



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
230 SOUTH DEARBORN ST.  
CHICAGO, ILLINOIS 60604

REPLY TO THE ATTENTION OF

EPA Region 5 Records Ctr.



180298

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Re: Ninth Avenue Dump  
Unilateral Administrative Order

Dear Sir or Madam:

Enclosed please find a unilateral Administrative Order issued by the U.S. Environmental Protection Agency (U.S. EPA) under Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (CERCLA), 42 U.S.C. Sec. 9601 et al.

You will note that the Order has a prospective effective date of November 6, 1989. U.S. EPA has been negotiating with the Ninth Avenue "Executive Committee" over a possible cash-out settlement for interested PRPs. Prior to the effective date of the Order, U.S. EPA will continue these negotiations, and invites all interested PRPs to become involved in the negotiations through the "Executive Committee." Should a settlement be reached prior to the effective date of the Order, the Order will be modified to exclude the settling PRPs. If settlement is not reached prior to November 6, 1989, the Order will take effect on that date. It is important that any interested PRPs become involved in the settlement process immediately. Be advised that once a settlement is reached, discussions will not be reopened to accommodate latecomers or exclude nonsettlers from the effect of the Order.

As stated in the Order, the U.S. EPA has set a conference for September 18, 1989 at 2:00 p.m. in the Lakeview Conference Room, 16th Floor, 230 South Dearborn Street, Chicago, Illinois to discuss the terms of the Order and its position regarding settlement. Individual liability issues will not be discussed. Comments may be submitted in writing pursuant to the terms of the Order on or before October 21, 1989.

UPDATE ADMINISTRATIVE RECORD INDEX  
NINTH AVENUE DUMP  
INDIANA

FICHE/FRAME	PAGES	DATE	TITLE	AUTHOR	RECIPIENT	DOCUMENT TYPE
			redesignated as a category 1 site and an explanation of why acceptable implementation of an RI/FS and remedial actions is very unlikely to be obtained through responsible party actions.			
1		87/08/24	Review of residential well samples dated 6/12/87.	Loise Fabinski-ATSDR	Allison Hiltner-USEPA	Memorandum
7		87/09/10	ACTION MEMORANDUM: Removal Request for the Ninth Avenue Dump Site, Gary, Indiana.	Sherry Kanne - USEPA	Valdas Adamkus - USEPA	Memorandum
21		88/03/07	List of individuals receiving notice/information requests.	USEPA		Other
3		80/08/26	Complaint in the case of United States v. Steve Martell, et al., #80-473, U.S.D.C., No. Dist. of Indiana-Hammond Div.	Barbara Magel-USEPA, et al.	Steve Martell, et al.	Pleadings/Orders
21		84/08/08	Order for entry of Partial Consent Decree be entered as of December 7, 1983 and that it be further that defendants Irvin Clark, Donald Clark, Charles U. Clark, Bernice J. Clark, Mower Clark and Dorothy Clark be dismissed with prejudice with Partial Consent Decree attached in the case of United States v. Steve Martell, et al., #80-473, U.S.D.C., No. Dist. of Indiana-Hammond Div.	Judge James T. Moody		Pleadings/Orders
26		82/07/26	Hazard Ranking System Scoring Package	Knov-ISBN	Beverly Kush - USEPA	Reports/Studies
5		83/02/02	Preliminary Assessment	Don Mueller-Ecol. & Envir.	USEPA file	Reports/Studies
14		83/08/08	Site Inspection Report	Lisa Peremichio-Ecol. & Envir.	USEPA	Reports/Studies
16		86/09/00	Management Plan Ninth Avenue Dump Site.	U.S. Army Corps of Engineers-Owana	USEPA	Reports/Studies

UPDATE ADMINISTRATIVE RECORD INDEX  
3TH AVENUE DUMP  
INDIANA

FOUR/FIVE PAGES DATE	TITLE	AUTHOR	RECIPIENT	DOCUMENT TYPE
293 87/12/00	Remedial Investigation Of Midwest Solvent Recovery, Inc. (Midco I) Gary, Indiana: Public Comment Draft - Appendices J Through P.	Geosciences and ERM	Midco Trustees	Reports/Studies
324 87/12/00	Remedial Investigation Of Midwest Solvent Recovery, Inc. (Midco I) Gary, Indiana: Public Comment Draft- Appendices G Through I.	Geosciences and ERM	Midco Trustees	Reports/Studies
404 87/12/00	Remedial Investigation Of Midwest Solvent Recovery, Inc. (Midco I) Gary, Indiana: Public Comment Draft-Appendices A Through F.	Geosciences and ERM	Midco Trustees	Reports/Studies
448 87/12/00	Remedial Investigation Of Midwest Solvent Recovery, Inc. (Midco I) Gary, Indiana - Public Comment Draft	Geosciences and ERM	Midco Trustees	Reports/Studies
166 87/12/16-	Request for Applicable, or Relevant and Appropriate Requirements (ARAR).	D. Iverson - Warzyn Engineering	S. Zebrowski-Corps of Eng.	Reports/Studies
171 88/01/00-	Appendix No. 2 Quality Assurance Project Plan (QAPP).	Warzyn Engineering	USEPA	Reports/Studies
374 88/01/13	Technical Memorandum: Ground water use inventory northeast of Midco I.	Robert Aten-Geosciences Research	R. Ball-ERM North Central	Reports/Studies
330 88/03/13	Work Plan for Laboratory Treatability Testing Plan.	Greg Asbury-Warzyn Engineering	S. Zebrowski-Corps of Eng.	Reports/Studies
87 88/05/03	Work Plan for Materials Compatibility Testing	Greg Asbury-Warzyn Engineering	A. Hiltner-USEPA	Reports/Studies
149 88/06/00	Phased Review Draft - Phased Feasibility Study Ninth Avenue Dump RI/FS, Gary, Indiana.	Warzyn Engineering Inc.	COE for the USEPA	Reports/Studies

DATE ADMINISTRATIVE RECORD INDEX  
9TH AVENUE DUMP  
INDIANA

FICHE/FRAME	PAGES	DATE	TITLE	AUTHOR	RECIPIENT	DOCUMENT TYPE
225	88/06/00		Public Review Draft - Remedial Investigation Report Ninth Avenue Dump RI/FS Gary, Indiana: Volume 2 Tables And Figures.	Wazyn Engineering, Inc.	COE for the USEPA	Reports/Studies
306	88/06/00		Public Review Draft - Remedial Investigation Report Ninth Avenue Dump RI/FS Gary, Indiana: Volume 1.	Wazyn Engineering, Inc.	COE for the USEPA	Reports/Studies
366	88/06/00		Public Review Draft - Remedial Investigation Report Ninth Avenue Dump RI/FS Gary, Indiana: Volume 3 Appendix Part 1.	Wazyn Engineering, Inc.	COE for the USEPA	Reports/Studies
565	88/06/00		Public Review Draft - Remedial Investigation Report Ninth Avenue RI/FS Gary, Indiana: Volume 4 Appendix Part 2.	Wazyn Engineering, Inc.	COE for the USEPA	Reports/Studies

