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460 PARK AVENUE
NEW YORK, NEW YORK 10022-1906

February 19, 2003

TEL: (212) 752-8000
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WRITER'S DIRECT E-MAIL
bpollack@angelfrankel.com

OF COUNSEL
WILLIAM M. KAHN
BONNIE L. POLLACK
ROBERT M. SCHWARTZ

BY FIRST CLASS MAIL

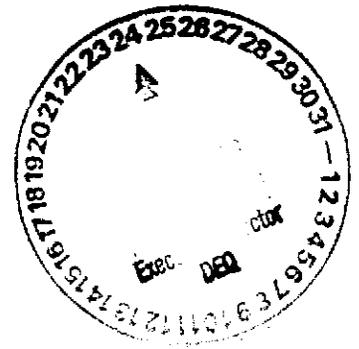
Mr. Charles Chisholm, Director
Mississippi Department of Environmental Quality
2380 Highway 80 West
Jackson, MS 39204

Re: Cedar Chemical Corporation and Vicksburg Chemical Company
Case Nos. 02-11039 and 02-11040 (SMB) Jointly Administered

Dear Mr. Chisholm:

As you know, this firm represents Vicksburg Chemical Company ("Vicksburg") in connection with its pending chapter 11 bankruptcy case. We are in receipt of a letter dated October 22, 2002 from Jacobs Investments directed to both Vicksburg and the Mississippi Department of Environmental Quality ("MDEQ") expressing an offer to purchase a portion of the property formerly owned by Vicksburg in Vicksburg, Mississippi (the "Vicksburg Property").

Based on the order entered by the Bankruptcy Court on or about October 18, 2002, while legal title to the Vicksburg Property remains in Vicksburg's name, we believe that the Vicksburg Property is subject to disposition by the MDEQ in its discretion and upon its terms. This letter is written to remind you that in making a determination as to the disposition of the Vicksburg Property, the MDEQ should take into consideration the fact that there are pipes running under the portion of the Vicksburg Property which Jacobs desires to purchase, the use of which is necessary for the remainder of the Vicksburg Property.

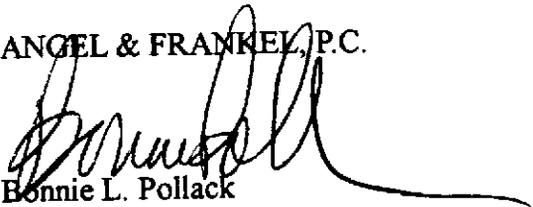


Mr. Charles Chisholm
February 19, 2003
Page 2

Should you have any questions regarding the foregoing, please do not hesitate to contact the undersigned.

Very truly yours,

ANGEL & FRANKEL, P.C.

A handwritten signature in black ink, appearing to read "Bonnie L. Pollack", with a long horizontal flourish extending to the right.

Bonnie L. Pollack

BLP:dld

cc: Mr. Philip Gund
Joshua J. Angel, Esq.

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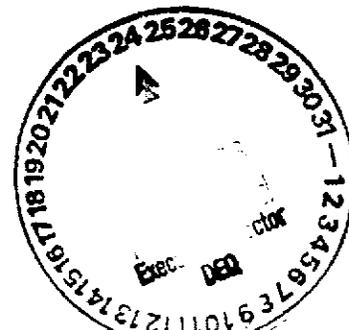
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2380 Highway 80 West
Jackson, MS 39204

Re: Cedar Chemical Corporation and Vicksburg Chemical Company
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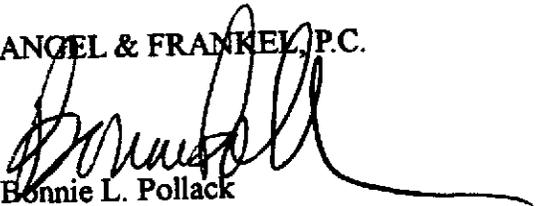


Mr. Charles Chisholm
February 19, 2003
Page 2

Should you have any questions regarding the foregoing, please do not hesitate to contact the undersigned.

Very truly yours,

ANGEL & FRANKEL, P.C.



Bonnie L. Pollack

BLP:dld

cc: Mr. Philip Gund
Joshua J. Angel, Esq.

Corrective Action Mechanism(s)

- 1) A HSWA Permit was not issued to Vicksburg Chemical Company (VCC). The regulatory status is that VCC is/was a large quantity generator (> 1000 kg of hazardous waste per month generated).

Corrective action is performed subject to Consent Decree, Civil Number W92-0008B, between EPA and VCC, filed April 17, 1992. This Order includes financial assurance language.

There is an existing, valid Trust Fund Agreement. The original one designates EPA as the agency assigned to the funds (when called to be executed).

- 2) A Closure/Post-Closure Permit was not issued by MDEQ. They also have an Order. No specific information is available about how that Order was negotiated (except that it also contains financial assurance language "...for closure/post-closure activities").

Regulated Unit(s) and Solid Waste Management Units (SWMUs)

What is the regulated unit(s)?

There are no "regulated units" at VCC because there is no closure/post-closure permit issued by the State. There is a surface impoundment and several closed landfills on site. The surface impoundment was constructed as if it were to be operated as a RU complete with liner and double leachate collection system.

In fact, the surface impoundment has a unique feature. It was built with a "blanket drain" constructed along the western edge of the impoundment. The blanket drain is a permeable layer that is connected to the impoundment subsurface sumps. The blanket drain and the compacted soil placed atop the drain were installed to dewater the general area and provide support for the double liner system. The blanket drain also functions like an interceptor trench between the dinoseb groundwater plume and the nearest surface water discharge point, Hennessey's Bayou.

What are the SWMUs?

EPA's RCRA Facility Assessment Report, dated August 29, 1986, identified 34 solid waste management units (SWMUs) and four areas of concern (AOCs), which resulted from the production of pesticides from 1961-1987.

Soil Contamination

Within the 130 ± acres that is developed into production areas, there exists several areas of contaminated soil. Specifically, in the area known as the South Plant, there are 6-8 areas where the contaminants (the

pesticides dinoseb and toxaphene, and the metal arsenic) exceed allowable industrial risk based concentrations.

Arsenic	10.9 mg/kg	5.0 mg/kg MCL
Dinoseb	1.5 mg/kg	78.2 mg/kg
Toxaphene	0.247	0.581 mg/kg

The estimated area of soil contamination (at depth of 0-1 foot) is 15,000 yd³. The majority of this contaminated soil is underneath buildings, roads and railroads. However, approximately 3,000 yd³ is stockpiled in soil piles from the excavation and demolition work at the former pesticide production area.

Dioxin compounds have been detected in several sump (sediment) samples. The highest detected concentration is 0.129 ppb.

In the area of the North Plant, there exists one area of contaminated soil. This is located in the Waste Oil Accumulation Area SWMU and covers an area of $\approx 11,000$ ft².

Groundwater Contamination

The groundwater scenario underlying the VCC facility can best be depicted and two flow zones within the uppermost aquifer. The shallow groundwater is monitored in wells screened from 10-20 feet below ground surface (BGS) and the deep groundwater is monitored in wells screened from 30-40 ft BGS.

There are at least two nested well pairs (one shallow, one deep well) which intercept the entire uppermost aquifer (MW-17A/17B and MW-18/18A). Additionally, there are also numerous other deep wells and deep piezometers (MW-10/10C, MW-12/12C which presently show no detect for constituents of concern and which will serve as indicator wells for groundwater migration towards the Bayou.

