State of New Jersey
Department of Environmental Protection

Christine Todd Whitman
Governor

Robert C. Shinn, Jr.
Commissioner

James J. Groome
The Okonite Company
P.O. Box 340
102 Hilltop Road
Ramsey, NJ 07446

JUN 03 1999

RE: Okonite Company
Canal & Jefferson St., Passaic City, Passaic County
ISRA Case # E89536
Remedial Action Report dated February 1, 1999; Groundwater Natural Remediation Proposal and Classification Exception Area Request for Area M dated March 3, 1999

Dear Mr. Groome:

Please be advised that the New Jersey Department of Environmental Protection (NJDEP) has completed its review of the above referenced Remedial Action Report and Groundwater Natural Remediation Proposal and Classification Exception Area Request. The NJDEP's comments regarding the Remedial Action Report and Groundwater Natural Remediation Proposal and Classification Exception Area Request are noted below.

Also, be advised that these comments address only those issues presented by Okonite Company in the above referenced Remedial Action Report and Groundwater Natural Remediation Proposal and Classification Exception Area Request. The comments noted in NJDEP's May 7, 1998 guidance letter for all other remaining issues still apply.

I. Soil Comments

Remedial Action Report (RAR) dated February 1, 1999

1. Area of Environmental Concern (AOC) L - Outfalls to Weasel Brook

In the May 7, 1998 NJDEP guidance letter, NJDEP required Okonite Company to conduct sediment sampling upstream and downstream of Weasel Brook, and analyze the samples for priority pollutant metals (PPM) and polynuclear aromatic hydrocarbons (PAHs).

In response, Okonite Company indicates that thirteen sediment samples were collected from Weasel Brook in July 1992, and analyzed for PPM, volatile organic (VO) compounds, base neutrals (BNs), and total organic carbon (TOC). The analytical data have been submitted for eight of the thirteen samples (in Appendix 5).

Based on the results of the analyses, concentrations of PAHs detected in these sediment samples were below the Ontario Sediment Quality Guidelines Lowest Effect Level (LEL). Sediment samples were analyzed for selective metals including copper, lead, mercury, and zinc only. Copper, lead and zinc were detected above the Ontario Sediment Quality Guidelines LEL. Mercury was detected above the Ontario Sediment Quality Guidelines LEL of 0.2 ppm in two of the eight sediment samples only.

Okonite Company proposes that additional sampling is not necessary since

sediment sampling for metals and base neutrals has already been conducted. Therefore, additional sampling has not been performed.

This is unacceptable.

The sediment analytical data indicates that copper, lead, mercury, and zinc were detected above the Ontario Sediment Quality Guidelines. The RAR indicates that sampling was biased towards areas where outfall pipes discharge to Weasel Brook and covered virtually the entire stretch of Weasel Brook adjacent to the Okonite Company site. However, no samples were collected upstream of Weasel Brook.

As indicated in the May 7, 1998 NJDEP guidance letter, NJDEP still requires Okonite Company to conduct sediment sampling upstream and downstream of Weasel Brook, and to analyze the samples for priority pollutant metals (PPM) and polynuclear aromatic hydrocarbons (PAHs).

2. AOC 17 - Manhole #1

NJDEP had required submission of photodocumentation showing the integrity of the manhole, and Okonite Company submitted color photographs in Attachment 6. This photodocumentation shows that the integrity of the manhole is intact.

Okonite Company proposes no further action (NFA).

This is acceptable. A sediment sample that was collected from the bottom of the manhole during a previous investigation indicated that concentrations of metals detected in this sample were below the soil cleanup criteria.

3. AOC 20 - Oil-Stained Area East of Reel Building

Okonite Company indicates that the source of contamination in this area was motor oil filters that were thrown over the fence along 1st Street. Okonite Company excavated visibly contaminated soil and conducted post-excavation soil sampling. Based on post-excavation soil analytical data, concentrations of total petroleum hydrocarbons (TPHC) detected in this area were 1600 ppm (below the 10,000 ppm total organic "cap").

Okonite Company proposes to include this area of concern into a Declaration of Environmental Restrictions (DER). Institutional and engineering controls are proposed as remedial measures for this area.