UPDATE  
ADMINISTRATIVE RECORD INDEX  
NINTH AVENUE DUMP SITE  
GARY, INDIANA

FICHE/FRAME	PAGES	DATE	TITLE	AUTHOR	RECIPIENT	DOCUMENT TYPE	DOCUMENT NUMBER
12	88/08/03		Letter stating the PRP Group's position with respect to any proposed actions that the USEPA may adopt. Letter also encloses a report prepared by Environmental Resources Management-North Central, Inc. for the PRP's entitled "Analysis Of Public Review Draft Phased Feasibility Study Hydrocarbon Layer Operable Unit 9th Avenue Dump RI/FS Gary, Indiana"	Arthur E. Slesinger-PRP Group	Allison Hiltner-USEPA	Correspondence	
4	88/09/16		Amendments to the Public Meeting Transcript and a memo from the Court Reporter regarding these corrections.	Narti Shanks-Black & Veatch	Art Gaison-USEPA	Correspondence	
3	88/08/09		Meeting to discuss PRP concerns regarding the Ninth Avenue Dump Phased Feasibility Study and Proposed Plan (along with attendance list to the meeting held on 7/28/88).	Allison Hiltner-USEPA	File	Memorandum	
81	88/07/13		Transcript for the Ninth Avenue Dump Public Meeting held on 7/13/88.	Carol Flores-Court Reporter		Other	
10	87/10/16		On-Scene Coordinators Letter Report CERCLA Removal Action 9th Avenue Dump - Gary, Indiana.	Verneta Simon-USEPA		Reports/Studies	
345	88/01/00		Endangerment Assessment Ninth Avenue Dump - Gary, Indiana. Supplement Toxicity Profiles.	Warzyn Engineering Inc.	USEPA&Corps of Engineers	Reports/Studies	
42	88/09/20		Record of Decision	Valdas Adamkus-USEPA		Reports/Studies	

UPDATE  
ADMINISTRATIVE RECORD INDEX  
NINTH AVENUE DUMP SITE  
GARY, INDIANA

3/PAGE	PAGES	DATE	TITLE	AUTHOR	RECIPIENT	DOCUMENT TYPE	DOCNUMBER
3	89/05/16		Comments on the "Good Faith Offer" submitted by the Steering Committee on 4/25/89 and the conclusion that the offer falls considerably short of a "Good Faith Offer" under sec. 122 (e) (2) of SARA and as defined in the 3/17/89 Special Notice Letter.	Horn Niedergang-USEPA	P. Behring-Gardner, C arton,	Correspondence	
101	89/05/26		Several alternative proposals for settlement in response to the EPA's Special Notice Letter of 3/17/89. This is called a "Good Faith Offer".	Laurence Levine-Latham & Watkins	Edward Kowalski-USEPA	Correspondence	
3	89/06/13		The USEPA will not extend the moratorium on commencement of the remedial action work an additional sixty calendar days as the "good faith offer" submitted by the recipients of this letter did not meet the requirements set forth in the USEPA "Special Notice Letter", specifically the the requirement of a statement of willingness to conduct or finance the remedial design/remedial action (RD/RA).	Mary Gade-USEPA	L. Levine-Latham & Watkins	Correspondence	
3	89/07/31		Technical Response to the "Good Faith Offer" recieved from the Ninth Avenue Dump Steering Committee May 26, 1989.	Allison Baltner-USEPA	Ninth Avenue Dump File	Memorandum	
95	00/00/00		"A Survey For Contaminants In Biota Near The Nico I, Hidco	USCOI-Fish & Wildlife Service		Reports/Studies	

UPDATE  
ADMINISTRATIVE RECORD INDEX  
NINTH AVENUE DUMP SITE  
GARY, INDIANA

FRANK	PAGES	DATE	TITLE	AUTHOR	RECIPIENT	DOCUMENT TYPE	DOCUMENT NUMBER
			II, And Ninth Avenue Dump Hazardous Waste Sites In Gary, Lake County, Indiana.'				
9	66/66/66		Addendum: Public Review Draft Remedial Investigation/Feasibility Study.	USEPA		Reports/Studies	
49	89/66/66		'Preliminary Analysis Of The Shallow Ground-Water System In The Vicinity Of The Grand Calumet River/Indiana Harbor Canal, Northwestern Indiana.'	U.S. Geological Survey	USEPA	Reports/Studies	
79	89/25/36		Record Of Decision	Valdas Adankus-USEPA		Reports/Studies	

Page No.  
8/24/88

3TH AVENUE SUITE 100, INDIANAPOLIS, INDIANA  
GUIDANCE DOCUMENTS - NOT COPIED  
MAY BE REVIEWED AT USEPA REGION V,  
CHICAGO, ILLINOIS

TITLE	AUTHOR	DATE
Remedial Action At Waste Disposal Sites Handbook (revised)		
Policy On Flood Plains And Wetlands Assessments		
Standard Operating Safety Guide Manual		
Superfund Remedial Design And Remedial Action Guidance		
Guidance on Remedial Investigations Under CERCLA		
Superfund Public Health Evaluation Manual		
Interim Guidelines And Specifications for Preparing ISROs		80/12/29
Community Relations In Superfund Handbook		83/09/00
Guidance on Remedial Investigations and Feasibility Studies		85/05/00
NEIC Policy Procedures Manual		85/06/00
State Removal Participation In Superfund Remedial Program		84/02/00
Addenda to State Participation In the Superfund Remedial Program Manual		



The Following Documents are not included in the Gary City Hall Repository,  
but are available for Review at U.S. EPA  
230 South Dearborn Street, Chicago, Illinois 60604

<u>Pages</u>	<u>Date</u>	<u>Title</u>	<u>Author</u>	<u>Recipient</u>	<u>Type</u>
11	1975	Cargill Shipping Documents			Invoices
2	1974-1975	Chicago Nameplate Shipping Documents			"
6	1972-1975	De Soto Shipping Documents			"
8	1975	J.M. Huber Shipping Documents			"
38	1973-1975	Monsanto Shipping Documents			"
2	1974-1975	Morton Chemical Shipping Documents			"
1	1975	Namsco Shipping Documents			"
1	1975	Prefinished Metals Shipping Documents			"
91	1973-1975	Rauland Tube/Zenith Shipping Documents			"
17	1973-1975	Reflector Hardware Shipping Documents			"
10	1975	Regal Tube Company Shipping Documents			"
101	1973-1975	Rust-Oleum Corporation Shipping Documents			"
5	1974-1975	Size Control Shipping Documents			"
3	1973-1974	Skil Corporation Shipping Documents			"

Ninth Avenue Dump Liability Documents

<u>Pages</u>	<u>Date</u>	<u>Title</u>	<u>Author</u>	<u>Recipient</u>	<u>Doc Type</u>
144	9/9/88	Deposition of LeRoy Brown		U.S. EPA	Other
130	3/23/88	Deposition of Earl Klepser		"	"
70	9/1/88	Deposition of Ronald Mac Farlane		"	"
105	9/21/88	Deposition of Yolanda Tyree		"	"
32	1/25/88	Deposition of Leonard Spira		"	"
182	8/18/88	Deposition of Robert Thompson		"	"
235	5/24/88	Unsworn Statement of Steve Martell		"	"
9	1/6/76	Liquid Waste/U.S. Scrap Agreement		"	"
16	Undated	U.S. Scrap Corp. Ledger Sheets		"	"
368	11/21 & 11/22/88	Deposition of Steve Martell		"	"
1 & Attach	8/9/88	Ninth Avenue and U.S. Scrap "Delisting" letter	Gade		Letter
1 & Attach	8/9/88	Ninth Avenue "Delisting" Letter	Gade		Letter
1 & Attach	12/6/88	Ninth Avenue "Relisting" Letter	Gade		Letter
2	12/5/88	Memorandum to file re "Relisting"	Kowalski	File	Memorandum
	12/6/88	Memorandum to file re Delisting Meeting	Kowalski	File	Memorandum