To date, the deeper wells have not detected any contamination. The distance between the closest deep well and Hennessey's Bayou is ≈ 450 feet. The average groundwater flow rate is 16.7 ft/year.

In the shallow groundwater, the following constituents have been detected (these are the highest detected concentrations):

Arsenic	378 ppb	(50 ppb MCL)
Dinoseb	18,821 ppb	
Atrazine	146 ppb	
Carbon Tetrachloride	357.5 ppb	
TPH	15,431 ppb	
Toxaphene	ND	

Surface Water Contamination

Surface water sampling has not been performed. There are unconfirmed reports that EPA collected samples, yet no data has been found to support this supposition.

Air Contamination

There is no confirmed completed indoor air migration pathway. However, in the current EI Memo, dated 9/28/2001 , it is suggested that this pathway in "IN" - insufficient information.

Off Site Contamination

There is no confirmed occurrence of off site contamination (soil, groundwater, surface water or air).

The professional opinion presented in this summary document apply to information acquired from these references: Draft Groundwater Assessment Report, 11/2001; and Draft Final RFI Report, 8/2001. In addition, this briefing paper is intended to be used only to provide general information about the type (and amount) of soil and groundwater contamination presented in the documents listed above. Others who draw conclusions based on this information should seek to independently determine the adequacy of this information for their use.

Lael H. Butler
Corrective Action Specialist
RCRA Programs Branch
404-562-8453

-----x

In re:

CHAPTER 11

CEDAR CHEMICAL CORPORATION, and
VICKSBURG CHEMICAL COMPANY,

Case No. 02-11039 (SMB)
Case No. 02-11040 (SMB)
(Jointly Administered)

Debtors.

-----x

DECLARATION OF KEVIN S. MISENHEIMER

1. I am an On-Scene Coordinator in the Emergency Response and Removal Branch of the Waste Management Division of the United States Environmental Protection Agency ("EPA"), Region IV Office, Atlanta, Georgia. I have worked for the EPA since 1999 and in the Emergency Response and Removal Branch since September, 2001. As an On-Scene Coordinator, my responsibilities include coordination and oversight of response actions, including investigations and removal actions.

2. I am the On-Scene Coordinator for the Vicksburg Chemical Company ("Vicksburg") facility located in Vicksburg, Mississippi (the "Site").

3. On September 10, 2002, EPA and Mississippi Department of Environmental Quality (DEQ) personnel conducted a facility visit to the Site. The purpose of the visit was to tour the facility, assess the status of the ongoing work being performed by the current operator and to evaluate any potential public health, environmental and safety hazards which might result should the

facility be abandoned by Vicksburg.

4. EPA and DEQ met with representatives of Vicksburg to discuss the current status of the Site. Vicksburg staff informed EPA that they are currently working to secure and stabilize various components of the existing process. The facility is also working to find either buyers or disposal options for many of the process chemicals and products which are still on site.

5. At the time of the meeting, Vicksburg provided an overview of what was being done and an estimate of the quantities of materials left on site. In addition, EPA, MSDEQ and Vicksburg staff conducted a facility tour. The following outlines the current status of the site based on information provided to EPA by Vicksburg and as noted during the facility tour:

- a. Approximately 850 tons of nitric acid (65%) is stored on site. It was reported that a buyer has been found for this material but it is unclear when it can be transported off site. Additional nitric acid is contained within the units of the crystallizer, and the vessels and process lines in the North Plant. Nitric acid is a fuming liquid which reacts exothermically with water and is a corrosive substance.
- b. 20,000 pounds of dinitrogen tetroxide is being stored in two tanks. This material is a liquid oxidizer which is combined with rocket fuel for

spontaneous ignition. The material has been identified as an inhalation hazard. Liquid dinitrogen tetroxide released into the atmosphere turns into a gas and reacts with water to form nitrous or nitric acid.

- c. A partially full rail car of Chlorine is on site. It is estimated that the rail car contains 60,000 pounds of Chlorine. Chlorine is usually shipped as a liquefied compressed gas and is hazardous to the respiratory system, skin and eyes.
- d. Several thousand pounds of caustic material contained in the South Plant.
- e. The facility is currently purging two ammonia spheres with nitrogen gas.
- f. There is an oil and lubricant storage area as well as several fuel storage tanks on site.
- g. Contaminated runoff from the process area and contaminated soil area is being contained in sumps and pumped to storage ponds on site. This water is then pumped through a carbon treatment system. This treatment system requires significant maintenance to ensure operation so that contaminated water does not overtop the storage ponds and thus contaminate Hennessy Bayou, and eventually the Mississippi River.

- h. Security at the site is currently being provided by Vicksburg. However, access to the site is not completely restricted due to breaches in the fence and lack of fencing around the rail road lines.

6. Based on my recent inspection of the facility, EPA has determined that abandonment of the facility would create hazardous conditions at the facility that would pose a threat of imminent and identifiable harm to public health and safety.

These hazardous conditions and threats include the following:

- a. There are bulk storage containers of acids, caustics, oxidizers, fuels and lubricants on Site. Additionally, there are process lines and vessels which may still contain products. If left unattended, release of these materials would present a hazard to trespassers and the nearby community. An accidental release of nitric acid, dinitrogen tetroxide, or chlorine, in certain quantities, would present a threat of an imminent and identifiable hazard to nearby residents. If the facility is abandoned by Vicksburg, such a release could go undetected and appropriate mitigation efforts could be delayed. The process of stabilizing, moving, transferring and transporting these materials should be completed until all hazards are removed.

- b. It is essential that the carbon treatment system be maintained and operated to prevent a release of contaminated water from the storage ponds into Hennessy Bayou and the Mississippi River. Without the treatment system online, a large rainfall event would quickly fill the ponds and would present a threat of release of contaminated water.
- c. If abandoned, access to the site would be uncontrolled. Trespassers could be exposed to contaminated soils and surface water. Additionally, vandals may sabotage process lines and bulk storage vessels resulting in an uncontrolled release of hazardous substances.

I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: Atlanta, Georgia
September 20, 2002

 /s\ Kevin S. Misenheimer
KEVIN S. MISENHEIMER
On-Scene Coordinator
U.S. EPA, Region 4

STATE OF MISSISSIPPI
DAVID RONALD MUSGROVE, GOVERNOR
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
CHARLES H. CHISOLM, EXECUTIVE DIRECTOR

April 18, 2003

Via Facsimile (212-768-6800) and U.S. Mail

Edward Klimmerman, Esq.
Sonnenschein, Nath & Rosenthal
1221 Avenue of the Americas
New York, NY 10020

Dear Mr. Klimmerman:

As part of this agency's efforts to find a buyer for the Vicksburg Chemical Company property in Vicksburg, Mississippi, a prospective buyer is seeking assurance regarding its ability to obtain from Vicksburg Chemical Company a certification of non-foreign status made pursuant to Section 1445 of the Internal Revenue Code. Please inform me as soon as possible whether you expect either the prospective purchaser or MDEQ to have any difficulty in obtaining such a certification from Vicksburg Chemical Company.

Please feel free to contact me if I can provide further information in this matter.