This is acceptable. Since motor oil was the source of contamination in this area, and concentrations of TPHC exceeded 100 ppm, analysis for PAHs is required on 25% of the samples (minimum of one sample) pursuant to N.J.A.C. 7:26E. (The PAH samples are required since Okonite Company includes AOC 20 in the historic fill area (AOC 16)). Institutional and engineering controls are required for AOC 16.

Please be advised that pursuant to the "Brownfield and Contaminated Site Remediation Act", the term "Declaration of Environmental Restrictions" has been changed to Deed Notice. In addition, the model for the Deed Notice, as originally contained in Appendix F of the Technical Requirements for Site Remediation (TRSR), N.J.A.C. 7:26E, has been revised. The revision to the TRSR appeared in the New Jersey Register on July 6, 1998. A copy of this new model is available from the Site Remediation Program's home page at **http://www.state.nj.us/dep/srp**

4. AOC 21 - Fork Lift Maintenance Building Hydraulic Lift Pit

This pit is located within the historic fill area. Initially, Okonite Company proposed to excavate and conduct post-excavation soil sampling in this area. However, Okonite Company has not implemented excavation and post-excavation sampling.

Okonite Company indicates that the extent of contamination in this area has been delineated. Three wells have been installed around the Fork Lift Maintenance Building in 1988 and 1989. The results of samples collected from MW-1, MW-2, and MW-3 demonstrated that this pit has not impacted the surrounding ground water. Okonite Company also indicates that the pit has a concrete bottom.

Okonite Company proposes to include this pit into the DER (now deed notice).

This is acceptable.

5. AOC 22 - Research Building Drainage Way

Previously, Okonite Company proposed to excavate and remove contaminated soil and conduct post-excavation soil sampling in this area. The RAR shows that five tons of soil have been excavated and disposed of at a soil recycling facility. However, no post-excavation soil samples have been conducted in this area.

Okonite Company proposes to include this area in the DER (now deed notice) and apply engineering controls such as fencing, security, and paving.

This is acceptable.

6. UST Pit 1 - (Part of AOC F - 76000 Gal. Concrete UST)

The RAR indicates that the contents of the UST Pit #1 were removed and disposed of previously. One post-excavation soil sample was collected and analyzed for TPHC. The concentration of TPHC detected in this sample was 1220 ppm. The pit has been filled in with concrete and the entire area is paved, according to the RAR.

Okonite Company states that the contamination associated with this pit has been vertically and horizontally delineated. Therefore, Okonite Company proposes that additional soil sampling for PAHs in this area is not necessary.

This is conditionally acceptable.

Since no sampling was conducted for PAHs, and the pit has been filled with concrete, this area shall be included in the deed notice (as part of AOC F - see below).

7. AOC F - 76000 Gal. Concrete UST

Product leaking from the UST formed a non-aqueous phase liquid (NAPL) plume affecting both soil and ground water. In addition, there are four other small areas containing TPHC above the 10000 ppm total organic "cap" located in this area of concern. Two passive recovery wells (MW-8 and RW-1) and one monitoring well (MW-7) were installed in this area to recover free product floating on top

of the ground water table, and to determine if free product is migrating. The RAR indicates that monitoring well MW-17 was installed on December 3, 1998.

Sampling of these wells indicated that benzene and chlorobenzene are present above the Ground Water Quality Standards (GWQS).

Okonite Company proposes to collect samples from RW-1, MW-7, MW-8, and MW-17 and analyze them for TCL volatiles plus a forward library search. (See Condition II. 1. below.)

Regarding the four small areas that contained elevated levels of TPHC, Okonite Company did not propose any remedial action.

Okonite Company shall develop a remedial action proposal for these areas. (In order to leave contaminants on-site at levels or concentrations above the Residential Direct Contact Soil Cleanup Criteria (RDCSCC), institutional and engineering controls are required pursuant to N.J.A.C. 7:26E.

8. Quality Assurance/Quality Control (QA/QC) Review

Envirotech Research, Inc. (certification number 12543) is certified for the analyses conducted.

