

Each undersigned representative of a party to this Consent Order certifies that he or she is fully authorized to enter into this Consent Order and to legally bind such party to this document.

IT IS SO AGREED:

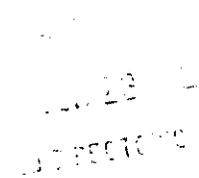
OHIO ENVIRONMENTAL PROTECTION AGENCY

BY: 
Donald R. Schregardus, Director

JUN 23 1992
Date

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

By: Mary Cavin Date 6-23-92



FRANKLIN STEEL COMPANY, INC.
(Respondent)

BY: _____

Richard M. Hansen

Date

5/29/92

TITLE: _____

Treasurer

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

By: _____

Mary Gavin

Date

6-23-92

CONFIDENTIAL
DIRECTOR'S