Sincerely,



Chuck D. Barlow
General Counsel

CDB/sas

cc: Trey Hess

STATE OF MISSISSIPPI
DAVID RONALD MUSGROVE, GOVERNOR
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
CHARLES H. CHISOLM, EXECUTIVE DIRECTOR

May 19, 2003

Via Facsimile

Joshua Angel, Esq.
Angel & Frankel, P.C.
460 Park Avenue
New York, NY 10022-1906

Edward Klimmerman, Esq.
Sonnenschein, Nath & Rosenthal
1221 Avenue of the Americas
New York, NY 10020

Dear Mr. Angel and Mr. Klimmerman:

The United States Army Corps of Engineers, Vicksburg District, wishes to conduct revetment and dike work along the portion of the Mississippi River that includes property owned by Vicksburg Chemical Company. Lynn Bessonette of the Vicksburg District contacted MDEQ to obtain permission to conduct this work.

By copy of this letter, I am informing the Corps of Engineers that this type of approval, called a "permit" by the Corps, but which operates much like an easement, must be obtained by the current owner of the property, Vicksburg Chemical. I have attached to this letter a copy of the form normally used by the Corps for these agreements, for your information.

I am directing Ms. Bessonette to contact Mr. Angel's office at 212-752-8000 concerning this matter. If I can be of further assistance or need to be involved further, please do not hesitate to contact me at 601-961-5076.

Sincerely,



Chuck D. Barlow
General Counsel

CDB/sas

Enclosure

cc: Lynn Bessonette
Trey Hess

5-1E-03: 2:51PM

DEPARTMENT OF THE ARMY
Vicksburg District, Corps of Engineers
Construction, Survey and Exploration Permit

CHANNEL IMPROVEMENT TO MS RIVER REVETMENTS
AND DIKES
PROJECT

STATE OF MISSISSIPPI

RACETRACK REVEY VICKSBURG, MS, MILR 43441 AHP
LOCATION

COUNTY OF WARREN

QUARTERBOAT PARKING IN SUPPORT OF REVETMENT
CONSTRUCTION and MAINTANANCE
PURPOSE

IN CONSIDERATION of the sum of One Dollar (\$1.00) and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned, hereinafter called the "Owner," grants to the UNITED STATES OF AMERICA, hereinafter called the "Government," a permit upon the following terms and conditions:

1. The Owner () hereby grants to the Government an irrevocable right to enter upon the lands hereinafter described at any time within a period of twelve (12) months from 15 June 2003, in order to construct revetments, stone dikes, and other bank stabilization works, and to survey and carry out such other exploratory works as may be necessary in connection therewith, including the right to bury refuse, exclusive of bathroom waste, incidental to said construction landward of the top bank. The refuse so buried shall be covered with sufficient earth to provide a minimum of three feet of cover after tamping and settling.
2. In the event there are any locked gates that need to be used for ingress and egress to the lands hereinafter described, the Government shall have the right to cut a link in the chain so a lock can be installed that will interlock with Owner's lock, or, if the Owner desires, he may furnish the Government with a key at the time of signing this permit so that the Government can install its own lock that will interlock with Owner's lock prior to entry.
3. This permit includes the right of ingress and egress over existing field roads on other lands of the Owner not described below, provided such ingress and egress is necessary and to otherwise conveniently available to the Government.
4. All tools, equipment, buildings, improvements, and other properties placed upon the land by the Government shall remain the property of the Government and may be removed by the Government at any time within a reasonable period after the expiration of this permit.
5. The Government shall have the right to patrol and police the lands hereinafter described during the period of this permit.
6. The Owner hereby waives and releases any and all claims for damage arising from the activity of the Government, its officers, agents, employees, representatives, or assigns on said land in the reasonable exercise of this permit. (See below.)
7. The Owner shall not be responsible or liable for injuries to persons or damage to property when such injuries or damages are caused by or result from the Government's use of the premises under the terms of this agreement and are not due to the negligence of the owner.

The land affected by this permit is located in the State of MISSISSIPPI, County of WARREN, and is described as follows:

A strip of land 200 feet by 2000 +/- feet located in Sections 6 and 8, Township 15 North, Range 3 East as shown in red on the attached map and made a part of this report.

*Except for damages to roads, improvements, timber and crops arising from the activity of the Government, its employees, and/or contractors on said lands. The Government shall repair and maintain said roads in such a manner that the Owner will have access to his property equally as good as existed prior to granting this permit. In the event of damage to improvements, the Government shall repair such damage, or, at its option, it may make an appropriate settlement with the Owner in lieu thereof. Any damage to timber or crops will be determined by an appraisal to be made by the Government and the Owner shall be paid for such damage. In no event shall such repair or settlement exceed the fair market value of the fee title to the real property at the time immediately preceding such damage. The Government's liability under this clause is subject to the availability of appropriations for such payment, and nothing contained in this agreement may be considered as implying that Congress will at a later date appropriate funds sufficient to meet any deficiencies. The provisions of this clause are without prejudice to any rights the Owner may have to make a claim under applicable laws for any damages other than those provided for herein. Further, the Government agrees to provide adequate measures to prevent livestock from straying from fenced areas.

WITNESS MY HAND AND SEAL this ____ day of _____, 2003.

WITNESS:

VICKSBURG CHEMICAL:

By:

Department of Environmental Quality

WITNESS:

UNITED STATES OF AMERICA

By:

CHIEF, REAL ESTATE DIVISION

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

In re:

Chapter 11

CEDAR CHEMICAL CORPORATION and
VICKSBURG CHEMICAL COMPANY,

Case Nos. 02-11039 (SMB) and
02-11040 (SMB)

Debtors.

Jointly Administered

-----X

**STIPULATION AND ORDER AUTHORIZING ABANDONMENT OF WEST HELENA
MANUFACTURING FACILITY AND VICKSBURG MANUFACTURING
FACILITY AND GRANTING RELATED RELIEF**

(A&F No. 031)

WHEREAS on March 8, 2002 (the "**Petition Date**"), Cedar Chemical Corporation ("**Cedar**") and Vicksburg Chemical Company ("**Vicksburg**") (collectively the "**Debtors**") each filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the "**Bankruptcy Code**") with the United States Bankruptcy Court for the Southern District of New York (the "**Court**");

WHEREAS Cedar owns certain lots, pieces, tracts or parcels of land located at or near 49 Phillips Road 311 in West Helena, Arkansas, more particularly described in **Exhibit A** hereto, along with all buildings, structures, improvements, facilities, equipment, fixtures, and other tangible chattels and articles of tangible personal property thereon, therein or thereunder except for such equipment and the like as have been leased by Vicksburg or otherwise owned by other parties (the "**West Helena Facility**");

WHEREAS Vicksburg owns certain lots, pieces, tracts or parcels of land located at or near 4280 Rifle Range Road in Vicksburg, Mississippi, along with all buildings, structures, improvements, facilities, equipment, fixtures, and other tangible chattels and articles of tangible personal property thereon, therein or thereunder except for such equipment and the like as have been leased by Vicksburg or otherwise owned by other parties (the **"Vicksburg Facility;"** the term **"Vicksburg Facility"** includes all real property and all buildings, structures, improvements, facilities, equipment, fixtures, and other tangible chattels and articles of tangible personal property owned by Vicksburg, and not merely leased by Vicksburg or otherwise owned by other parties, lying within Warren County, Mississippi);

WHEREAS on August 29, 2002 the Debtors filed a motion (the **"Motion"**) pursuant to sections 105(a) and 554(a) of the Bankruptcy Code seeking an order authorizing the abandonment by Cedar of the West Helena Facility and the abandonment by Vicksburg of the Vicksburg Facility and granting related relief;

