

ENTERED DIRECTOR'S JOURNAL

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5. The signatories to these Orders certify that they are fully authorized to execute and legally bind the Party they represent.

III. DEFINITIONS

6. Unless otherwise expressly provided herein, terms used in these Orders or in any appendices shall have the same meaning as used in Chapters 3734 and 6111 of the Ohio Revised Code. Whenever the terms listed below are used in these Orders or in any appendices, attached hereto and incorporated herein, the following definitions shall apply:

a. "Day" shall mean a calendar day unless expressly stated to be a business day. "Business day" shall mean a day other than a Saturday, Sunday, or State Holiday. In computing any period of time under these Orders, where the last day would fall on a Saturday, Sunday, or State Holiday, the period shall run until the close of the next business day.

b. "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan, codified at 40 C.F.R. Part 300 (1990), as amended.

c. "Ohio EPA" shall mean the Ohio Environmental Protection Agency and its designated representatives.

d. "Paragraph" shall mean a portion of these Orders identified by an arabic numeral or an upper or lower case letter.

e. "Parties" shall mean Respondent and the Ohio EPA.

f. "Respondent" shall mean Grimes Aerospace Company.

g. "Response Costs" shall mean all costs including, but not limited to, payroll costs, contractor costs, travel costs, direct costs, indirect costs, legal and enforcement-related costs, oversight costs, laboratory costs, the costs of reviewing or developing plans, reports, and other items pursuant to these orders, verifying the Work, or otherwise implementing or enforcing these Orders.

h. "Section" shall mean a portion of these Orders identified by a roman numeral.

i. "Site" shall mean the property where the treatment, storage, and/or disposal of VOCs, and/or the discharge into waters of the state of VOCs has occurred, including any other area where such VOCs may have migrated or threatens to migrate.

j. "Source Areas" shall mean any contaminated media, including free product, which

demonstrates the potential to elevate VOC ground-water concentrations above ground-water compliance levels.

k. "Source Control Interim Actions or SCIA's" shall mean those actions taken at the Site in order to eliminate, wherever practicable, or otherwise control Source Areas.

l. "Work Plan" shall mean the document submitted pursuant to Paragraph 12 that will describe all tasks necessary to perform the work required by the SOW.

m. "Statement of Work" ("SOW") means the statement of work for the implementation of the Source Control Interim Actions and delineation of ground-water contaminant plumes at the Site, as set forth in Appendix A to these Orders.

n. "Volatile Organic Compound" (VOCs) means those compounds listed in USEPA's SW 846, Test Methods for Evaluating Solid Waste, Method 8260, Target Compound List.

o. "Work" shall mean all activities Respondent is required to perform under these Orders.

IV. FINDINGS OF FACT, DETERMINATIONS, AND CONCLUSIONS OF LAW

7. All findings of fact, determinations, and conclusions of law necessary for the issuance of this Consent Order pursuant to ORC Sections 3734.13, 3734.20 and 6111.03 have been made and are outlined below. By entering into these Orders, Respondent does not admit any fact, conclusion of law or allegation contained herein. Ohio EPA has determined the following:

a. Grimes Aerospace Company (hereinafter "Grimes"), owns and operates a nine acre manufacturing facility located in Champaign County, at 515 North Russell Street, Urbana, Ohio. (hereinafter referred to as "the Russell Street Facility")

b. At the Russell Street Facility, Grimes currently manufactures aerospace components for both civil and military applications.

c. The Russell Street Facility has been operated by Grimes for approximately fifty years.

d. A variety of hazardous compounds are or have been stored and used at the Russell Street Facility, including the chlorinated solvent perchloroethylene (PCE), also known as tetrachloroethene.

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e. PCE and other chlorinated solvents were first detected in the Urbana Mad River Well Field as a result of normal compliance monitoring by Urbana, required by OEPA. These detections prompted an investigation of the Urbana area by Ohio EPA's Division of Emergency and Remedial Response beginning in 1993.

f. A review of spill reports revealed that a PCE spill occurred at the Russell Street Facility in 1987. OEPA Emergency Response files and interviews with Grimes' personnel revealed that on January 15, 1987 approximately 50 to 100 gallons of perchloroethylene were spilled in an alley on the east side of the Russell Street Facility. The spill was caused by the overflow of an above-ground storage tank during filling. PCE flowed from the above-ground tank down a gravel alley on the east side of the Russell Street Facility. Emergency measures taken were reportedly successful in preventing the PCE from entering a nearby storm sewer.

g. The OEPA Emergency Response On-Scene Coordinator (O.C.) responded to the January 1987 spill and advised Grimes to conduct additional cleanup activities and requested that four soil samples be taken from the area under the above ground PCE tank. The analytical results from these samples showed PCE at concentrations as high as 28 ppm. On January 20, 1987 the OEPA O.C. advised Grimes to remove additional material and to resample under the tank.