The following deficiencies were noted in the quality of the analytical data:

a. Percent matrix spike (%MS) recovery is outside the QC limits for chlorobenzene detected in Lab Sample No. 103940. Analytical data for chlorobenzene obtained from associated samples are qualified.

b. %MS recovery is outside the QC limits for vinyl chloride detected in Lab Sample No. 95258. Analytical data for vinyl chloride obtained from associated samples are qualified.

Other than the above deficiencies, the analytical data are good and acceptable.

II. Ground Water Comments

Remedial Action Report dated February 1, 1999

1. AOC F - 76000 Gal. Concrete UST

Leaking of this UST has resulted in NAPL contamination in the shallow aquifer. The UST has been emptied and cleaned. Okonite Company has estimated that free-phase product exists only in the immediate vicinity of MW-8 and RW-1, an area of approximately 250 square feet. The rest of the AOC consists of four separate areas of various dimensions where soil TPHC levels exceed 10000 ppm.

Due to the viscous nature of #6 fuel oil and the limited extent of contamination, Okonite Company had previously proposed continued passive recovery of the free-phase product from monitoring well MW-8 and recovery well RW-1, and periodic observations of monitoring well MW-7 and Weasel Brook to determine if free product is migrating.

NJDEP had responded (in the May 7, 1998 NJDEP guidance letter) that:

a. Ground water from monitoring well MW-8 and recovery well RW-1 be

sampled and analyzed for TCL volatile organics, base neutrals and TAL metals to determine whether dissolved contamination exists as a result of the free-phase product. If the results indicate the existence of dissolved contaminants in concentrations above the Ground Water Quality Standards (GWQS), well MW-7 will have to be monitored for the dissolved contaminants that exceed the GWQS in conjunction with the passive product recovery.

b. An additional monitoring well at the site boundary was required to adequately characterize the quality of ground water flowing to Weasel Brook.

c. Okonite Company should conduct a hydropunch/Geoprobe investigation in the areas of the four soil borings that had the highest TPHC concentrations (this was agreed to by Okonite Company in the October 3, 1996 meeting at NJDEP).

Analytical results showed concentrations of chlorobenzene and benzene exceeding the GWQS in the wells. Okonite Company proposes to continue passive product recovery and sample wells MW-7, MW-8, RW-1, and newly installed well MW-17 semi-annually for two years. Following the proposed sampling period, Okonite Company proposes to submit a remedial action proposal to NJDEP.

Okonite Company did not perform the hydropunch/Geoprobe investigation. Okonite Company concluded that the extent of free product has been vertically and horizontally delineated and ground water quality sufficiently characterized from monitor well sampling.

Okonite Company's proposal to continue passive product recovery is conditionally acceptable.

Instead of a two year semi-annual sampling program, Okonite Company shall conduct the ground water sampling quarterly over the two year period. Okonite Company shall report the amount of product recovered during each quarterly sampling period.

The purpose of the NJDEP requirement for conducting a hydropunch/Geoprobe investigation was to determine if the four locations within this AOC are acting as a source of dissolved contamination to ground water. Previous investigations at these four areas identified saturated zone soils with concentrations exceeding 10000 ppm TPHC. NJDEP continues to require that ground water samples be taken from these areas to determine if they are sources for the dissolved contamination.

Okonite Company shall also be aware that because the nearest downgradient receptor is Weasel Brook, the ground water analytical results from MW-7 and MW-17 would be evaluated based on the instream criteria for an FW-2 surface water body. The most recent ground water results indicate that ground water is discharging to Weasel Brook at concentrations exceeding the instream criteria for chlorobenzene and benzene. If any subsequent sampling events show ground water to exceed the instream criteria in MW-7 and MW-17, then Okonite Company shall comply with N.J.A.C. 7:26E-3.8 and 4.5 of the Technical Requirements for Site Remediation.