WHEREAS the Court signed an order dated September 4, 2002 scheduling a hearing on the Motion (the **"Scheduling Order"**);

WHEREAS a statement in support of the Motion was filed by JPMorgan Chase Bank, as agent (the **"Agent"**) to the pre-petition secured lenders (the **"Secured Lenders"**), as listed under a certain Credit Agreement dated as of November 3, 1995, as amended, supplemented or otherwise modified, among Cedar, the Secured Lenders and the Agent (to avoid doubt, **"Secured Lenders"** does not include the Debtors, any affiliate of the Debtors, Trans Resources Inc., and Arie Genger);

WHEREAS the Arkansas Department of Environmental Quality (the **"ADEQ"**), the Mississippi Commission on Environmental Quality and the Mississippi Department of Environmental Quality

(collectively, the "MDEQ") and the United States on behalf of the Environmental Protection Agency (the "EPA") (together with the ADEQ and the MDEQ the "Agencies" and each individually an "Agency"), and Harcros Chemicals Inc. each filed objections to the Motion;

WHEREAS the Agent and the Debtors filed a joint reply to the objections of the Agencies;

WHEREAS on or about September 26, 2002, the MDEQ issued Order No. 4486-02 purporting, among other things, to enjoin Vicksburg from transferring the Vicksburg Facility to another party without complying with Debtors' environmental permits.

WHEREAS good and sufficient notice of the Motion has been provided by the Debtors in accordance with the terms of the Scheduling Order;

WHEREAS a hearing on the Motion was held on September 25, 2002; and an evidentiary hearing on the Motion was held on October 7, 2002 (the "Evidentiary Hearing");

WHEREAS the West Helena Facility and the Vicksburg Facility (collectively, the "Facilities") are of inconsequential value and benefit to the estates of the Debtors and that such estates lack sufficient unencumbered assets with which to continue the maintenance, management and oversight of the Facilities;

WHEREAS, the Debtors have cooperated with the Agencies in the transition of the Facilities prior to their proposed abandonment;

WHEREAS the Debtors, the Agencies and the Agent (on behalf of the Secured Lenders) agree to compromise and resolve the various objections to the Motion as provided herein;

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration receipt of which is hereby acknowledged;

IT IS HEREBY STIPULATED and agreed to by and between the parties, subject to approval by the Court, as follows, and upon approval by the Court, it is hereby ORDERED that:

1. The Court has jurisdiction to hear and consider the Motion pursuant to 28 U.S.C. § 1334 and 28 U.S.C. § 157 and to grant the relief requested therein.

2. This is a core proceeding under 28 U.S.C. § 157(b).

3. Good and sufficient notice of the Motion, the proposed abandonment of the Facilities and of the hearings scheduled thereon has been provided and any other requirement for notice be, and hereby is, dispensed with.

4. The Motion, as modified and conditioned herein, is hereby granted.

5. The Facilities are of inconsequential value and benefit to the estates of the Debtors and such estates lack sufficient unencumbered assets with which to continue the maintenance, management, and oversight of the Facilities.

6. All requirements of section 554(a) of the Bankruptcy Code for the abandonment of the Facilities have been satisfied and sufficient circumstances exist in these cases to justify the approval of such abandonment, as conditioned herein.

7. The Facilities are hereby abandoned to the pre-petition Debtors effective 11:59 p.m. on October 14, 2002 (the "Effective Time"). The West Helena Facility shall be deemed abandoned to the Cedar non-bankruptcy estate and the Vicksburg Facility shall be deemed abandoned to the Vicksburg non-bankruptcy estate.

8. The Debtors and their respective officers, employees, directors, the pre-petition Debtors' officers, employees and directors and Marotta Gund Budd & Dzera LLC and any of its employees

(collectively, "MGB") shall have no obligation for the management or operation of the Facilities subsequent to the Effective Time.

9. The Debtors and the officers, employees, agents and directors of the Debtors and pre-petition Debtors (but solely in their capacity as officers, employees, agents or directors of the Debtors or pre-petition Debtors) shall be free of any liability for any occurrence or event with respect to (i) the Vicksburg Facility occurring subsequent to the Effective Time and (ii) the West Helena Facility occurring subsequent to 5:00 p.m. Eastern Standard Time on October 18, 2002 arising from the abandonment.

10. The United States, on behalf of the EPA, covenants not to sue the officers, employees, and directors of the Debtors and pre-petition Debtors (but solely in their capacity as officers, employees, or directors of the Debtors or pre-petition Debtors) or MGB for civil liability with respect to the Facilities for any cause of action or other claim for relief asserting environmental liability pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), the Clean Water Act (42 U.S.C. § 1251 et seq.) or any state statute, including any regulations promulgated thereunder, for any occurrence or event with respect to the Facilities occurring subsequent to the Effective Time, provided however that this covenant not to sue shall not apply with respect to any affirmative acts of operation or disposal by such persons with respect to the Facilities occurring after the abandonment authorized herein. This covenant not to sue does not pertain to any matters other than those specified in this paragraph.

11. In consideration for the Agent's agreement to allow the Debtors to use an additional amount of cash collateral up to \$10,000 to continue the current environmental monitoring and oversight of the West Helena Facility until 5:00 pm Eastern Standard Time on Friday, October 18, 2002 (after which time the

ADEQ or its agent will enter upon the site and assure continued environmental monitoring and oversight of the West Helena Facility), the ADEQ hereby and forever discharges, releases and covenants not to sue, to take any other civil judicial or administrative action (including for injunctive relief) against, or to seek any reimbursement of past or future response costs against, the Agent or any of the Secured Lenders in respect of any hazardous substances, pollutants, contaminants or other environmental conditions, present or existing on or under, or emanating from, the West Helena Facility from the beginning or time until 5:00 pm Eastern Standard Time on Friday, October 18, 2002, including, without limitation, pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Sections 9601 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901 et seq.), the Clean Air Act (42 U.S.C. Sections 7401 et seq.), the Clean Water Act (42 U.S.C. Sections 1251 et seq.), and Titles 8 and 15 of the Arkansas Code, in each case as amended and including any regulations promulgated thereunder. This Stipulation and Order settles and resolves, without the admission or adjudication of any issue of fact or law, the Agent's and each of the Secured Lenders' potential liability to the ADEQ, with respect to all matters addressed herein, and the Agent and each of the Secured Lenders shall be entitled to protection against contribution claims to the maximum extent provided pursuant to 42 U.S.C. Section 9613(f)(2).

12. After the Effective Time, the EPA and ADEQ, and their agents, shall at all times have the right to access the West Helena Facility for purposes of continuing the operation of the ponds and wastewater systems, as the Agencies deem appropriate, conducting investigations relating to contamination at or near the West Helena Facility, obtaining samples, assessing the need for, planning, or implementing additional response measures, or performing any and all removal or remedial activities, corrective actions

or response measures. Debtors agree to request that ENSAFE provide ADEQ copies of any documents generated, collected or otherwise in the possession of ENSAFE that relate to the West Helena Facility.

13. The Debtors are authorized to cancel any insurance policies pertaining to the Facilities as of the Effective Time, except to the extent the premiums for such insurance coverage have been paid in full and the Debtors would not be entitled to a refund, if such insurance coverage was canceled.

14. After the Effective Time, the EPA and MDEQ, and their agents, shall at all times have the right to access the Vicksburg Facility for purposes of continuing the operation of the ponds and wastewater systems, as the Agencies deem appropriate, conducting investigations relating to contamination at or near the Vicksburg Facility, obtaining samples, assessing the need for, planning, or implementing additional response measures, or performing any and all removal or remedial activities, corrective actions or response measures. This provision shall not act in derogation of Miss. Code Ann. § 49-17-21 or pre-existing state permit conditions with regard to access.