h. A June 16, 1987, report titled, *Midland Ross, Grimes Division, Evaluation of Environmental Risk Association Associated with the Remnants of a Spill of Perchloroethylene at the Russell Street Facility*, indicated that concentrations of up to 450 ppm PCE remained in the soil at the spill site.

i. In a letter dated September 28, 1993, Steve Martin of DERR/SWDO requested that Grimes initiate an investigation to determine whether the spilled PCE had contaminated ground water.

j. As part of the investigation requested by OEPA, Grimes sampled soil and ground water on May 31 through June 2, 1995. OEPA analytical results for a ground-water sample taken in the 1987 spill area at a depth of about eight feet below the ground surface utilizing a Geoprobe™, showed 1,2-dichloroethene at a concentration of 13 ug/l, trichloroethene at 33 ug/l, and tetrachloroethene at 120 ug/l.

k. An August 3, 1990 report titled *Underground Storage Tank Removal Report-FL Aerospace Russell Street* by Qsource Environmental Services, Inc., provides documentation of the removal of two underground storage tanks (USTs), formerly used to store waste cutting oil and virgin PCE at the Russell Street Facility. The USTs were located in the area of the Russell Street Facility west of Russell Street and north of Gwynne Street. During the removal it was noted that the north side of the excavation pit contained stained soils. Soil samples taken on July 23, 1990 found PCE at concentrations up to 28,800 ug/kg and 1,1,1-trichloroethane at concentrations up to 778

ug/kg. The pit was lined with plastic, and the excavated material was deposited back into the hole. Another layer of plastic was added and clean material was used to fill the hole to grade. No further removal or closure activities occurred in the former UST area.

1. OEPA received the August 3, 1990 UST removal report on May 26, 1994. Subsequently, OEPA requested that Grimes expand its investigation of ground-water contamination at the Russell Street Facility to include the former UST area.

m. Geoprobe™ ground-water samples collected by Grimes on June 2, 1995 showed concentrations of PCE to be up to 44 ug/l around the perimeter of the UST excavation area. Later, Grimes installed a monitoring well adjacent to the tank excavation area. This well, designated MW-6, was sampled July 31, 1995 during an OEPA city-wide sampling event. Results showed trichloroethene (TCE) at a concentration of 0.8 ug/l and PCE at a concentration of 28.6 ug/l. Analytical results for the June 1 and 2, 1995 Geoprobe™ ground-water sampling and July 31, 1995 monitoring well sampling are shown in the following tables:

Analytical Results from Geoprobe™ Ground-water Samples
 June 1 and 2, 1995.

Sample I.D.	Location	Compound	Concentration (ug/l)	MCL(ug/l)
GUGP2-8	1987 Spill Area	cis,1,2-Dichloroethene	13	70
		Trichloroethene	33	5
		Tetrachloroethene	120	5
GUGP11-20/22	NW Corner of UST Area	Tetrachloroethene	16	5
AGUGP12-23/25	SW Corner of UST Area	Tetrachloroethene	44	5
BGUGP12-23/25	SW Corner of UST Area	Tetrachloroethene	32	5
GUGP13-23/25	SE corner of UST Area	Tetrachloroethene	31	5

Monitoring Well Analytical Results
 July 31, 1995

Well I.D.	Compound	Concentration (ug/l)	MCL(ug/l)
MW-1	none detected		
MW-2	Tetrachloroethene (PCE)	5.6	5

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Well I.D.	Compound	Concentration (ug/l)	MCL(ug/l)
MW-3s	none detected		
MW-3d	none detected		
MW-4	Trichloroethene (TCE)	1.7	5
	Tetrachloroethene (PCE)	32	5
MW-5	Trichloroethene (TCE)	1.1	5
	Benzene	38	5
	cis-1,2-Dichloroethene	2.1	70
	Tetrachloroethene (PCE)	2	5
	trans-1,2-Dichloroethene	1.7	100
	p-Isopropyltoluene	0.8	
	sec-Butylbenzene	3.2	
	Isopropylbenzene	1.1	
	n-Propylbenzene	0.9	
MW-6	Trichloroethene (TCE)	0.8	5
	Tetrachloroethene (PCE)	28.6	5
MW-7	Tetrachloroethene (PCE)	3	5
	Toluene	0.6	1000

n. Waste PCE and other hazardous wastes were formerly accumulated in a hazardous waste accumulation area, located near the northwest corner of the Russell Street Facility.