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<u>Pages</u>	<u>Date</u>	<u>Title</u>	<u>Author</u>	<u>Recipient</u>	<u>Type</u>
34	1973-1975	Spotnails Shipping Documents			Invoices
52	1974-1975	Standard T Chemical Shipping Documents			"
117	1971, 1973- 1975	Uniroyal Shipping Documents			"
3	1975	U.S. Envelope Shipping Documents			"
22	1974-1975	U.S. Steel Products Shipping Documents			"
23	1973-1975	Velsicol Shipping Documents			"
1	1971	Nalco Shipping Documents			"
	1975	The Enterprise Companies Shipping Documents			"
5 & Attachs	1/7/87	Acme Steel Company 104(e) Response	J.A. Mauw	U.S. EPA	Letter
6 & Attachs	5/17/88	American National Can 104(e) Response	Timothy Rogers	"	"
3 & Attachs	4/22/87	Benjamin Moore 104(e) Response	William Fritz	"	"
7 & Attachs	8/17/87	Cargill, Inc. 104(e) Response	Victor Anderson	"	"

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<u>Pages</u>	<u>Date</u>	<u>Title</u>	<u>Author</u>	<u>Recipient</u>	<u>Type</u>
4 & Attachs	4/21/88	Chgo & N.W. 104(e) Response	Donald York	"	"
5 & Attachs	4/14/88	Chicago Adhesive 104(e) Response	Raymond Kline	"	"
2 & Attachs	6/29/83	Chicago Nameplate 104(e) Response	Robert Lipinski	"	"
	4/06/88	Chicago Steel & Wire 104(e) Response		"	"
1 & Attachs	12/19/86	DeSoto, Inc. 104(e) Response	Vincent Miethichi	"	"
1	4/6/88	Dreeblan Paint 104(e) Response	Robert Blatt	"	"
1 & Attachs	8/25/85	Cargill, Inc. 104(e) Response	Victor Anderson	"	"
1	12/11/86	DeSoto, Inc. 104(e) Response	Vincent Mietlicki	"	"
2 & Attachs	12/9/86	"	"	"	"
2 & Attachs	8/7/87	Ecko Products 104(e) Response	John Olsen	"	"
4 & Attachs	9/24/87	Furnas Electric 104(e) Response	Robert Trumpy	"	"

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<u>Pages</u>	<u>Date</u>	<u>Title</u>	<u>Author</u>	<u>Recipient</u>	<u>Type</u>
2 & Attachs	7/15/83	J.M. Huber 104(e) Response	C.F. Greffken	"	"
1 & Attachs	8/18/87	"	Henry Balikov	"	"
3 & Attachs	12/29/86	Monsanto 104(e) Response	Stephan Krchma	"	"
4 & Attachs	9/14/87	Morton Chemical 104(e) Response	Arthur Slesigner	U.S. EPA	Letter
3 & Attachs	12/15/86	Nalco Chemical 104(e) Response	E.H. Hurst	"	"
2 & Attachs	4/11/88	"	William Latham	"	"
2 & Attachs	11/28/83	Namsco 104(e) Response	Andrew Sears	"	"
2 & Attachs	8/10/87	Prefinished Metals 104(e) Response	Robert Olin	"	"
2 & Attachs	9/1/87	Regal Tube 104(e) Response	Janine Landow Esser	"	"
2 & Attachs	8/14/87	Rust-Oleum Corp. 104(e) Response	Michael Murphy	"	"

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<u>Pages</u>	<u>Date</u>	<u>Title</u>	<u>Author</u>	<u>Recipient</u>	<u>Type</u>
	8/31/87	Spot Nails 104(e) Response	Christopher Clutz	"	"
2 & Attachs	7/1/83	Standard T Chemical 104(e) Response	Judith Garfield	"	"
	8/28/87	"	Philip Delk	"	"
4 & Attachs	8/26/87	Uniroyal 104(e) Response	Susan Shumway	"	"
	4/6/88	"		"	"
2 & Attachs	1/26/88	U.S. Steel 104(e) Response	Leo Pruett	"	"
1 & Attachs	12/7/83	Velsicol 104(e) Response	David Graham	"	"
3 & Attachs	4/12/88	Victor Products 104(e) Response	Lisa Grisby	"	"
3 & Attachs	7/29/83	Zenith Electronics 104(e) Response	Edward Dvorsky	"	"
4 & Attachs	8/31/87	"	John Van Zeyl	"	"
1 & Attachs	3/3/88	Steve Martell 104(e) Response	Ann Tighe	"	"
2	9/19/88	Blaw Knox 104(e) Response	W.J. Stewart	"	"
3 & Attachs	8/28/88	Institute of Gas Technology 104(e) Response	BAL	"	"
1 & Attachs	7/22/88	Industrial Hard Chr 104(e) Response	Kathleen Donohue	"	"

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<u>Pages</u>	<u>Date</u>	<u>Title</u>	<u>Author</u>	<u>Recipient</u>	<u>Type</u>
1 & Attachs	7/26/89	Waste Information for Blaw Knox	Carol Dorge	U.S. EPA	Letter
2 & Attachs	7/22/89	Brightly Galvanized 104(e) Response	J.W. Callier	U.S. EPA	Letter
2 & Attachs	8/5/87	C.P. Clare/General Instrument 104(e) Response	Ralph Wendland	"	"
3 & Attachs	5/16/88	Cellofilm 104(e) Response	A. Robert Mancaso	"	"
2 & Attachs	2/7/89	R.R. Donnelley Supplemental 104(e) Response	David Engel	"	"
1 & Attachs	12/6/88	Industrial Hard Chrome 104(e) Response	Kathleen Donahue	"	"
1 & Attachs	1/3/89	Industrial Hard Chrome Supplemental 104(e) Response	"	"	"

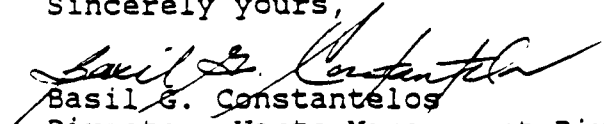
Privileged Documents Withheld from Public Portion of Administrative Record

<u>Pages</u>	<u>Dates</u>	<u>Title</u>	<u>Author</u>	<u>Recipient</u>	<u>Type</u>
55	1/12/88	Deposition of Confidential Informant			Other
40	11/17/86	Draft Revised Interrelationship Report of Martell Sites	Versar	U.S. EPA	Report
45	10/15/88	Draft Martell Sites Record Compilation	"	"	"
4		Memorandum of Interview with 9th Avenue Dump Contact	Rich Boice	Barb Magel	Memorandum
	8/4/76	Deposition of Steve Martell			
		Investigative Documents Obtained from State of Illinois			
	1/13/87	Draft File Review & Interviews with Metropolitan Sanitary District of Greater Chicago Employees	Versar	U.S. EPA	Report
	12/23/86	Draft Letter Report List of Addresses	Versar	U.S. EPA	Report
	4/14/87	Draft Bibliographic Review	"	"	"
	10/15/86	Draft Martell Sites PRP Search	"	"	"
	9/4/87	Draft Martell Sites PRP Search	"	"	"
	1/6/87	Draft Title Search	"	"	"



If you have any questions regarding this Order, feel free to contact Mr. Edward J. Kowalski, Assistant Regional Counsel, at (312) 886-6632, or Ms. Allison Hiltner, Remedial Project Manager, at (312) 353-6417.