2. AOC M - Banbury Mixer

This area, in the main plant building, contains a partially open-bottomed and sided pit that was beneath the location of a Banbury mixer which was used for rubber compounding. Two rounds of ground water samples were collected from the

four wells (MW-6, MW-13, MW-14, and MW-15) monitoring this area in 1991. The analytical results indicated that several chlorinated VOs (1,1-dichloroethane, 1,1-dichloroethene, 1,1,1-trichloroethane, trichloroethene, and chloroform) exceeded the GWQS. Okonite Company proposed the establishment of a Classification Exception Area (CEA) for this AOC with natural remediation as a remedial strategy. NJDEP stated that Okonite Company must sample monitoring wells MW-6, MW-13, MW-14, and MW-15 for VO+10 and lead for two quarters before a CEA proposal could be evaluated.

Two rounds of sampling for wells MW-6, MW-13, MW-14, and MW-15 show low levels of chlorinated VOs exceeding the GWQS in all wells. Okonite Company intended to submit a natural attenuation proposal and a CEA for the AOC M ground water. (See Condition II. 3. below.)

Groundwater Natural Remediation Proposal and Classification Exception Area Request for Area M dated March 3, 1999

3. This document is in response to the NJDEP's May 7, 1998 guidance letter to Okonite Company. In the letter, NJDEP required Okonite Company to revise their original CEA proposal for AOC M (Banbury Mixer). The requested revisions included maps that clearly defined the proposed CEA, including all contaminants that exceed the GWQS, and documenting that natural remediation is a viable remedial option.

Okonite Company has provided a USGS Quadrangle map and a site map showing the extent of the proposed CEA. The additional contaminants that exceeded the GWQS have also been added to the list of CEA contaminants of concern.

However, Okonite Company has not demonstrated the viability of a natural remediation remedy as outlined in the Technical Requirements for Site Remediation. When submitting a proposal, Okonite Company shall refer to N.J.A.C. 7:26E-6.3(d). (Okonite Company shall also refer to NJDEP's final CEA Guidance Document.) Okonite Company shall evaluate each condition listed.

Also, in the May 7, 1998 NJDEP guidance letter, it was recommended that, at a minimum, the following indicator parameters be evaluated in the monitoring wells: dissolved oxygen, nitrate, ferrous iron, sulfate, chloride, methane, pH, temperature, and oxidation-reduction potential. The wells selected shall include background wells, source area wells, plume interior wells, and wells downgradient of the plume. The ground water data results in Attachment 4 do not contain this data. Following submittal of the above information, the NJDEP will evaluate both the natural remediation and the calculated CEA extent as to their applicability to this AOC.

(NJDEP strongly recommends that Okonite Company also refer to the USEPA's OSWER policy directive (# 9200.4-17) on natural attenuation as this will provide insight on how NJDEP will evaluate and implement the natural remediation requirements.)

III. General Requirements

1. Okonite Company shall submit the results or additional work plans, in triplicate. Please note that only one copy of the Quality Assurance/Quality Control Deliverables is needed.

2. Okonite Company shall submit a revised Remedial Action Schedule, pursuant

to N.J.A.C. 7:26E-6.5, for NJDEP approval which includes all tasks associated with the remediation of the site within thirty (30) calendar days of the receipt of this letter.

3. Okonite Company shall submit summarized analytical results in accordance with the Technical Requirements for Site Remediation (TRSR), N.J.A.C. 7:26E.

4. Okonite Company shall collect and analyze all samples in accordance with the sampling protocol outlined in the May 1992 edition of the NJDEP's "Field Sampling Procedures Manual" and the TRSR.

5. Okonite Company shall notify the assigned BEECRA Case Manager at least 14 calendar days prior to implementation of all field activities.

6. Pursuant to the TRSR, N.J.A.C. 7:26E-3.13(c)3v, all analytical data shall be presented both as a hard copy and an electronic deliverable using the database format outlined in detail in the current HAZSITE application or appropriate spreadsheet format specified in the NJDEP's electronic data interchange manual.

For further information related to electronic data submissions, please refer to the Site Remediation Program's (SRP's) home page at the following Internet address: **http://www.state.nj.us/dep/srp**

The **Regulations and Guidance** page of this web site has a section dedicated to HazSite which includes downloadable files, an explanation of how to use these files to comply with the NJDEP's requirements, the SRP's Electronic Data Interchange (EDI) manual, and **Guidance for the Submission and Use of Data In GIS Compatible Formats Pursuant to "Technical Requirements for Site Remediation"**.