o. PCE was detected at a concentration of 32 ug/l in Grimes' downgradient MW-4 on July 31, 1995 and at a concentration of 62.1 ug/l in the Howard Paper Mill, Inc. upgradient MW-15 on August 2. Howard Paper Mill, Inc. MW-15 is approximately 650 feet southwest and downgradient from the Russell Street Facility. Howard Paper Mill, Inc. is separated from the Russell Street Facility by a railroad right-of-way and a community baseball field. Ground-water investigations conducted for OEPA by Earth Tech from November 4 through 15, 1996 included sample locations between the Russell Street Facility and Howard Paper Mill, Inc. These samples were collected on Gwynne and Railroad Streets southwest and downgradient from the northwest corner of the Russell Street Facility. PCE concentrations as high as 173 ug/l were detected in these samples. Samples were also taken on Mosgrove Street, north and upgradient of the Russell Street

Facility . PCE concentrations detected in samples taken on Mosgrove Street were non-detect to 0.5 ug/l. This data may indicate that an additional source of PCE ground-water contamination exists, possibly in proximity to the hazardous waste accumulation area located at the northwest corner of the Russell Street Facility.

p. The local hydrogeology consists of surficial soils and glacial till overlying sand and gravel deposits of the Mad River Valley Buried Aquifer, part of the Great Miami Buried Aquifer System. The Great Miami Buried Aquifer is a USEPA-designated sole source aquifer. The Russell Street Facility is located above this aquifer. The Urbana Mad River Well Field utilizes ground water from this aquifer. Ground-water movement in the aquifer beneath the Russell Street Facility is apparently to the southwest.

q. Depths to ground water at the Russell Street Facility typically range between seventeen and twenty-eight feet below the ground surface. A shallow ground-water zone has been identified in the PCE spill area. This shallow ground-water zone occurs at about eight feet below the ground surface.

r. Respondent is a "person" as defined in ORC 3734.01(G).

s. Because of their quantity, concentration, or physical or chemical characteristics, the Director of the Ohio EPA has determined that 1,1,1-trichloroethane, trichloroethene, tetrachloroethene, and other contaminants detected in the soil and ground water at the Site are "hazardous wastes" as defined in ORC 3734.01(J).

t. The Site is a hazardous waste facility, solid waste facility or other location where hazardous waste was treated, stored, or disposed.

u. Conditions at the Site constitute a substantial threat to public health or safety or are causing or contributing or threatening to cause or contribute to air or water pollution or soil contamination.

v. Respondent is a "person" as defined under Section 6111.01(I) of the Ohio Revised Code.

w. 1,1,1-Trichloroethane, trichloroethene, tetrachloroethene, and other contaminants found at the Site are "industrial wastes" or "other wastes" as defined under Section 6111.01 of the Ohio Revised Code.

x. The ground water and surface water at the Site are "waters of the state" as defined under Section 6111.01(H) of the Ohio Revised Code.

y. The Work required by these Orders will contribute to the prohibition or abatement of the discharge of industrial wastes or other wastes into the waters of the state.

z. In issuing these Orders, the Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and their relation to benefits to the people of the state to be derived from such compliance.

V. GENERAL PROVISIONS

8. Objectives of the Parties

The objective of the Parties in entering into these Orders is to contribute to the protection of public health, safety, and welfare and the environment from the disposal, discharge, or release of VOCs known to exist or which come to be known to exist at the Site through implementation of a Source Control Interim Action(s) and delineation of VOC ground-water contaminant plume(s) by Respondent. Both parties acknowledge that other sources of ground-water contamination, unrelated to Grime's operations, are likely to exist in the Urbana area, and the mutual intent of the parties under this Order is to investigate and delineate ground-water contamination specifically related to operations at the Russell Street Facility. For purposes of delineating plumes emanating from sources related to Grime's operations at the Russell Street Facility, Grimes shall continue delineating when the individual effect of such plumes would result in an exceedence of SCIA ground-water compliance levels without considering contribution from sources unrelated to Grime's operations.

9. Commitment of Respondent

Respondent shall perform the Work in accordance with these Orders, including but not limited to, the SOW, relevant guidance documents, and all standards, specifications, and schedules set forth in or developed pursuant to these Orders. Respondent shall also reimburse Ohio EPA for Response Costs as provided in these Orders.

10. Compliance With Law

a. All activities undertaken by Respondent pursuant to these Orders shall be performed in accordance with the requirements of all applicable federal and state laws and regulations.

b. Respondent shall perform the activities required pursuant to these Orders in a manner which is not inconsistent with the NCP. The Ohio EPA believes that activities conducted pursuant to these Orders, if approved by the Ohio EPA, are consistent with the NCP.

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c. Where any portion of the Work requires a permit or approval, Respondent shall timely submit applications and take all other actions necessary to obtain such permits or approval. These Orders are not, and shall not be construed to be, a permit issued pursuant to any statute or regulation.

VI. PERFORMANCE OF THE WORK BY RESPONDENT

11. Supervising Contractor

All Work performed pursuant to these Orders shall be under the direction and supervision of a contractor with expertise in hazardous waste site investigation and remediation. Prior to the initiation of the Work, Respondent shall notify Ohio EPA in writing of the name of the supervising contractor and any subcontractor to be used in carrying out the terms of these Orders.