Sincerely yours,

  
Basil G. Constantelos  
Director, Waste Management Division

Enclosure

cc: Reginald Baker, IDEM  
Sheila Huff, DOI

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION V

IN MATTER OF:	)	
	)	ADMINISTRATIVE ORDER
Ninth Avenue Dump	)	PURSUANT TO SECTION 106
Gary, Indiana	)	OF THE COMPREHENSIVE
	)	ENVIRONMENTAL RESPONSE,
	)	COMPENSATION, AND
RESPONDENTS:	)	LIABILITY ACT OF 1980,
	)	as amended
See Appendix I	)	
	)	
	)	
	)	

I.  
PREAMBLE

The following Administrative Order ("Order") is issued on this date to the Respondents listed in Appendix I pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Section 9606(a), as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499 ("CERCLA"), and delegated to the U.S. Environmental Protection Agency ("U.S. EPA" or "Agency") by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, and further delegated to the Regional Administrator by U.S. EPA Delegation No. 14-14-B, issued February 26, 1987, and further delegated to the Director of the Waste Management Division, Region V by Delegation No. 14-14-B, issued September 14, 1987. Pursuant to Section 106(a) of CERCLA, 42 U.S.C. Section 9606(a), notice of issuance of this Order has been given to the State of Indiana.

This Administrative Order requires the Respondents, and each of them, to undertake remedial action activities at the Ninth Avenue Dump Site located in Gary, Indiana, and described in greater detail below, (the "Facility"), to abate an imminent and substantial endangerment to the public health or welfare or the environment that may be presented by the release or threat of a release of hazardous substances present at the Site.

II.  
PARTIES BOUND

This Administrative Order applies to and is binding upon the Respondents, their successors and assigns. The Respondents shall provide a copy of this Administrative Order to any engineer or contractor hired to perform the work required by this Administrative Order. The Respondents

shall also require that any contractor provide a copy of this Administrative Order to any subcontractor retained to perform any part of the work required by this Administrative Order.

III.  
DEFINITIONS

Whenever the following terms are used in this Administrative Order or the Appendices attached hereto, the definitions specified in this Section shall apply:

A. "CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499.

B. "Engineer(s)" means the company or companies retained by the Respondents to prepare the plans and implement the remedial action required pursuant to this Administrative Order.

C. "Facility" means the "facility" as that term is defined at Section 101(9) of CERCLA, 42 U.S.C. Section 9601(9), where disposal of hazardous substances was conducted; which Facility is located in Gary, Indiana, and is known as the Ninth Avenue Dump Site.

D. "Hazardous substance" shall have the meaning provided in Section 101(14) of CERCLA, 42 U.S.C. Section 9601(14).

E. "IDEM" means the Indiana Department of Environmental Management.

F. "National Contingency Plan" shall be used as that term is used in Section 105 of CERCLA, 42 U.S.C. Section 9605.

G. "Operable Unit" as it applies to this Facility is an interim action for remediation of an oil layer floating on the groundwater at the Site, which was the subject of a Unilateral Administrative Order issued by the Agency on December 7, 1988.

H. "Parties" means the United States of America and the Respondents.

I. "Record of Decision" or "ROD" means the U.S. EPA and IDEM approved remedy for implementation at the Facility, signed by the Regional Administrator of U.S. EPA, Region V, on June 30, 1989.

J. "Respondents" means the parties who are named in Appendix I to this Administrative Order.

K. "Response Costs" means any costs incurred by Plaintiffs pursuant to 42 U.S.C. Sections 9601 et seq.

L. "Section 106 Administrative Record" means the Administrative Record which includes all documents considered or relied upon by U.S. EPA in preparation of this Administrative Order. The Section 106

Administrative Record Index is a listing of all documents included in the Section 106 Record, as set forth in Appendix II.

M. "State" means the State of Indiana.

N. "United States" means the United States of America.

O. "Work" means the activities to be undertaken by Respondents in accordance with this Administrative Order and appendices hereto.

#### IV.

#### FINDINGS OF FACT AND DETERMINATIONS

A. The Ninth Avenue Dump Site is a Facility within the meaning of Section 101(9) of CERCLA, 42 U.S.C. Section 9601(9). The Facility is located at 7537 Ninth Avenue in Gary, Indiana.

B. The Facility consists of a total of approximately 17 acres in an area of mixed industrial, commercial, and residential use. It is located in a low-lying area with poor drainage. Interconnected ponds and wetlands areas surround waste disposal areas in the north, west and south. The only structures currently on the Facility are a fence surrounding the contaminated area, and a fenced decontamination area including two 5,000 gallon water storage tanks built during the study phase of the Site.

C. Waste disposal occurred at the Facility from the early to mid 1970s, with some filling, believed to be associated with cleanup activities, continuing until 1980. The Facility operator accepted dry industrial, construction and demolition waste such as ashes, broken concrete, bricks, trees, wood, tires, cardboard, paper and car batteries. The Facility also received liquid industrial waste including oil, paint, solvents and sludges, resins, acids and other chemical wastes including flammable, caustic and arsenic contaminated materials.

D. In 1975, the Indiana State Board of Health (ISEH) inspected the Facility. The inspection documented the existence of approximately 10,000 55-gallon drums at the surface, many of which were empty. Evidence was also found that liquid wastes had been dumped on-site. A State inspector estimated that approximately 500,000 gallons of liquid industrial waste had been dumped and 1,000 drums had been buried on-site. Subsequent inspections revealed portions of discarded auto batteries, drummed liquid wastes and abandoned tanker trucks.

E. In 1975 and 1980, the Facility operator, Steve Martell, was ordered by ISEH and the U.S. EPA, respectively, to initiate surface cleanups. Subsequently, he removed some barrels, junk cars and trucks from the Facility. In 1983, the Facility was placed on the National Priorities List and a Partial Consent Judgment was signed between U.S. EPA and Martell. The Consent Judgment required Martell to evaluate surface and subsurface conditions and submit and implement a plan for remedial action.

F. In early 1985, U.S. EPA took over performance of the Remedial

Investigation ("RI") and Feasibility Study ("FS") for the Site. The RI, which was performed to define the nature and extent of contamination at the Facility and to characterize the potential threats to public health and the environment from it, was initiated in October 1986 and was completed June 1988. The Phased Feasibility Study ("PFS"), performed to evaluate alternative remedial actions for cleaning up the oil layer on the groundwater at the Facility, was initiated in November 1987 and completed in June 1988. The final Feasibility Study ("FS"), performed to evaluate alternative remedial actions for cleaning up remaining contamination in soils, sediments, and groundwater at the Facility, was initiated in April 1987 and completed in January 1989.

G. On December 7, 1988, U.S. EPA issued an Administrative Order pursuant to Section 106(a) of CERCLA to 185 Respondents to perform an operable unit, or interim remedy. This operable unit included constructing a slurry wall around the contaminated portion of the Site, and extracting a contaminated oil phase floating on the groundwater surface and treating or storing the oil on Site. On January 13, 1989, 73 Respondents agreed to perform the interim remedy.