15. With the consent of the Secured Lenders, all mortgages, liens and other security interests held by the Secured Lenders in the Facilities or any part thereof, including the land and any buildings, structures, improvements, facilities, equipment, fixtures, and other tangible chattels and articles of tangible personal property thereon, therein or thereunder (the "Secured Lender Liens"), shall be, and are hereby unconditionally and irrevocably deemed released, discharged and terminated as of the Effective Time and the abandonment of the West Helena Facility to the Cedar non-bankruptcy estate and the abandonment of the Vicksburg Facility to the Vicksburg non-bankruptcy estate shall, in each case, be free and clear of the Secured Lender Liens, and this Stipulation and Order shall be binding upon and govern the acts of all entities, including, without limitation, all filing agents, filing officers, title agents, title companies, administrative

agencies, governmental departments, secretaries of state, federal, state and local officials and all other persons and entities who may be required, by operation of law, the duties of their office or contract, to accept, file, register or otherwise record or release any documents or instruments.

16. Upon written request by the ADEQ, the Cedar non-bankruptcy estate shall convey title to the West Helena Facility or parts thereof to any entity identified by the ADEQ, and upon written request by the MDEQ, the Vicksburg non-bankruptcy estate shall convey title to the Vicksburg Facility or parts thereof to any entity identified by the MDEQ. Any consideration received for the transfer of the respective Facilities or parts thereof shall be applied to the environmental cleanup of the respective Facilities and shall be treated as a contribution by the Debtors to such cleanup. Any entity to whom the Facilities or any parts thereof are transferred shall be given a copy of the Stipulation and Order and shall be bound by its terms.

17. Absent an objection, the leases for personal property located at the Facilities (the "Facility Leases"), a schedule of certain of such leases is annexed hereto as Schedule I, shall be deemed rejected pursuant to section 365(a) of the Bankruptcy Code, as of one day subsequent to the date that the Debtors provide the lessors under the Facility Leases (the "Lessors") with notice by overnight delivery of such proposed rejection. Such notice also shall provide (i) for a ten-day period within which such Lessors may file an objection to such rejection and (ii) that the Lessors should immediately contact Mr. Philip Gund, the Debtors' "Restructuring Officer" or a person designated by Mr. Gund to arrange for a pick-up of the personal property under the Facility Leases.

18. MDEQ, by its agreement to this Stipulation and Order, does not waive any defenses created by Miss. Code Ann. § 11-46-9, nor accept any liabilities not otherwise imposed by operation of law.

19. The Debtors waive and relinquish their interest, if any, in (i) Trustmark National Bank Trust and Asset Management Account No. 35-L903-00-8; (ii) Trust Agreement dated October 6, 1982 between Vertac Chemical Corporation, as Grantor and First National Bank, as Trustee (the "EPA Agreement"); (iii) Trust Agreement dated October 6, 1982 between Vertac Chemical Corporation, as Grantor and First National Bank, as Trustee (the "Mississippi Department of Natural Resources Agreement"); and (iv) Amendment dated June 27, 1986 to the Mississippi Department of Natural Resources Agreement.

20. Each signatory to this Stipulation and Order certifies that he or she is authorized to enter into the terms and conditions of this Stipulation and Order and to bind legally the party represented by him or her except that the execution of this Stipulation and Order by the Assistant Attorney General is required with respect to the United States.

21. This Stipulation and Order shall be deemed a "Final Order" when (i) the time to appeal or seek review, rehearing, reargument or certiorari has expired and no stay of appeal is in effect or petition for review, rehearing, reargument or certiorari proceeding is pending; or (ii) an appeal of this Stipulation and Order has been affirmed and the time for further appeal has expired.

22. As a contribution to the environmental cleanup of the Facilities, the Debtors shall pay \$200,000 to the ADEQ and \$200,000 to the MDEQ from the "proceeds of any sale by the Debtors of the EPA Registrations" deposited into "Avoidance Realization Account" as provided in paragraph 19 of the "Final Order (i) Authorizing Use of Cash Collateral (ii) Providing for Adequate Protection and (iii) Granting Related Relief dated August 21, 2002 (the "Final Cash Collateral Order"), notwithstanding any provisions in the Final Cash Collateral Order to the contrary, but only to the extent the ADEQ and MDEQ

are granted allowed administrative claims in those amounts under section 503(b) of the Bankruptcy Code. The MDEQ and ADEQ shall be entitled to such an administrative priority to the extent that they can demonstrate that such expenses were incurred with respect to the Facilities and were consistent with applicable environmental laws. The ADEQ and MDEQ agree that the Debtors or any chapter 7 trustee in the Debtors' cases will have no administrative expense liability to the MDEQ and ADEQ in excess of the \$200,000 claims provided herein. Solely in connection with the confirmation of a chapter 11 plan, the Agencies agree not to object to a plan on the basis of section 1129(a) (9)(A) of the Bankruptcy Code. The abandonment of the Facilities and payment of \$400,000 shall be without prejudice to additional administrative expenses or general unsecured claims of the United States, except to the extent that the United States asserts a claim as an assignee of ADEQ or MDEQ. Nothing in this Stipulation and Order shall waive or prejudice any right of any party to object to additional claims by the EPA on any ground other than a lack of an entitlement to an administrative priority based on the abandonment of the Facilities. The United States may perfect a lien for its costs with respect to the Facilities on the abandoned property to the extent permitted by applicable law.

23. The Debtors are authorized to transfer or otherwise make available all books and records relating to the Vicksburg Facility and/or the West Helena Facility (the "Facility Books and Records") to any Agency making such request without further order of the Court. Subject to further order of the Court, the Debtors shall secure and preserve the Facility Books and Records until such time as they are transferred to an Agency and provide each of the Agencies at least ten (10) days notice of their intention to destroy or discard any of the Facility Books and Records or transfer such Facility Books and Records to one of the Agencies.

24. The Debtors are hereby authorized to execute and deliver any instrument and perform any other act that is necessary in order to effectuate the purposes of this Stipulation and Order.

25. This Court shall retain jurisdiction to hear and determine any matter arising from or relating to this Stipulation and Order.

Dated: October 18, 2002

FOR THE DEBTORS

/S/ _____
Yehuda Yoked, President
Cedar Chemical Corporation

/S/ _____
Yehuda Yoked, President
Vicksburg Chemical Company

AGREED as to paragraphs 1 through 7 (inclusively), 11, 15, 20, 21, 24 and 25. NO OBJECTION as to the remaining paragraphs.