12. Work Plan

a. Within sixty (60) days after the effective date of these Orders, Respondent shall submit to Ohio EPA the Work Plan for implementation of the SCIA(s) and delineation of ground-water contaminant plume(s) for the Site. The Work Plan shall provide for the determination of the nature and extent of the contamination of soils and ground water at the Site caused by the disposal, discharge, or release of VOCs, and for the development, evaluation, design, and implementation of Interim Actions for the control of VOC Source Areas.

b. The Work Plan shall be developed in conformance with the SOW and the guidance documents listed in Appendix B to these Orders, attached hereto and incorporated herein. The SOW is not specific to this Site, and shall be used as an outline in developing Site-specific work plans. In the Work Plan, Respondent shall present the justification for the proposed omission of any of the tasks of the Statement of Work because of work that has already been performed or work that is not appropriate to the Site. Any omission proposed by Respondent is subject to the review and approval of the Ohio EPA. Respondent may rely upon existing data and/or information to the extent that Respondent can demonstrate that field and laboratory QA/QC procedures acceptable to Ohio EPA were followed in the generation of the data and/or information. Respondent shall include all supporting documentation in the Work Plan for existing data and/or information and clearly identify the intended use(s) and data quality objectives for such data and/or information. Ohio EPA will evaluate the adequacy of supporting QA/QC documentation and determine the acceptability of all existing data and/or information during review of the draft Work Plan.

c. If Ohio EPA determines that any additional or revised guidance documents affect the Work to be performed under these orders, Ohio EPA will notify Respondent, and the Work Plan and other affected documents shall be modified accordingly.

d. Should Respondent identify any inconsistency between any of the laws and regulations and guidance documents which they are required to follow by these Orders, Respondent shall notify the Ohio EPA in writing of each inconsistency and the effect of the inconsistencies upon the Work to be performed. Respondent shall also recommend, along with a supportable rationale justifying each recommendation, the requirement Respondent believes should be followed. Respondent shall implement the affected Work as directed by the Ohio EPA.

e. Ohio EPA will review the Work Plan pursuant to the procedures set forth in Section XII, Review of Submittals. Upon approval of the Work Plan by Ohio EPA, Respondent shall implement the Work Plan. Respondent shall submit all plans, reports, or other deliverables required under the approved Work Plan, in accordance with the approved schedule, for review and approval pursuant to Section XII, Review of Submittals.

f. Within seven (7) days of the effective date of these Orders, Respondent shall meet with the Ohio EPA to discuss the requirements of the Work Plan unless otherwise mutually agreed to by the Parties.

VII. ADDITIONAL WORK

13. Ohio EPA or Respondent may determine that in addition to the tasks defined in the approved Work Plan, additional work may be necessary to accomplish the objectives of these Orders as set forth in Paragraph 8 of these Orders and the SOW.

14. Within fourteen (14) days of receipt of written notice from Ohio EPA that additional work is necessary, Respondent shall submit an addendum to the original work plan for the performance of the additional work. The work plan shall conform to the standards and requirements set forth in Paragraph 12.b. of these Orders. Upon approval of the work plan by Ohio EPA pursuant to Section XII, Review of Submittals, Respondent shall implement the work plan for additional work in accordance with the schedules contained therein.

15. In the event that Respondent determines that additional work is necessary, Respondent shall submit a work plan for the performance of additional work. The work plan shall conform to the standards and requirements set forth in Paragraph 12.b. of these Orders. Upon approval of the work plan by the Ohio EPA pursuant to Section XII, Review of Submittals, Respondent shall implement the work plan for additional work in accordance with the schedules contained therein.

VIII. SAMPLING AND DATA AVAILABILITY

16. Unless otherwise agreed to by the Parties, Respondent shall notify Ohio EPA not less

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than ten (10) days in advance of all sample collection activity. Upon request, Respondent shall allow split and/or duplicate samples to be taken by Ohio EPA. Ohio EPA shall also have the right to take any additional samples it deems necessary. Upon request, Ohio EPA shall allow Respondent to take split and/or duplicate samples of any samples Ohio EPA takes as part of its oversight of Respondent's implementation of the Work.

17. Within seven (7) days of a request by Ohio EPA, Respondent shall submit to Ohio EPA copies of the results of all sampling and/or tests or other data, including raw data and original laboratory reports if also requested by Ohio EPA, generated by or on behalf of Respondent with respect to the Site and/or the implementation of these Orders. Respondent may submit to Ohio EPA any interpretive reports and written explanations concerning the raw data and original laboratory reports. Such interpretive reports and written explanations shall not be submitted in lieu of original laboratory reports and raw data. Should Respondent subsequently discover an error in any report or raw data, Respondent shall promptly notify Ohio EPA of such discovery and provide the correct information.