H. On March 20, 1989, U. S. EPA provided the FS and the Proposed Plan for the final remedial action to the public. An opportunity for public comments was provided. Comments were to be submitted in writing to the U.S. EPA by April 19, 1989, or orally at the public meeting held in Hammond, Indiana on March 29, 1989. The Respondents were allowed to submit comments on the Proposed Plan for the final remedy during this public comment period.

I. Considering the Proposed Plan for remedial action and the public comments received, U.S. EPA, with concurrence by the State, selected a final remedy for remediation of waste, soils, sediments, and groundwater at the Facility. U.S. EPA's decision is summarized in the Record of Decision (ROD) signed by the U.S. EPA Administrator, Region V, on June 30, 1989. The selected remedy consists of: excavation of approximately 36,000 cubic yards of contaminated waste and fill; removing contaminated sediments and debris from surface water bodies; thermal treatment of excavated waste and fill and highly contaminated sediments; filling the excavated area to grade with less contaminated process residuals and sediments; covering the area contained by the slurry wall in the first operable unit remedial action with a RCRA Subtitle C compliant cap; extraction, treatment and reinjection of contaminated groundwater to promote soil flushing; deed and access restrictions and long term groundwater monitoring.

J. U.S. EPA's ROD includes a discussion of U.S. EPA's reasons for the selection of the final remedy. The remedial action (RA) has been determined to be a cost-effective remedial action which provides adequate protection of public health, welfare, and the environment, and meets all Federal and more stringent State ARARs.

K. Contaminants are being released to the environment through the following pathways: volatilization of contaminants through the soil to the air; release of contaminants from oil, waste, and soils to the groundwater;

and discharge of contaminated groundwater to surface water. These releases provide potential for exposure to humans as well as terrestrial and aquatic life.

L. The operable unit remedial action will abate some of the immediate threats due to releases from contaminated oil, but several threats will remain, including: highly contaminated surface and subsurface soils; approximately 50% of the oil, which will remain after extraction; contaminated groundwater; and sediments. Although the slurry wall will reduce migration of contaminated groundwater, it will not reduce the threat of contact with contaminated soils by trespassers.

M. Analyses of soils, waste, and fill materials performed during the RI revealed the presence of numerous hazardous substances as defined in Section 101(14) of CERCLA, including benzene, ethylbenzene, toluene, xylene, chlorinated solvents, polynuclear aromatic hydrocarbons (PAHs), pesticides, and polychlorinated biphenyls (PCBs). These contaminants are present in subsurface soils at and below the water table and continue to be released into groundwater. The site drains to surface water bodies surrounding the site and contaminants in surface soils can be released to these ponded areas through erosion during rain events. Some compounds detected in soils and waste and their associated maximum concentrations are listed below.

WASTE AND SOIL ANALYTICAL DATA  
(ug/kg)

<u>Chemical</u>	<u>Maximum</u>
<u>VOLATILES</u>	
Methylene Chloride	200,000
2-Butanone	450,000
1,1,1-Trichloroethane	210,000
Trichloroethene	69,000
Benzene	25,000
Tetrachloroethene	250,000
Toluene	5,300,000
Ethylbenzene	2,700,000
Styrene	11,000,000
Total Xylenes	7,100,000
<u>SEMI-VOLATILES</u>	
Naphthalene	160,000
2-Methylnaphthalene	630,000
Acenaphthene	100,000
Dibenzofuran	78,000
Fluorene	150,000
Phenanthrene	690,000
Anthracene	81,000
Fluoranthene	248,000
Pyrene	140,000
Chrysene	63,000
Benzo(a)pyrene	46,000

PESTICIDES/PCBS

4,4 DDE	3,600
Aroclor 1248	24,000
Aroclor 1254	190,000

N. Analyses of groundwater performed during the RI revealed the presence of numerous hazardous substances as defined in Section 101(14) of CERCLA, including benzene, ethylbenzene, toluene, xylene, chlorinated solvents, polynuclear aromatic hydrocarbons (PAHs), and metals. Some compounds detected in groundwater and their associated maximum concentrations are listed below.

GROUNDWATER ANALYTICAL DATA  
(ug/kg)

<u>Chemical</u>	<u>Maximum</u>
<u>VOLATILES</u>	
1,1-Dichloroethane	2,400
Trans-1,2-dichloroethene	49,000
2-Butanone	2,100,000
1,1,1-Trichloroethane	2,800
Benzene	16,000
4-Methyl-2-pentanone	630
Tetrachloroethene	130
Toluene	90,000
Ethylbenzene	6,900
Total Xylenes	39,000
<u>SEMI-VOLATILES</u>	
4-Methylphenol	11,000
Naphthalene	77,000
2-Methylnaphthalene	220,000
Acenaphthylene	1,600
Acenaphthene	13,000
Dibenzofuran	52
N-nitrosodiphenylamine	20,000
Phenanthrene	56,000
Anthracene	57,000
Fluoranthene	12,000
Pyrene	8,900
Benzo(a)anthracene	1,200
Chrysene	3,100
Benzo(b)fluoranthene	890
Benzo(a)pyrene	970
<u>METALS</u>	
Aluminum	1,290
Cadmium	20
Chromium	558
Iron	178,000
Nickel	12,500
Silver	100,000
Zinc	23,330

O. Benzene is known to cause dizziness, headaches, and loss of consciousness in acute exposures. Chronic exposure to benzene has been associated with cytotoxic blood disorders in humans, including aplastic anemia and leukemia.

P. Toluene is a narcotic, and symptoms of fatigue, weakness, and confusion are associated with inhalation exposures. Chronic exposure to toluene can lead to neurological impairment which may be permanent.

Q. Polynuclear aromatic hydrocarbons (PAHs) are a class of compounds produced during the combustion of fossil fuels. Exposures to some PAH compounds suppresses immune responses in laboratory animals. Several PAHs, notably benzo(a)pyrene, are potent carcinogens.

R. Polychlorinated biphenyls (PCBs) are very stable compounds of low flammability, which are very persistent in the environment. Dermal exposure to PCBs causes chloracne. PCBs bioaccumulate in wildlife and are known to cause cancer in laboratory animals.

S. From the early to mid 1970s "hazardous substances" as defined in Section 101(14), of CERCLA, 42 U.S.C. Section 9601(14), were deposited, stored, disposed of, placed, or located at the Facility.

T. The past, present, and/or future migration of hazardous substances from the Facility constitute an actual, and/or threatened "release" into the environment as defined in Section 101(22) of CERCLA, 42 U.S.C. Section 9601(22), and may present an imminent and substantial endangerment to the public health or welfare or the environment.

U. From the early to mid 1970s, Steve Martell was the "owner" and/or "operator" of the Facility as defined in Section 101(20) of CERCLA, 42 U.S.C. Section 9601(20), and "owned" and/or "operated" the Facility within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C. Section 9607(a)(2).