FOR THE AGENT, ON BEHALF OF
THE SECURED LENDERS

Dated: October 18, 2002

/S/ _____
Benjamin Kaminetzky (BK 7741)
DAVIS POLK & WARDWELL
450 Lexington Avenue
New York, New York 10017

Counsel for JPMorgan Chase Bank, as
Agent for the Secured Lenders

Except as to paragraph 9, and subject to the approval of the Assistant Attorney General:

Dated: New York, New York
October 17, 2002

JAMES B. COMEY
United States Attorney for the
Southern District of New York
Attorney for the United States

By: /S/ _____
David J. Kennedy (DK-8307)
Assistant United States Attorney
100 Church Street - 19th Floor
New York, New York 10007
Temp. Tel: (718) 422-5649
Temp. Fax: (718) 422-1789

Except as to paragraph 9:

Dated: Washington, DC
October __, 2002

THOMAS L. SANSONETTI
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044 - 7611

Except as to paragraph 9, and subject to the approval of the Assistant Attorney General:

Dated: Atlanta, Georgia
October 18, 2002

Region 4

/S/ _____
J. I. PALMER, Jr.
Regional Administrator
U.S. Environmental Protection Agency,
61 Forsyth Street, S.E.
Atlanta, Georgia 30303
(404) 562-9674; telefax: (404) 562-9664

Except as to paragraph 9, and subject to the approval of the Assistant Attorney General:

Dated: Dallas, Texas
October 17, 2002

/S/ _____
MARK A. PEYCKE
Chief, Superfund Branch
Office of Regional Counsel, Region 6
1445 Ross Avenue, Ste. 1200
Dallas, Texas 75202
(214) 665-3159; telefax: (214) 665-6460

Dated: October 17, 2002

FOR THE MISSISSIPPI DEPARTMENT OF
ENVIRONMENTAL QUALITY AND THE
MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

/S/ _____
Charles H. Chisolm
Executive Director

Dated: October 17, 2002

/S/ _____
Chuck D. Barlow
General Counsel

Dated: October 18, 2002

FOR THE ARKANSAS DEPARTMENT
OF ENVIRONMENTAL QUALITY

/S/ _____
Marcus Devine
Director

IT IS SO ORDERED:

Dated: New York, New York
October 18, 2002

/s/ STUART M. BERNSTEIN
Chief United States Bankruptcy Judge

**MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
P.O. Box 20305**

Jackson, Mississippi 39289-1305

Tel: (601) 961-5076

Chuck D. Barlow (CDB-8430)

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156 West 56th Street

New York, New York 10019

Tel: (212) 237-1000

James J. Periconi (JJP-3184)

**Attorneys for Mississippi Commission on Environmental Quality and
Mississippi Department of Environmental Quality**

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE SOUTHERN DISTRICT OF NEW YORK**

In re:

Chapter 11

**CEDAR CHEMICAL CORPORATION
and VICKSBURG CHEMICAL COMPANY**

**Case Nos: 02-11039 (SMB) and
02-11040 (SMB)**

Debtors

**OBJECTION OF THE MISSISSIPPI COMMISSION ON ENVIRONMENTAL
QUALITY AND THE MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
TO DEBTORS' MOTION TO ABANDON ITS VICKSBURG,
WARREN COUNTY, MISSISSIPPI FACILITY**

STATE OF MISSISSIPPI)
)
COUNTY OF HINDS)

Chuck D. Barlow, being duly sworn, deposes and states:

1. I am General Counsel of the Mississippi Commission on Environmental

Quality (the Commission) and the Mississippi Department of Environmental Quality (MDEQ), and an attorney duly admitted to the Bar of the State of Mississippi and to the federal Court for the Northern and Southern Districts of Mississippi, the United States Court of Appeals for the Fifth Circuit, and the United States Supreme Court. I submit, by affidavit, this Objection of the Commission and MDEQ to Debtors' Motion to Abandon its Vicksburg Chemical Company facility in Warren County, Mississippi (VCC), on the grounds that this Court lacks jurisdiction to grant the relief requested in Debtors' motion, or, in the alternative, upon accepting jurisdiction, to deny Debtors' motion. The factual portion of this submission is based upon my review of the background to the VCC facility in Mississippi, including MDEQ files, and discussions with MDEQ personnel. The factual grounds of this submission will be further supported by testimony and documents to be adduced and submitted by MDEQ personnel at a plenary hearing that we will respectfully seek at the September 25, 2002 hearing on Debtors' motion and status conference, to set for the near future.

I. Introduction.

Debtors' Motion to Abandon its Vicksburg, Mississippi Facility (VCC) is an attempt to escape Debtors' duty to comply with environmental permits, orders, laws, and regulations designed to protect human health and the environment. VCC is grossly contaminated with significant levels of at least fourteen known carcinogens and a number of other contaminants. VCC is located in close proximity to residential and recreational areas and in a predominantly minority city. VCC requires constant operation, maintenance and electrical service in order to prevent specific identified environmental catastrophes. VCC has failed to comply with its

environmental permits and orders, laws, and regulations applicable to proper closure of its site.¹ Debtors' bad faith is even more evident when one considers that Debtors have had no discussions with the Mississippi Commission on Environmental Quality (Commission) and/or the Mississippi Department of Environmental Quality (MDEQ) regarding abandonment of VCC, with the exception that they forwarded a copy of their motion to MDEQ counsel after being hounded to do so.

The Commission and MDEQ respectfully request that this Court determine that it lacks jurisdiction to grant the relief requested in Debtors' motion, or, in the alternative, that the Court deny Debtors' motion.

II. The Commission And MDEQ, Acting On Behalf Of The State Of Mississippi, Are Interested Parties.

The Commission, a seven-member body appointed by the Governor of Mississippi, is authorized to develop, implement, and enforce environmental policy in Mississippi. Among other duties, the Commission adopts air and water pollution control regulations, including air and water pollution control permit requirements, and conducts enforcement of permit and regulatory violations. The regulations adopted by the Commission set the requirements that must be met by applicants in order to obtain a permit from the Mississippi Environmental Quality Permit Board (Permit Board). By adopting regulations and carrying out enforcement actions in the areas of water pollution control, air pollution control, solid (nonhazardous) waste, and hazardous waste, the Commission administers programs under several federal environmental laws through

¹VCC's NPDES (Clean Water Act) permit, Part III.B, requires VCC to submit a Closure Plan to the Mississippi Environmental Quality Permit Board no later than 90 days prior to closing the VCC facility. VCC has not submitted a closure plan to date.

delegation agreements with the United States Environmental Protection Agency (USEPA). *See* Miss. Code Ann. §§ 49-2-1, *et seq.*; 49-17-1, *et seq.*

The authority of the Permit Board is much more limited and specific, but is crucial to this litigation. Miss. Code Ann. § 49-17-29 (Supp. 1997) describes the Permit Board as:

[T]he exclusive administrative body to make decisions on permit issuance, denial, modification or revocation of air pollution control and water pollution control permits and permits required under the Solid Wastes Disposal Law of 1974 (Title 17, Chapter 17).

Transfers of permits are, by definition, modifications. The Permit Board may require applicants to submit application information regarding facilities and projects “as it deems necessary” for making a decision on that permit. MDEQ serves as the technical, administrative, and legal staff for both the Commission and the Permit Board.

III. This Court Lacks Jurisdiction To Grant The Relief Requested Through The Debtor’s Motion To Abandon.

A. Granting The Current Motion Would Violate The Eleventh Amendment Immunity of the State of Mississippi.

The interrelation of the Bankruptcy Code and the Eleventh Amendment has become a major point of contention since the Supreme Court issued its decision in *Seminole Tribe v. Florida*, 517 U.S. 44 (1996), strengthening the Court’s interpretation of the Eleventh Amendment’s protection of States from the jurisdiction of federal courts. Since that time various actions of Bankruptcy Courts implicating the authority or property of a State have been reversed because of the Eleventh Amendment’s jurisdictional bar. *See, e.g., In re NVR, LP*, 189 F.3d 442, 450-55 (4th Cir. 1999), *cert. denied*, 528 U.S. 1117 (2000) (discussing cases). The current Motion To Abandon urges this Court to grant relief to the Debtor that would violate the Eleventh

Amendment in ways similar to those listed in *NVR*. By stating this objection, the Commission and MDEQ do not submit to the jurisdiction of this Court, but appear to argue in favor of the application of 11th Amendment immunity. Neither the Commission nor MDEQ is authorized to waive 11th Amendment immunity on behalf of the State of Mississippi.