IX. ACCESS

18. Ohio EPA shall have access at all reasonable times to the Site and any other property to which access is required for the implementation of these Orders, to the extent access to the property is controlled by Respondent. For purposes of these Orders, "reasonable times" shall include, but not be limited to, hours of plant operation and all times during which work is performed pursuant to these Orders. In order to ensure that Respondent's personnel are available to accompany Ohio EPA personnel while on those portions of the Site controlled by Respondent, Ohio EPA shall, to the extent practicable, provide reasonable notice to Respondent prior to visiting those portions of the Site. Failure to give such notice, however, shall not be grounds for denying access. Access under these Orders shall be for the purposes of conducting any activity related to these Orders including, but not limited to the following:

- a. Monitoring the Work;
- b. Conducting sampling;
- c. Inspecting and copying records, operating logs, contracts, and/or other documents related to the implementation of these Orders;
- d. Conducting investigations and tests related to the implementation of these Orders; and
- e. Verifying any data and/or other information submitted to Ohio EPA.

19. To the extent that the Site or any other property to which access is required for the implementation of these Orders is owned or controlled by persons other than Respondent, Respondent shall use its best efforts to secure access, under reasonable terms, including the payment of reasonable sums of money from such persons for itself and the Ohio EPA as necessary to effectuate these Orders. Copies of all access agreements obtained by Respondent shall be provided promptly to Ohio EPA. If any access required to effectuate these Orders is not obtained within thirty (30) days of the effective date of these Orders, or within thirty (30) days of the date Ohio EPA notifies Respondent in writing that additional access beyond that previously secured is necessary, Respondent shall promptly notify the Ohio EPA in writing of the steps Respondent has taken to attempt to obtain access. Ohio EPA may, as it deems appropriate, assist Respondent in obtaining access.

20. Notwithstanding any provision of these Orders, the State of Ohio retains all of its access rights and authorities, including enforcement authorities related thereto, under any applicable statute or regulations.

X. DESIGNATED SITE COORDINATORS

21. Within five (5) days of the effective date of these Orders, Respondent shall notify Ohio EPA, in writing, of the name, address and telephone number of their designated Site Coordinator and Alternate Site Coordinator. If a designated Site Coordinator or Alternate Site Coordinator is changed, the identity of the successor will be given to the other Party at least five (5) days before the change occurs, unless impracticable, but in no event later than the actual day the change is made.

22. To the maximum extent practicable, except as specifically provided in these Orders, communications between Respondent and Ohio EPA concerning the implementation of these Orders shall be made between the Site Coordinators. Respondent's Site Coordinator shall be available for communication with Ohio EPA regarding the implementation of these Orders for the duration of these Orders. Each Site Coordinator shall be responsible for ensuring that all communications from the other Party are appropriately disseminated and processed. Respondent's Site Coordinator or alternate shall be present on the Site or on call during all hours of work at the Site.

23. Without limitation of any authority conferred on Ohio EPA by statute or regulation, the Ohio EPA Site Coordinator's authority includes, but is not limited to the following:

- a. Taking samples and directing the type, quantity and location of samples to be taken by Respondent pursuant to an approved work plan;
- b. Observing, taking photographs, or otherwise recording information related to the implementation of these Orders, including the use of any mechanical or photographic device.

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Given the nature of the operations at the Russell Street Facility, Ohio EPA will consult with Respondent prior to taking photographs inside any building at the Russell Street Facility in order to avoid photographing any item or process that would inadvertently reveal proprietary or confidential information;

- c. Directing that the Work stop whenever the Site Coordinator for Ohio EPA determines that the activities at the Site may create or exacerbate a threat to public health or safety, or threaten to cause or contribute to air or water pollution or soil contamination;
- d. Conducting investigations and tests related to the implementation of these Orders;
- e. Inspecting and copying records, operating logs, contracts and/or other documents related to the implementation of these Orders; and
- f. Assessing Respondent's compliance with these Orders.

XI. PROGRESS REPORTS AND NOTICE

24. Unless otherwise directed by Ohio EPA, Respondent shall submit a written progress report to the Ohio EPA by the tenth (10th) day of every month. At a minimum, the progress reports shall:

- a. Describe the status of the Work and actions taken toward achieving compliance with the Orders during the reporting period;
- b. Describe difficulties encountered during the reporting period and actions taken to rectify any difficulties;
- c. Describe activities planned for the next month;
- d. Identify changes in key personnel;
- e. List target and actual completion dates for each element of activity, including project completion; and
- f. Provide an explanation for any deviation from any applicable schedules.
- g. Indicate how much contaminated soil was removed and how much contaminated ground water was pumped and indicate where such contaminated media were disposed of. If the approved Interim Actions involve in-situ or on-site treatment processes, indicate the volume

of media treated as appropriate, the pounds of contaminant removed from the contaminated media, and where the contaminants were disposed of.