V. Respondents are "persons" as defined in Section 101(21) of CERCLA, 42 U.S.C. Section 9601(21), and, based upon information available to U.S. EPA, each Respondent generated and/or transported hazardous substances which were disposed of at the Facility, making each Respondent a "liable person" with respect to the Facility within the meaning of Section 107 of CERCLA, 42 U.S.C. Section 9607. The responses to information requests and other documents supporting the Respondents' liability for performance of the actions required by this Administrative Order are contained in the Section 106 Administrative Record for the Administrative Order, which supports the issuance of the Administrative Order under Section 106 of CERCLA. The Index for the Section 106 Administrative Record is attached as Appendix II.

W. The actions required by this Administrative Order are necessary to protect the public health or welfare or the environment, and are consistent with the National Contingency Plan, 40 CFR Part 300 et seq., as amended.



V.  
ORDER

Based upon the foregoing Findings of Fact and Determinations, and pursuant to Section 106(a) of CERCLA, 42 U.S.C. Section 9606(a), it is hereby ordered that Respondents perform the work as described below.

A. Work to be Performed

Based on the foregoing Determinations and Findings, and pursuant to Section 106(a) of CERCLA, 42 U.S.C. Section 9096(a), it is hereby ordered that the Respondents undertake the actions at the Facility described below and in Appendix III.

1. The Respondents shall, within sixty (60) days of the effective date of this Order, submit to U.S. EPA a Remedial Design/Remedial Action ("RD/RA") Work Plan to implement all portions of the recommended alternative outlined in the Record of Decision for the Site and in the Scope of Work (Appendix III).

2. The RD/RA Work Plan shall be written in sufficient detail to fully address all necessary design parameters of the recommended alternative and shall be consistent with U.S. EPA's June 1986 Superfund Remedial Design and Remedial Action Guidance. In addition, the RD/RA Work Plan shall include, but not be limited to, the following elements:

- Site Health and Safety Plan
- Emergency and Contingency Plans
- Quality Assurance Project Plan and Sampling and Analysis Plan for all sampling activities
- Equipment and Personnel Decontamination Procedures
- A plan for satisfaction of permitting and access requirements
- Any other project plans specified in the Scope of Work

The RD/RA Work Plan and other documents submitted by the Respondents shall demonstrate that the Respondents can properly conduct the actions required by this Order.

3. U.S. EPA shall review and approve/disapprove the RD/RA Work Plan. If the RD/RA Work Plan is acceptable, approval shall be granted, in writing, and the RD/RA Work Plan shall become an integral and enforceable element of this Order. If the RD/RA Work Plan is disapproved, U.S. EPA shall state to the Respondents, in writing, the reasons for disapproval. Respondents shall, within twenty-one (21) calendar days of receipt of U.S. EPA's letter stating disapproval, incorporate all changes requested by U.S. EPA into the RD/RA Work Plan and submit the Amended RD/RA Work Plan to U.S. EPA. If approved, the Amended RD/RA Work Plan shall become an integral and enforceable element of this Order. Failure to incorporate all changes requested by U.S. EPA into the Amended RD/RA Work Plan shall constitute a violation of the terms of this Order.

4. Respondents shall begin implementation of the (Amended) RD/RA Work Plan immediately upon receipt of written approval by U.S. EPA. Unless otherwise directed by U. S. EPA and as mandated by Section 122 (e)(6) of CERCLA, the Respondents shall not commence field activities until they receive written approval of the RD/RA Work Plan by U. S. EPA. Respondents shall complete the tasks outlined in the RD/RA Work Plan in accordance with the schedule outlined below:

Start Design	November 1989
Complete Design	November 1990
Start Construction	December 1990
Complete Construction	As approved by U. S. EPA in the RD/RA Work Plan

Failure of the Respondents to properly implement all aspects of the RD/RA Work Plan shall be deemed to be a violation of the terms of this Order.

5. The Site Health and Safety Plan developed pursuant to this Order shall be in accordance with U.S. EPA's guidance and protocol. After approval of the Site Health and Safety Plan by U.S. EPA Representatives, Respondents shall implement the Plan during all phases of activity at the Facility.

#### B. Respondents' Contractor and Remedial Design

All remedial work to be performed by the Respondents pursuant to this Administrative Order shall be under the direction and supervision of a qualified professional engineer. Prior to the initiation of remedial work at the Facility, the Respondents shall notify U.S. EPA and the IDEM, in writing, of the name, title, and qualifications of any proposed engineer to be used in carrying out the remedial work to be performed pursuant to this Administrative Order. Selection of any such engineer shall be subject to approval by U.S. EPA in consultation with IDEM.

### VII. QUALITY ASSURANCE

Respondents shall use quality assurance, quality control, and chain of custody procedures in accordance with U. S. EPA's "Interim Guidelines and Specifications For Preparing Quality Assurance Project Plans" (QAM-005/80) and subsequent amendments. Prior to the commencement of any sampling and analysis under this Administrative Order, Respondents shall submit a Quality Assurance Project Plan (QAPP) to U. S. EPA and IDEM that is consistent with the Scope of Work, Work Plans and applicable guidelines. Prior to the development and submittal of a QAPP, Respondents shall attend a pre-QAPP meeting sponsored by U. S. EPA to identify all monitoring and data quality objectives. U. S. EPA, after review of Respondent's QAPP and IDEM's comments thereon will notify the Respondents of any required modifications, conditional approval, disapproval, or approval of the QAPP. Upon notification of disapproval or any need for modifications, Respondents shall make all required modifications to the QAPP within twenty-one (21) calendar days of receipt of such notification.

Respondents shall ensure that U. S. EPA personnel or their authorized representatives are allowed access to any laboratory utilized by the Respondents in implementing the Order. Respondents shall ensure that any such laboratory will analyze samples submitted by U. S. EPA or IDEM for quality assurance monitoring.

#### VIII.

##### FACILITY ACCESS, SAMPLING, DOCUMENT AVAILABILITY

A. To the extent that the Facility or other areas where work under this Order is to be performed is under ownership or possession by someone other than the Respondents, Respondents shall obtain all necessary access agreements. In the event that after using their best efforts Respondents are unable to obtain such agreements, Respondents shall immediately notify U.S. EPA and U.S. EPA may then, at its discretion, assist Respondents in gaining access, to the extent of their authority and as provided by appropriate U.S. EPA guidance.

B. Respondents shall provide access to the Facility to U.S. EPA employees, contractors, agents, and consultants, as well as to representatives of the United States Army Corps of Engineers ("U.S. ACE") and IDEM, at all reasonable times, and shall permit such persons to be present and move freely about the area in order to conduct inspections, take samples, and to conduct other activities which U.S. EPA determines to be necessary. Respondents shall ensure that U.S. EPA personnel and authorized representatives are allowed to oversee all remedial activities, and are granted access to the laboratory(ies) and to the records of the laboratory(ies) utilized by the Respondents for analyses required under the Work Plan.

C. The Respondents shall make available to U.S. EPA and the IDEM the results of all sampling and/or test or other data generated by the Respondents with respect to the implementation of this Administrative Order, and shall submit these results in monthly progress reports as described in Section IX of this Administrative Order.

D. At the request of U.S. EPA or the IDEM, the Respondents shall allow split or duplicate samples to be taken by U.S. EPA, the IDEM and/or their authorized representatives, of any samples collected by the Respondents pursuant to the implementation of this Administrative Order. The Respondents shall notify U.S. EPA and the IDEM not less than fourteen (14) days in advance of any sample collection activity. In addition, U.S. EPA and the State shall have the right to take any additional samples that U.S. EPA or the IDEM deem necessary.