If you have any questions, please contact the Case Manager, Joseph Goliszewski, at (609) 984-1851.

Sincerely,

Ann H. Wolf, Supervisor
Bureau of Environmental Evaluation,
Cleanup and Responsibility Assessment

c: Dr. Haydar Erdogan, BEERA
Daryl Clark, BGWPA
Henry McCafferty, Passaic City Health Department
330 Passaic St.
Passaic, NJ 07055
Passaic County Department of Health, 317 Pennsylvania Ave.
Paterson, NJ 07503

BEP000080

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

NOV - 9 2005

GENERAL NOTICE LETTER
URGENT LEGAL MATTER
PROMPT REPLY NECESSARY
CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Victor A. Viggiano, CEO
The Okonite Company, Inc.
102 Hilltop Road
Ramsey, New Jersey 07446

RE: Diamond Alkali Superfund Site
Notice of Potential Liability for
Response Actions in the Lower Passaic River Study Area, New Jersey

Dear Mr. Viggiano:

The United States Environmental Protection Agency ("EPA") is charged with responding to the release and/or threatened release of hazardous substances, pollutants, and contaminants into the environment and with enforcement responsibilities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. §9601 et seq. Accordingly, EPA is seeking your cooperation in an innovative approach to environmental remediation and restoration activities for the Lower Passaic River.

EPA has documented the release or threatened release of hazardous substances, pollutants and contaminants into the six-mile stretch of the river, known as the Passaic River Study Area, which is part of the Diamond Alkali Superfund Site ("Site") located in Newark, New Jersey. Based on the results of previous CERCLA remedial investigation activities and other environmental studies, including a reconnaissance study of the Passaic River conducted by the United States Army Corps of Engineers ("USACE"), EPA has further determined that contaminated sediments and other potential sources of hazardous substances exist along the entire 17-mile tidal reach of the Lower Passaic River. Thus, EPA has decided to expand the area of study to include the entire Lower Passaic River and its tributaries from Dundee Dam to Newark Bay ("Lower Passaic River Study Area").

By this letter, EPA is notifying Okonite of its potential liability relating to the Site pursuant to Section 107(a) of CERCLA, 42 U.S.C. §9607(a). Under CERCLA, potentially responsible parties ("PRPs") include current and past owners and operators of a facility, as well as persons who arranged for the disposal or treatment of hazardous substances at the Site, or the transport of

hazardous substances to the Site.

In recognition of our complementary roles, EPA has formed a partnership with USACE and the New Jersey Department of Transportation-Office of Maritime Resources ("OMR") ["the governmental partnership"] to identify and to address water quality improvement, remediation, and restoration opportunities in the 17-mile Lower Passaic River. This governmental partnership is consistent with a national Memorandum of Understanding ("MOU") executed on July 2, 2002 between EPA and USACE. This MOU calls for the two agencies to cooperate, where appropriate, on environmental remediation and restoration of degraded urban rivers and related resources. In agreeing to implement the MOU, the EPA and USACE will use their existing statutory and regulatory authorities in a coordinated manner. These authorities for EPA include CERCLA, the Clean Water Act, and the Resource Conservation and Recovery Act. The USACE's authority stems from the Water Resources Development Act ("WRDA"). WRDA allows for the use of some federal funds to pay for a portion of the USACE's approved projects related to ecosystem restoration.

For the first phase of the Lower Passaic River Restoration Project, the governmental partners are proceeding with an integrated five- to seven-year study to determine an appropriate remediation and restoration plan for the river. The study will involve investigation of environmental impacts and pollution sources, as well as evaluation of alternative actions, leading to recommendations of environmental remediation and restoration activities. The study is being conducted pursuant to CERCLA and WRDA.

Based on information that EPA evaluated during the course of its investigation of the Site, EPA believes that hazardous substances were released from Okonite's facility located at Canal and Jefferson Streets in Passaic, New Jersey, into the Lower Passaic River Study Area. Hazardous substances, pollutants and contaminants released from the facility into the river present a risk to the environment and the humans who may ingest contaminated fish and shellfish. Therefore, Okonite may be potentially liable for response costs which the government may incur relating to the study of the Lower Passaic River. In addition, responsible parties may be required to pay damages for injury to, destruction of, or loss of natural resources, including the cost of assessing such damages.