25. Progress reports and all other documents required to be submitted pursuant to these Orders shall be sent by certified mail return receipt requested, or equivalent, to the following addresses:

Ohio Environmental Protection Agency
1800 Watermark Drive
P.O. Box 1049
Columbus, Ohio 43216-0149
ATTN: DERR Records Room

Ohio EPA
Southwest District Office
401 East Fifth Street
Dayton, OH 45402-2911
ATTN: Brian Marlatt, Site Coordinator

All correspondence to Respondent shall be directed to the following addresses:

XII. REVIEW OF SUBMITTALS

26. Ohio EPA shall review any work plan, report, or other item required to be submitted pursuant to these Orders. Upon review, Ohio EPA may in its sole discretion: (a) approve the submission in whole or in part; (b) approve the submission upon specified conditions; (c) modify the submission; (d) disapprove the submission in whole or in part, notifying Respondent of deficiencies; or (e) any combination of the above.

27. In the event of approval, approval upon condition, or modification of any submission by the Ohio EPA, Respondent shall proceed to take any action required by the submission as approved, conditionally approved, or modified by Ohio EPA.

28. In the event that Ohio EPA initially disapproves a submission, in whole or in part, and notifies Respondent of the deficiencies, Respondent shall, within fourteen (14) days or such longer period of time as specified by Ohio EPA in writing, correct the deficiencies and resubmit the revised submission to Ohio EPA for approval. The revised submission shall incorporate all of the changes, additions, and/or deletions specified by Ohio EPA in its notice of deficiency that the Respondent does not contest. To the extent that Respondent contests any changes, additions, and/or deletions specified by the Ohio EPA, Respondent shall initiate the procedures for dispute resolution set forth

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in Section XIII, Dispute Resolution, within fourteen days (14) after receipt of Ohio EPA's notification of disapproval of a submission. Notwithstanding the notice of deficiency, Respondent shall proceed to take any action required by a non-deficient portion of the submission.

29. In the event that Ohio EPA disapproves a revised submission, in whole or in part, Ohio EPA may again require Respondent to correct the deficiencies and incorporate all changes, additions, and/or deletions within fourteen (14) days, or such period of time as specified by Ohio EPA in writing. Or, in the alternative, Ohio EPA retains the right to terminate these Orders, perform any additional remediation, conduct a complete or partial Remedial Investigation and Feasibility Study, and/or enforce the terms of these Orders.

30. All work plans, reports, or other items required to be submitted to Ohio EPA under these Orders shall, upon approval by Ohio EPA, be deemed to be incorporated in and made an enforceable part of these Orders. In the event that Ohio EPA approves a portion of a work plan, report, or other item, the approved portion shall be deemed to be incorporated in and made an enforceable part of these Orders.

XIII. DISPUTE RESOLUTION

31. The Site Coordinators shall, whenever possible, operate by consensus. In the event that there is a dispute about the adequacy of any work plan, report, or other item required to be submitted pursuant to these Orders, the Site Coordinators shall have seven (7) days from the date the dispute arises to reduce their positions to writing. The dispute shall be considered to have arisen when one Party notifies the other Party in writing that it is invoking the dispute resolution procedures of this Section. The written positions of the Site Coordinators shall include the technical rationale supporting the Party's position and shall be immediately exchanged by the Site Coordinators. This seven (7) day period for the exchange of written positions may be extended by mutual agreement of the Parties. Such agreement shall not be unreasonably withheld.

32. Following the exchange of written positions, the Site Coordinators shall have an additional seven (7) days to resolve the dispute. This seven (7) days may be extended by mutual agreement of the Parties. Such agreement shall not be unreasonably withheld. If Ohio EPA concurs with the position of Respondent, then the work plan, report, or other item required to be submitted pursuant to these Orders shall be modified accordingly.

33. If Ohio EPA does not concur with Respondent, Ohio EPA will resolve the dispute based upon and consistent with these Orders, the SOW, and other appropriate federal and state laws and regulations. The pendency of a dispute under this Section shall not affect the time period for completion of the Work, unaffected by the dispute, except that upon mutual agreement of the Parties, any time period may be extended as appropriate under the circumstances. Such agreement shall not

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be unreasonably withheld by Ohio EPA. Elements of the Work not affected by the dispute shall be completed in accordance with applicable schedules and timeframes. The opportunity to invoke dispute resolution under this Section shall not be available to Respondent unless otherwise expressly stated with respect to an individual provision of these Orders.

XIV. UNAVOIDABLE DELAYS

34. Respondent shall cause all Work to be performed in accordance with applicable schedules and timeframes unless any such performance is prevented or delayed by an event which constitutes an unavoidable delay. For purposes of these Orders, an "unavoidable delay" shall mean an event beyond the control of Respondent which prevents or delays performance of any obligation required by these Orders and which could not be overcome by due diligence on the part of Respondent. Increased cost of compliance shall not be considered an event beyond the control of Respondent.