The Vicksburg facility operates under two environmental permits issued by the Mississippi Environmental Quality Permit Board ("Permit Board"), the exclusive entity in Mississippi authorized to issue such permits. The Permit Board issued the facility's National Pollutant Discharge Elimination System Permit ("NPDES") under authority granted by USEPA through delegation agreements entered pursuant to the federal Clean Water Act and under the authority of Miss. Code Ann. §§ 49-17-28 and 49-17-29 (Rev. 1999). Similarly, the Permit Board has issued a Clean Air Act Title V Operating Permit to the facility pursuant to Mississippi statute authority and state-federal delegation agreements. Under these state statutes and state-federal delegation agreements, no other agency has the initial authority to issue the environmental permits necessary for this facility to operate its production facility or to continue to operate its remedial wastewater treatment system. Also, no other agency has the authority to transfer these permits from one permittee to another as ownership of the property changes. For the ownership of this property to transfer without the Permit Board's approval of the related transfer of environmental permits violates state law, because the new owner would be operating the facility without the permits required by the federal Clean Water Act and Clean Air Act and by Miss. Code Ann. § 49-17-29. Also, transfer of this property without Permit Board approval would violate the Title V permit, § 1.20, the NPDES Permit, Chapter One, § III.B., and the state regulations on which those requirements are based. See Mississippi Commission on

Environmental Quality Air Emissions Operating Permit Regulations For The Purposes Of Title V Of The Federal Clean Air Act (APC-S-6), § IV.D.4; Mississippi Commission on Environmental Quality Wastewater Regulations For National Pollutant Discharge Elimination System (NPDES) Permits, Underground Injection Control (UIC) Permits, State Permits, Water Quality Based Effluent Limitations And Water Quality Certification (WPC-1), Chapter One, § V.C.2(b).

The approval of a transfer to USEPA is problematic. USEPA has no statutory authority to own or lease the Vicksburg Chemical facility. The Permit Board is precluded by Mississippi regulation from issuing a Title V or NPDES permit to an entity that does not control the real property on which a facility is located. WPC-1, Chapter One, § I.C.1(f).² Therefore, this Court's grant of the Debtor's motion will directly usurp the authority of the Permit Board, and thus of the State of Mississippi, in two ways: (1) The State's environmental permitting and permit transfer regulations will be rendered meaningless, because the property and the ongoing wastewater disposal process will be transferred from one entity to another without the approval of the Permit Board and without affording the Permit Board the opportunity to condition the permits as it would see appropriate; and (2) The State would be forced to deny the permit transfers or to transfer the permits in violation of its own regulations, because USEPA has no authority to own or lease the real property at issue.

Additionally, it is unclear how the state-issued NPDES permit would maintain viability if the State was forced to transfer the permit to USEPA - the federal agency that delegates federal authority to the State to issue the permit in the first place. If violations of the permit then

²That regulation requires that control be demonstrated through "ownership, lease, eminent domain, easement, license, and/or contract."

occurred, to whom would the Commission initiate an enforcement action against—USEPA Region 4? It is unlikely that the federal government would consent to be made a party to a state administrative enforcement proceeding or to state-court litigation.

Transfer of the Vicksburg property to USEPA also would place an eventual financial burden directly on the State of Mississippi. For USEPA fully to remediate this grossly contaminated facility, the facility must be placed on the National Priorities List (“NPL”) created by the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. § 9601 *et seq.* See 40 C.F.R. pt. 300 (the National Contingency Plan, addressing procedures for USEPA removals and remediation activities). It is unlikely that this site will rank highly enough on USEPA’s Hazard Ranking System to qualify for NPL listing if it has not already done so during twelve years of facility assessment.

If the site does qualify for NPL listing, and USEPA spends response costs at the site necessary to completely remediate the site, the State will be required to reimburse the federal government at least ten percent of the response costs. 40 C.F.R. § 300.510(b)(1). If the site does not qualify for NPL listing, MDEQ’s experience over the years indicates that USEPA will be very limited in the funds that it can spend at the site (a limitation to approximately \$2,000,000). After spending this amount to stabilize the site or to remediate the most immediately threatening problems, USEPA likely would inform the State that the State would have to conduct any further remediation activities. For example, for non-NPL sites that contain both surface soil contamination and groundwater contamination, USEPA usually will remediate the soil contamination (up to an expenditure of approximately \$2,000,000) and then will hand the site to the State for the much more costly groundwater remediation.

Any order of this Court placing these burdens on the State of Mississippi would violate the Eleventh Amendment. As discussed in *In re NVR, LP*, 189 F.3d 442, 450-55 (4th Cir. 1999), *cert. denied*, 528 U.S. 1117 (2000), a contested matter in bankruptcy becomes an Eleventh Amendment issue when “the federal courts exercise jurisdiction over the states.” 189 F.3d at 453. In the bankruptcy context, jurisdiction is exercised by the court not only when the State is hauled into court through a summons in an adversarial proceeding, but also when the remedy the Debtor is seeking in a contested matter would require the State to take certain action, or the court’s decision on the motion would be meaningless. *Id.* In *NVR*, the court’s action would have had no effect had the court not ordered the States of Maryland and Pennsylvania to reimburse certain tax payments to the debtor. Here, the court’s abandonment ruling would be meaningless because, unless the court seeks to order the Permit Board to transfer permits to USEPA, a step that would violate state regulations, the State will continue to require compliance with the NPDES and Title V permits *from Vicksburg Chemical, the permittee* and it is in no manner certain that the Permit Board, of its own volition, would approve a transfer of these permits to USEPA.

Also, as explained above, the Court’s grant of this motion would “demand[] affirmative action by [Mississippi],” and would create a burden on “an unconsenting state’s treasury,” two other indications that the Court’s action would violate the Eleventh Amendment. *Id.* Mississippi asserts that the conclusion to this issue should be that reached in *NVR*: “In sum, despite the fact that neither Maryland nor Pennsylvania suffered the indignity of being summonsed to appear in a federal court, we determine that they are immune from the prosecution of *NVR*’s Rule 9014 motion.” *Id.*

B. Pursuant To The Local Action Rule, This Court Lacks Jurisdiction To Involuntarily Transfer Ownership Of Real Property Located In Mississippi.