EPA is aware that the financial ability of some PRPs to contribute toward the payment of response costs at the Site may be substantially limited. If you believe, and can document, that you fall within that category, please inform Ms. Reddy and Mr. Hyatt in writing at the addresses identified in this letter. You will be asked to submit financial records including federal income tax returns as well as audited financial statements to substantiate such a claim.

Please note that, because EPA has a potential claim against you, you must include EPA as a creditor if you file for bankruptcy. You are also requested to preserve and retain any documents now in your Company's or its agents' possession or control, that relate in any manner to your facility or the Site or to the liability of any person under CERCLA for response actions or response costs at or in connection with the facility or the Site, regardless of any corporate document retention policy to the contrary.

Enclosed is a list of the other PRPs who have received Notice letters. This list represents EPA's findings on the identities of PRPs to date. We are continuing efforts to locate additional PRPs who have released hazardous substances, directly or indirectly, into the Lower Passaic River Study Area. Exclusion from the list does not constitute a final determination by EPA concerning the liability of any party for the release or threat of release of hazardous substances at the Site. Be advised that notice of your potential liability at the Site may be forwarded to all parties on this list as well as to the Natural Resource Trustees.

We request that you become a "cooperating party" for the Lower Passaic River Restoration Project. As a cooperating party, you, along with many other such parties, will be expected to fund the CERCLA study. Upon completion of the study, it is expected that CERCLA and WRDA processes will be used to identify the required remediation and restoration programs, as well as the assignment of remediation and restoration costs. At this time, the commitments of the cooperating parties will apply only to the study. For those who choose not to cooperate, EPA may apply the CERCLA enforcement process, pursuant to Sections 106(a) and 107(a) of CERCLA, 42 U.S.C. §9606(a) and §9607(a) and other laws.

You may become a cooperating party by participating in the Cooperating Parties Group ("Group") that has already formed to fund the CERCLA study portion of the Lower Passaic River Restoration Project.

We strongly encourage you to contact the Group to discuss your participation. You may do so by contacting:

William H. Hyatt, Esq.
Common Counsel for the Lower Passaic River Study Area Cooperating Parties Group
Kirkpatrick & Lockhart LLP
One Newark Center, 10th Floor
Newark, New Jersey 07102
(973) 848-4045
whyatt@kl.com

Written notification should be provided to EPA and Mr. Hyatt documenting your intention to join the Group and settle with EPA no later than 30 calendar days from your receipt of this letter. The result of any agreement between EPA and your Company as part of the Group will need to be memorialized in an Administrative Order on Consent. EPA's written notification should be mailed to:

Kedari Reddy, Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency
290 Broadway - 17th Floor
New York, New York 10007-1866

Pursuant to CERCLA Section 113(k), EPA must establish an administrative record that contains

documents that form the basis of EPA's decision on the selection of a response action for a site. The administrative record files along with the Site file are located at EPA's Region 2 office located at 290 Broadway, New York, NY on the 18th floor. You may call the Records Center at (212) 637-4308 to make an appointment to view the administrative record and/or the Site file for the Diamond Alkali Site, Passaic River.

As you may be aware, the Superfund Small Business Liability Relief and Brownfields Revitalization Act became effective on January 11, 2002. This Act contains several exemptions and defenses to CERCLA liability, which we suggest that all parties evaluate. You may obtain a copy of the law via the Internet at http://www.epa.gov/swerosps/bf/sblrbra.htm and review EPA guidances regarding these exemptions at http://www.epa.gov/compliance/resources/policies/cleanup/superfund.

Inquiries by counsel or inquiries of a legal nature should be directed to Ms. Reddy at (212) 637-3106. Questions of a technical nature should be directed to Elizabeth Butler, Remedial Project Manager, at (212) 637-4396.

Sincerely yours,

Ray Basso, Strategic Integration Manager
Emergency and Remedial Response Division

Enclosure