35. Respondent shall notify Ohio EPA in writing within five (5) days after the occurrence of an event which Respondent contends is an unavoidable delay. Such written notification shall describe the anticipated length of the delay, the cause or causes of the delay, the measures taken and to be taken by Respondent to minimize the delay, and the timetable under which these measures will be implemented. Respondent shall have the burden of demonstrating that the event constitutes an unavoidable delay.

36. If Ohio EPA does not agree that the delay has been caused by an unavoidable delay, Ohio EPA will notify the Respondent in writing. Ohio EPA reserves the right to terminate these Orders, perform any additional remediation, conduct a partial or complete Remedial Investigation and Feasibility Study, and/or enforce the terms of these Orders in the event that Ohio EPA determines that the delay has not been caused by an unavoidable delay. If Ohio EPA agrees that the delay is attributable to an unavoidable delay, Ohio EPA will notify Respondent in writing of the length of the extension for the performance of the obligations affected by the unavoidable delay.

XV. REIMBURSEMENT OF COSTS

37. Ohio EPA has incurred and continues to incur Response Costs in connection with the Site. Respondent shall reimburse Ohio EPA for all Response Costs incurred both prior to and after the effective date of these Orders that are specifically related to the Site and not to the general ground water investigation of the Urbana area.

38. Within thirty (30) days of receipt of an accounting of Response Costs incurred prior to the effective date of these Orders and appropriate supporting documentation, Respondent shall remit

a check to the Ohio EPA for the full amount claimed.

39. With respect to Response Costs incurred after the effective date of these Orders, Ohio EPA will submit to Respondent an itemized statement of its Response Costs for the previous year, along with appropriate supporting documentation. Within thirty (30) days of receipt of such itemized statement, Respondent shall remit payment for all of Ohio EPA's Response Costs for the previous year.

40. Respondent shall remit payments to Ohio EPA pursuant to this Section as follows:

a. Payment shall be made by certified check payable to "Treasurer, State of Ohio" and shall be forwarded to Fiscal Officer, Ohio EPA, P.O. Box 1049, 1800 Watermark Drive, Columbus, Ohio 43216-0149, ATTN: Edith Long.

b. A copy of the transmittal letter and check shall be sent to the Fiscal Officer, DERR, Ohio EPA, P.O. Box 1049, 1800 Watermark Drive, Columbus, Ohio 43216-0149, ATTN: Patricia Campbell, and to the Site Coordinator.

XVI. RESERVATION OF RIGHTS

41. Ohio EPA reserves the right to seek legal and/or equitable relief to enforce the terms and conditions of these Orders, including penalties against Respondent for noncompliance with these Orders. Except as provided herein, Respondent reserves any rights it may have to raise any legal or equitable defense in any action brought by Ohio EPA to enforce the terms and conditions of these Orders.

42. Ohio EPA reserves the right to terminate these Orders and/or perform all or any portion of the Work or any other measures in the event that the requirements of these Orders are not wholly complied with within the timeframes required by these Orders.

43. Ohio EPA reserves the right to take any action, including but not limited to any enforcement action, action to recover costs, or action to recover damages to natural resources, pursuant to any available legal authority as a result of past, present, or future violations of state or federal laws or regulations or the common law, and/or as a result of events or conditions arising from, or related to, the Site. Upon termination of these Orders pursuant to Section XXII, Termination, Respondent shall have resolved their liability to Ohio EPA only for the Work performed pursuant to these Orders.

XVII. ACCESS TO INFORMATION

44. Subject to the restrictions below, Respondent shall provide to Ohio EPA, upon request, copies of all documents and information within its possession or control or that of its contractors or agents relating to events or conditions at the Site including, but not limited to manifests, reports, correspondence, or other documents or information related to the Work.

45. Respondent may assert a claim that documents or other information submitted to the Ohio EPA pursuant to these Orders are confidential under the provisions of OAC 3745-50-30(A) or R.C. 6111.05(A). If no such claim of confidentiality accompanies the documents or other information when it is submitted to the Ohio EPA, it may be made available to the public without notice to Respondent.

46. Respondent may assert that certain documents or other information are privileged under the attorney-client or any other privilege recognized by state law. If Respondent makes such an assertion, Respondent shall provide the Ohio EPA with the following: (1) the title of the document or information; (2) the date of the document or information; (3) the name and title of the author of the document or information; (4) the name and title of each addressee and recipient; (5) a general description of the contents of the document or information; and (6) the privilege being asserted by Respondent.

47. No claim of confidentiality shall be made with respect to any data, including but not limited to, all sampling, analytical monitoring, or laboratory or interpretive reports.

48. Respondent shall preserve for the duration of these Orders and for a minimum of ten (10) years after the Orders' termination, all documents and other information within its possession or control, or within the possession or control of its contractors or agents, which in any way relate to the Work, notwithstanding any document retention policy to the contrary. Respondent may preserve such documents by microfiche, or other electronic or photographic device. At the conclusion of this document retention period, Respondent shall notify Ohio EPA at least sixty (60) days prior to the destruction of these documents or other information and, upon request, shall deliver such documents and other information to Ohio EPA.

