

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

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IN THE MATTER OF THE :
 :
DIAMOND ALKALI SUPERFUND SITE : U.S. E.P.A. Index No.
(Newark Bay Study Area) : CERCLA-02-2004-2010
 :
Occidental Chemical Corporation, :
 :
Respondent :
 :
 :
Proceeding Under Sections 104, 106 :
And 122 of the Comprehensive :
Environmental Response, Compensation :
And Liability Act, as amended, :
42 U.S.C. § 9604, § 9606 and § 9622 :
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Pursuant to paragraph 90, the above-captioned Administrative Order on Consent ("Order"), U.S. E.P.A. Index No. CERCLA-02-2004-2010, is hereby modified as follows:

1. The caption of the Order is modified to include Section 106 of CERCLA
2. The first sentence of paragraph 1 is modified as follows: "This Administrative Order on Consent ("Order") is entered into voluntarily by the above-named Respondent and by the United States Environmental Protection Agency ("EPA") pursuant to the authority vested in the President of the United States by Sections 104, 106, 122(a), and 122(d)(3) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §§ 9604, 9606, 9622(a), and 9622(d)(3)."
3. Paragraph 30 is modified as follows: "The substances and contaminants found in the sediments of the Lower Passaic River Study Area and identified in the FINDINGS section of this Order, including, but not limited to 2,4-D, 2,4,5-T, 2,4,5-TCP, 2,3,7,8-TCDD, cadmium, copper, lead, mercury, nickel, zinc, PAHs, DDT, and PCBs are also found at the Newark Bay Study Area and are "hazardous substances" within the meaning of that term as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14) or constitute "any pollutant or contaminant" that may present an imminent or substantial danger to public health or welfare or the environment under Sections 104(a)(1) and 106 of CERCLA, 42 U.S.C. §§ 9604(a)(1) and 9606."
4. Paragraph 34 is revised as follows: "Based upon the FINDINGS set forth above and the entire Administrative Record, and to continue an orderly process for the study of contaminants in and emanating from the lower Passaic River, EPA has determined that conditions in the Newark Bay Study Area may present an imminent and

substantial endangerment to public health, welfare or the environment and that a response action of the type contemplated by the NCP in 40 C.F.R. § 300.430 is required at the Newark Bay Study Area to assess its conditions and evaluate alternatives to prevent and/or mitigate any actual and/or potential threat of harm to human health or welfare or the environment caused by the release and threatened release of hazardous substances from the Newark Bay Study Area."

These modifications are by mutual agreement of EPA and the Respondent to this Order, Occidental Chemical Corporation, as evidenced by the following signatures.

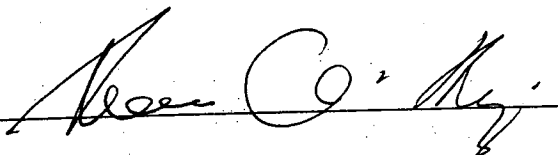
For: U. S. ENVIRONMENTAL PROTECTION AGENCY

Jane M. Kenny
Regional Administrator
U.S. Environmental Protection Agency
Region II

Date

The signatory identified below certifies that he or she is fully authorized to represent Respondent in this matter, to agree to the modification of the terms and conditions of the Order designated as U.S. E.P.A. Index No. CERCLA-02-2004-2010 as stated above, on behalf of Respondent and to bind Respondent to all of the terms and conditions of this Order as modified.

OCCIDENTAL CHEMICAL CORPORATION
As successor to Diamond Shamrock
Chemicals Company

By: 

February 17, 2004
Date

Name: Scott A. King
Vice President and General Counsel

ACO
MODIFICATION

2-17-04

~~ORIGINAL
SIGNATURE
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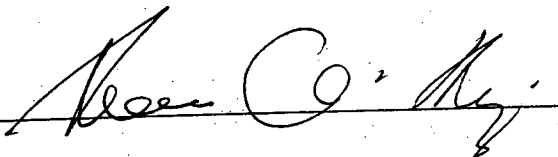
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OK'd to
S. Gahney.

The signatory identified below certifies that he or she is fully authorized to represent Respondent in this matter, to agree to the modification of the terms and conditions of the Order designated as U.S. E.P.A. Index No. CERCLA-02-2004-2010 as stated above, on behalf of Respondent and to bind Respondent to all of the terms and conditions of this Order as modified.

OCCIDENTAL CHEMICAL CORPORATION
As successor to Diamond Shamrock
Chemicals Company

By: 

February 17, 2004
Date

Name: Scott A. King
Vice President and General Counsel