#### IX.

##### PROGRESS REPORTS

A. The Respondents shall provide to U.S. EPA and IDEM written monthly progress reports which: (1) describe the actions which have been taken

toward achieving compliance with this Administrative Order during the previous month as well as such actions, data and plans which are scheduled for the next month; (2) include all results of sampling and tests and all other data received by the Respondents during the course of the Work; (3) include all plans and procedures completed under the RD/RA Work Plan during the previous month; and (4) include sections detailing anticipated problems/recommended solutions, problems encountered/ resolved, deliverables submitted, upcoming events/activities planned, key personnel changes, and scheduling. These progress reports are to be submitted to U.S. EPA and IDEM by the tenth day of every month following the effective date of this Administrative Order.

B. If the date for submission of any item or notification required by this Administrative Order falls upon a weekend or state or federal holiday, the time period for submission of that item or notification is extended to the next working day following the weekend or holiday.

C. Upon the occurrence of any event during the performance of the Work which, pursuant to Section 103 of CERCLA, requires reporting to the National Response Center, Respondents shall promptly orally notify the U. S. EPA Remedial Project Manager ("RPM") and IDEM, or, in the event of unavailability of the U. S. EPA RPM, the Emergency Response Branch, U. S. EPA Region V, in addition to the reporting required by Section 103. Within twenty-one (21) calendar days of the onset of such an event, Respondents shall furnish to the U. S. EPA and IDEM a written report setting forth the events which occurred and the measures taken, and to be taken, in response thereto. Within thirty (30) calendar days of the conclusion of such an event, Respondents shall submit a report to U. S. EPA and IDEM setting forth all actions taken to respond to the event.

#### X.

#### REMEDIAL PROJECT MANAGER/PROJECT COORDINATORS

A. U.S. EPA will designate a Remedial Project Manager ("RPM") and IDEM will designate a Project Coordinator for the Facility, to observe and monitor the progress of any activity undertaken pursuant to this Administrative Order. The RPM shall have the authority lawfully vested in an RPM by the National Contingency Plan, 40 CFR Part 300, as amended. The Respondents shall also designate a Project Coordinator who shall have primary responsibility for implementation of the work at the Facility.

B. To the maximum extent possible, except as specifically provided in this Administrative Order, communications between the Respondents and U.S. EPA concerning the terms and conditions of this Administrative Order shall be made between Respondents' Project Coordinator and the RPM.

C. Within seven (7) calendar days of the effective date of this Administrative Order, the Respondents shall provide written notice to U.S. EPA RPM, Office of Regional Counsel, and IDEM in writing, of the name, address and telephone number of the designated Project Coordinator and an alternate Project Coordinator.

## XI.

RETENTION AND AVAILABILITY OF INFORMATION

A. The Respondents shall make available to U.S. EPA and IDEM and shall retain during the pendency of this Administrative Order, and for six years after termination of this Order, all records and documents in their possession, custody, or control which relate to the performance of this Administrative Order, including, but not limited to, documents reflecting the results of any sampling, tests, or other data or information generated or acquired by the Respondents or on behalf of the Respondents with respect to the Facility. At the conclusion of the six year period following termination of this Order, the Respondents shall provide written notice to U.S. EPA RPM, Office of Regional Counsel, and IDEM, ninety (90) calendar days prior to the destruction of such documents, and upon request by U.S. EPA or IDEM, the Respondents shall relinquish custody of the documents to U.S. EPA or the State.

B. The Respondents may assert business confidentiality claims covering part or all of the information provided in connection with this Administrative Order in accordance with Section 104(e)(7)(F) of CERCLA, 42 U.S.C. Section 9604(e)(7), and pursuant to 40 CFR Section 2.203(b) and applicable State law.

C. Information determined to be confidential by U.S. EPA will be afforded the protection specified in 40 CFR Part 2, Subpart B and, if determined to be entitled to confidential treatment under State law by IDEM, afforded protection under State law by IDEM. If no such claim accompanies the information when it is submitted to the U.S. EPA and IDEM, the public may be given access to such information without further notice to the Respondents.

D. Information acquired or generated by the Respondents in performance of the Work that is subject to the provisions of Section 104(e)(7)(F) of CERCLA, 42 U.S.C. Section 9604(e)(7)(F), shall not be claimed as confidential by the Respondents.

## XII.

PENALTIES FOR NONCOMPLIANCE

The Respondents are advised, pursuant to Section 106(b) of CERCLA, 42 U.S.C. Section 9606(b), that willful violation or subsequent failure or refusal to comply with this Order, or any portion thereof, may subject the Respondents to a civil penalty of no more than \$25,000 per day for each day in which such violation occurs, or such failure to comply continues. Failure to comply with this Administrative Order, or any portion thereof, without sufficient cause may also subject the Respondents to liability for punitive damages in an amount equal to three times the amount of any costs incurred by the U.S. EPA as a result of the Respondent's failure to take proper action, pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. Section 9607(c)(3).

XIII.  
OTHER CLAIMS

U.S. EPA and IDEM are not to be construed as parties to, and do not assume any liability for, any contract entered into by the Respondents in carrying out the activities pursuant to this Administrative Order. The proper completion of the Work under this Administrative Order is solely the responsibility of the Respondents.

XIV.  
NOTICES

Whenever, under the terms of this Administrative Order, notice is required to be given, or a report or other document is required to be forwarded by one party to another, such correspondence shall be directed to the following individuals at the addresses specified below:

<u>As to the United States or U.S. EPA:</u>	<u>As to IDEM or Indiana</u>
a. Edward J. Kowalski Assistant Regional Counsel Attn: Ninth Avenue Dump Site (5CS-TUB-3) Office Regional Counsel U.S. Environmental Protection Agency 230 South Dearborn Street Chicago, Illinois 60604	Indiana Department of Environmental Management Attn: Ninth Avenue Dump Site, Project Coordinator 5500 W. Bradbury Ave. Indianapolis, IN 46291

and;

b. Allison Hiltner  
Remedial Project Manager  
Ninth Avenue Dump Site  
Remedial and Enforcement Response Branch (5HS-11)  
U.S. Environmental Protection  
Agency  
230 South Dearborn Street  
Chicago, Illinois 60604

XV.  
CONSISTENCY WITH NATIONAL CONTINGENCY PLAN

The U.S. EPA has determined that the Work, if properly performed as set forth in Section V hereof, is consistent with the provisions of the National Contingency Plan pursuant to 42 U.S.C. Section 9605.

XVI.  
RESERVATION OF RIGHTS

A. Nothing contained herein shall be construed to prevent U.S. EPA from seeking legal or equitable relief to enforce the terms of this Administrative Order, or from taking the legal or equitable action it deems

appropriate and necessary, or from requiring the Respondents in the future to perform additional activities pursuant to CERCLA, 42 U.S.C. Section 9601 et seq., or any other applicable law.

B. U.S. EPA reserves its right to bring an action against Respondents pursuant to Section 107 of CERCLA, 42 U.S.C. Section 9607, for recovery of any costs incurred by U.S. EPA in connection with the Ninth Avenue Dump Facility.

XVII.  
MODIFICATION

Except as provided for herein, there shall be no modification of this Administrative Order without written approval of U.S. EPA.