XVIII. INDEMNITY

49. Respondent agrees to indemnify, save, and hold harmless Ohio EPA from any and all claims or causes of action arising from, or related to the implementation of these Orders or to events or conditions at the Site related to the implementation of these Orders, including but not limited to, any claims or causes of action regarding a taking of property without compensation in contravention of federal or state law. Ohio EPA agrees to provide notice to Respondent within thirty (30) days of-

receipt of any claim which may be the subject of indemnity as provided in this Section, and to cooperate with Respondent in the defense of any such claim or action against the Ohio EPA. Ohio EPA shall not be considered a party to and shall not be held liable under any contract entered into by Respondent in carrying out the activities pursuant to these Orders.

XIX. OTHER CLAIMS

50. Nothing in these Orders 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, not subject to these Orders for any liability arising from, or related to, events or conditions at the Site.

XX. LAND USE AND CONVEYANCE OF TITLE

51. If portions of the Site currently owned by Respondent are transferred during the pendency of these Orders, Respondent shall provide each future transferee with actual notice of the existence of these Orders within ninety (90) days prior to the transfer of such interest. Respondent shall submit, via certified mail, a copy of each such notice to the Ohio EPA. Upon transfer of such property, Respondent shall place legal restrictions on the deed to ensure the integrity of any monitoring or remedial system present on the Site

52. Respondent shall ensure that no portion of the Site will be used in any manner that would adversely affect the integrity of any remedial or monitoring systems at the Site. Respondent shall notify the Ohio EPA by registered mail at least ninety (90) days in advance of any conveyance of any interest in real property which is known to comprise the Site. Respondent's notice shall include the name and address of the grantee and a description of the provisions made for continued maintenance of remedial and monitoring systems. In no event shall the conveyance of any interest in the property that includes, or is a portion of, the Site release or otherwise affect the liability of Respondent to comply with these Orders.

XXI. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

53. The effective date of these Orders shall be the date on which it is entered in the Journal of the Director of the Ohio EPA.

54. These Orders may be modified by mutual agreement of the Parties. Modifications shall be in writing and shall be effective on the date entered in the Journal of the Director of the Ohio EPA.

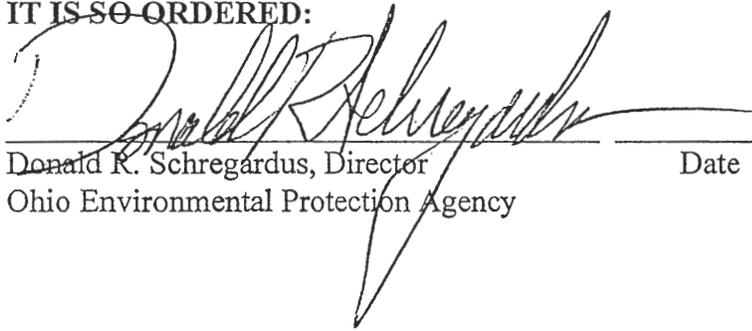
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OHIO E.P.A.

XXII. TERMINATION

55. These Orders shall terminate upon Ohio EPA's approval in writing of Respondent's written certification to the Ohio EPA that all Work required to be performed under these Orders, including the payment of Response Costs, has been completed. The termination of these Orders shall not affect the terms and conditions of Section XVI, Reservation of Rights, Section XVII, Access to Information, Section XVIII, Indemnity, Section XIX, Other Claims, and Section XX, Land Use and Conveyance of Title.

IT IS SO ORDERED:



Donald R. Schregardus, Director
Ohio Environmental Protection Agency

Date

OCT 02 1998

WAIVER AND AGREEMENT OHIO E.P.A.

A. In order to resolve disputed claims, without admission of fact, violation, or liability, Respondent agrees that these Findings and Orders are lawful and reasonable, and agrees to perform all actions required by these Orders.

B. Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders and hereby waives any and all rights that it may have to seek judicial review of the issuance, terms and conditions, and service of these Orders either in law or equity.

C. Notwithstanding the limitations herein on Respondent's right to appeal or seek judicial review, the Ohio EPA and Respondent agree that in the event that these Orders are appealed by any other party to the Environmental Review Appeals Commission (ERAC), or any court, Respondent retains the right to intervene and participate in such appeal. In such event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

IT IS SO AGREED:

Respondent

Robert J. Ford _____ 8/31/98
Date
Acting Director
Remediation and Evaluation Services
Title
For Grimes Aerospace

OHIO ENVIRONMENTAL PROTECTION AGENCY

Donald R. Schregardus _____ OCT 02 1998
Date
Donald R. Schregardus, Director