XVIII.  
EFFECTIVE AND TERMINATION DATES

A. This Administrative Order shall be effective November 6, 1989.

B. When the Respondents determine that they have completed the Work, they shall submit to U.S. EPA and IDEM a Notification of Completion. Upon receipt of such Notification, U.S. EPA and IDEM shall schedule final inspections and close out activities as described in the June 1986 U.S. EPA Superfund Remedial Design and Remedial Action (RD/RA) Guidance. Such activities shall include, at a minimum, the following:

- 1) "Prefinal Construction Conference" by U.S. EPA, IDEM and the Respondents;
- 2) "Prefinal Inspection" by U.S. EPA and IDEM;
- 3) Preparation of a "Prefinal Inspection Report" by the Respondents.
- 4) "Final Inspection" by U.S. EPA, IDEM, and the Respondents.

The final remedial action report shall summarize the work performed, any modification to the RD/RA Work Plan, and the performance levels achieved. The summary shall include or reference any supporting documentation.

Upon receipt of the final remedial action report, U.S. EPA and IDEM shall review the accompanying report and any other supporting documentation and conduct any appropriate site inspection. U.S. EPA shall issue a Certification of Completion upon its determination that the Respondents have satisfactorily completed the work and have achieved standards of performance required under this Administrative Order for this Operable Unit.

## XIX.

ACCESS TO ADMINISTRATIVE RECORD

The Section 106 Administrative Record supporting the above Findings of Fact and Determinations is available for review on weekdays between the hours 8:00 a.m. and 5:00 p.m., at the U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. Please contact Edward J. Kowalski, Assistant Regional Counsel at (312) 886-6632, for review of the Section 106 Administrative Record at this location. The 106 Administrative Record is also available for review at the Gary City Hall, 401 Broadway Gary, Indiana 464402. Respondents may contact the Gary Press Office at (219) 881-1300 for review of the Administrative Record at this location.

## XX.

OPPORTUNITY TO CONFER

A conference has been scheduled for 2:00 pm, September 18, 1989 at the Lakeview Conference Room, 16th floor, 230 South Dearborn Street, Chicago, Illinois. You may attend this conference to discuss with U. S. EPA this Administrative Order and its applicability to you. You may appear in person and/or by an attorney or other representative.

Any comments which you have regarding this Administrative Order, its applicability to you, the correctness of any factual determinations upon which the Order is based, the appropriateness of any action which you are ordered to undertake, or any other relevant and material issue must be reduced to writing and submitted to U.S. EPA on or before September 21, 1989. Any such writing should be directed to Edward J. Kowalski, at the address cited above.

Respondent shall provide notice in writing to Edward J. Kowalski, at the address cited above, stating its intentions to comply with the terms hereof. Such notice shall be received by U.S. EPA on or before the effective date of this Administrative Order. In the event any Respondent fails to provide such notice, said Respondent shall be deemed not to have complied with the terms of this Administrative Order.

Respondents are hereby notified that U. S. EPA will take any action pursuant to Section 106 (a) of CERCLA, which may be necessary in the opinion of U. S. EPA for the protection of public health or welfare or the environment, and Respondents may be liable under Section 107 (a) of CERCLA, for the costs of these government actions.



Ninth Avenue Dump, Gary, Indiana  
Unilateral Administrative Order

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IT IS SO ORDERED:

BY: *Basil G. Constantelos* DATE: 8/17/89

Basil G. Constantelos  
Director, Waste Management Division  
U.S. EPA, Region V

EFFECTIVE DATE: November 6, 1989

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PHASE I DRIPS

## APPENDIX II

ADMINISTRATIVE RECORD INDEX  
FOR 106 ORDERPage No. 1  
01/22/88

## 9TH AVENUE DUMP, INDIANA

TITLE	AUTHOR	DATE	PAGES
Results from VIAR analyses of samples.	Robert Graedinger	81/03/13	20
Sample results from Midco I	Region V TAT to Beverly Kush	82/06/02	17
Preliminary Assessment Ninth Avenue Dump	DMueller - Ecology & Environmt	83/02/02	5
Site Inspection Report	EPA	83/08/08	14
US v. Martell, et al. Consent Judgment	US Dist Ct, NW Dist of Ind.	83/09/29	20
Public Meeting Agenda	USEPA Region V	84/12/12	5
Recommendation of placement of monitoring wells	JStrecker Ind St Bd. of Health	85/02/05	1
An Inventory of the Groundwater Use in the Vicinity of Midco I, Gary, IN	Geosciences Research Assoc.	86/04/00	351
RI/FS Phase I work Plan	Warzyn Engr. Inc.	86/04/00	203
Final Community Relations Plan	Camp, Dresser, & Cree Inc.	86/07/00	25
Public Meeting of 8/13/80	USEPA Region V	86/08/13	1
Superfund Program Fact Sheet	USEPA Region V	86/08/00	4
EPA Environmental News Release	USEPA Region V	86/08/04	2
Summary of analytical results from resampling wells near Midco I and Midco II, Gary, IN, in July-August 1986	R. Boice-USEPA RPM	86/11/00	23
QAPP	Warzyn Engr. Inc.	86/09/24	492
Reclassify groundwater classifications	D-Sutfin - EPA	87/01/21	3
RI/FS 9th Avenue Phase II Work Plan, Supplemental work Plan and Associated Plans.	Warzyn Engineering Co.	87/05/00	433

UPDATE ADMINISTRATIVE RECORD INDEX  
9TH AVENUE DUMP  
INDIANA

LINE/PAGE NO.	DATE	TITLE	AUTHOR	RECIPIENT	DOCUMENT TYPE
1	88/03/29	Record of phone conv. with Arthur Carter of IDEM who added to the list of Indiana AARAs the VOC Emissions Regulations 1325 IAC, 8-1.1-2 and 8-1.1-5 to be added to the list provided in the 2/26/88 letter.	Allison Hiltner-USEPA		Communication Record
2	85/05/31	Letter requesting reclassification of the Ninthe Avenue Dump Site.	Woodrow Myers, Jr.-ISEM	Valdas Adamkus-USEPA	Correspondence
2	87/04/30	Letter reflecting the status of Steve Martell's performance of the requirements of the Partial Consent Judgement and his obligations under the same.	Gordan Stoner-U.S. Dept. of Justice	A. Tigne-Cotsirilos & Crowie	Correspondence
2	87/09/24	Letter to resident enclosing the results of well water tests from his home.	Otis Welch	Allison Hiltner-USEPA	Correspondence
2	87/10/05	Notification that a prompt remedial action appears necessary.	Dennis Iverson-Marzyn Engineering	Janet Wade-U.S. Army COE	Correspondence
8	88/02/26	State of Indiana's Applicable or Relevant and Appropriate Requirements (ARARs).	Nancy Maloley-In. Dept. of Envir. Mgmt.	Valdas Adamkus-USEPA	Correspondence
9	88/03/09	General Notice Letter And Information Request	Mary Gade-USEPA		Correspondence
8	88/04/06	Letter to resident enclosing results of analyses of soil samples taken from her yard.	Allison Hiltner-USEPA	Ms. Mildred Kinley	Correspondence
18	00/00/00	Ninth Avenue Dump Proposed Plan.	USEPA		Fact Sheet
2	88/00/00	Fact Sheet	Gastor & Hiltner - USEPA		Fact Sheet
2	85/03/22	Recommendation that the site be	Richard Boice-USEPA	Norm Niedergang-USEPA	Memorandum