Federal courts do not have jurisdiction to determine “local actions”--cases that directly affect the ownership of real property (or even torts, such as trespass, arising directly from the existence of real property) located in another state. *Hayes v. Gulf Oil Corp.*, 821 F.2d 285, 287 (5th Cir. 1987) (citing *Ellenwood v. Marietta Chair Co.*, 158 U.S. 105, 107 (1895); *Livingston v. Jefferson*, 15 F. Cas. 660 (C.C.D. Va. 1811)). “The local action rule is so fundamental that state courts are not obligated to give full faith and credit to judgments from either federal or state courts sitting outside the local state’s territorial boundaries.” *Id.* An action is “local”, even when *in personam*, when the action at issue is so closely tied to the real property that it could only occur in that State. *Id.* at 287-88. The Fifth Circuit held in *Hayes* that an action to terminate a party’s interest in real estate is a local action, and that the local action rule stands as a limitation on federal question and diversity jurisdiction similar to the federal court’s refusal to hear probate and domestic relations cases. The Fifth Circuit stated:

Equally cogent reasons also underlie application of the local action doctrine. Contrary to *Hayes* assertions, the rule is not out-dated and archaic. The rationale for the rule is as forceful today as it was in Chief Justice Marshall’s time, and remains as, if not more, compelling than the domestic relations or probate exceptions. If litigants were free to file claims to the same Colorado real property in different federal and state courts throughout the country, the State of Colorado could not give conflicting judgments full faith and credit. More significantly, title to real estate would never be certain again since it could be involved in unknown claims in unknown fora with no practical method for control of liens, *lis pendens* or priority of title claims. State land title records would become unmanageable. The local action rule prevents courts unfamiliar with local property rights and laws from interfering with title to real property which must be recorded under a unitary set of rules to keep it free of conflicting encumbrances. These local rules ensure that real property actions will be tried in a convenient forum and that orderly notice to all interested parties—through Colorado land title records—will be facilitated.

Id. at 290.

Another issue that arises specifically from the management of contaminated land and which local state officials have particular knowledge concerning is the facility's potential to implicate environmental justice concerns. Both USEPA and MDEQ have raised the concern that this facility's location and condition implicates environmental justice considerations, and on a recent inspection MDEQ documented at least two minority or low-income neighborhoods located within one-half mile of the Vicksburg Chemical gates. These are highly sensitive issues which MDEQ, the Commission, and the Permit Board will have to consider in taking any action at this facility, including permit transfers and the approval of VCC's yet-to-be-submitted closure plan.

The local action rule is similar to the rule that a court can exercise jurisdiction over an item *in rem* only if the item is within the territorial jurisdiction of the court. To that end, the Southern District of New York has determined that a Bankruptcy Court has no *in rem* jurisdiction of property of the Debtor located on a boat beyond the borders of New York. *In re Millenium Seacarriers, Inc.*, 275 B.R. 690, 698 (Bankr. S.D.N.Y. 2002). *See Impala Trading Corp. V. Hawthorne Lumber Co.*, 200 F. Supp. 261 (S.D.N.Y. 1961). The local action rule also has been applied or discussed in various situations by the Second Circuit, *see Pasos v. Pan American Airways, Inc.*, 229 F.2d 271 (2d Cir. 1956), the Third, Fourth, and Sixth Circuits, *see Hayes*, 821 F.2d at 287 (citing cases), and the Ninth Circuit, *United States v. Byrne*, 291 F.3d 1056 (9th Cir. 2002).

IV. In The Alternative, Debtors' Abuse Of The Bankruptcy Process Alone Warrants Denial Of Its Motion To Abandon.

Abandonment contemplated by 11 U.S.C. § 554 is essentially an automatic process if either factor is established as follows: "After notice and a hearing, the trustee may abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate." *In re Manchester Heights Assoc.*, 165 B.R. 42, 44 (Bankr. W.D. Mo. 1994). The legislative history of 11 U.S.C. Section 554 indicates that a Debtor can transfer property through abandonment only to a party that has a possessory interest in the asset. *Id.* "Abandonment cannot be used, 'as a means of effecting a transfer of title.'" *Id.* (citing *In re R-B-Co., Inc. Of Bossier*, 59 B.R. 43 (Bankr. W.D. La. 1986). Debtors' attempt to effect an involuntary transfer of its Vicksburg site is an abuse of the bankruptcy process which in and of itself warrants this Court's denial of Debtors' motion. In addition, immediate identifiable hazards to human health and the environment in the event of abandonment require that Debtors' motion be denied.

V. Immediate And Identifiable Human Health And Environmental Dangers Require That Debtors' Motion Be Denied.

A. Contaminated Runoff Occurs From The VCC Site With Every Rainfall Event, And If The Runoff Collection And Treatment System Is Not Properly Operated And Maintained, A Ten-Mile Stretch Of Hennesseys Bayou Will Be Impacted.

The most significant immediate identifiable hazard to human health and the environment of Debtors' Vicksburg site is the gross contamination carried by stormwater runoff. Debtor has admitted that VCC is severely contaminated through testimony of its expert witness Gary

Dietrich during a hearing before the Commission as early as 1987. The Commission's Order No. 1253-87 documents the admission as follow:

Dietrich testified that in his opinion the impoundment does serve an important environmental function and the closure of the impoundment would cause that function to be lost. He explained that the entire plant site which operated for many years prior to the adoption of the present environmental regulations is contaminated and the impoundment serves as a collection point for rain water runoff from the plant site. Dietrich further suggested that in the event of a large chemical spill, *the impoundment would serve a a catch basin and without it, such a spill would quickly leak to navigable streams and waters.*

Commission Order No. 1253-87 (August 5, 1987). (Emphasis added).

A discussion of the VCC plant site is necessary to an understanding of the widespread contamination and associated immediate dangers. VCC is composed of a north plant and a south plant. The north plant process area exposes acid, bleach, caustic, and other toxic pollutants to stormwater. When a rainfall event occurs, the stormwater commingles with the pollutants and sediment and carries a turbid hazardous wastewater to a sump located on the north plant. The contaminated runoff is pumped by electrical pumps and piped to treatment ponds located at least 200 yards away in the area of the south plant. The north plant sump capacity is less than 1000 gallons. One overflow of contaminated stormwater could essentially kill Hennesseys Bayou, which flows adjacent to the VCC site and empties into the Mississippi River approximately ten miles downstream. The south plant and surrounding areas (including former process areas) drain to the south sump, which has a capacity of approximately 31,000 gallons. The south plant sump is the lowest elevation of the VCC site. The wastewater draining to the south plant is contaminated with acid, caustic, and sediment pollutants (similar to the north plant) and with arsenic, toxaphene and Dinoseb, which are known toxins. The contents of the south plant sump

are pumped by electrical pumps to the treatment ponds where the wastewater from both plants are mixed, treated, and eventually pumped and piped to a discharge point in the Mississippi River.

After the wastestreams are pumped to the treatment ponds for settling and equalization, the wastewater goes through a pH adjustment. A pH adjustment involves the addition of sulphuric acid or caustic, depending on whether the wastestream is alkaline or acidic. The final phase of treatment consists of force-pumping the wastewater through carbon absorption. Carbon absorption transfers pollutants in the liquid phase to the activated carbon in a solid phase. The result is relatively clean water, with the pollutants trapped in the activated carbon. A properly operated and maintained carbon absorption system is effective in removing organics such as gasoline, benzene, toluene, nitrobenzene, chlorophenols, pesticides (including Dinoseb and toxaphene), herbicides, carbon tetrachloride, trichloroethene, and PCBs.

VCC's process area is approximately 20 acres. Given a one-inch rainfall, the stormwater run-off volume is approximately 543,000 gallons. If not operated properly and continuously during a rainfall event, the north and south wastewater sumps would instantly be overwhelmed and would overflow into Hennesseys Bayou. The overflow would contain untreated toxins that would leave the plant perimeter, immediately endangering human health and the environment. The ponds have a total volume of 6 million gallons when cleared of sediment and sludge and completely empty. But these ponds are never empty and are in constant need of sediment removal. A three-inch rainfall generates over 1.6 million gallons of wastewater. This is not an uncommon rainfall event in the Vicksburg area. Two or more rainfalls of that magnitude would inundate the ponds.

B. Deposition Of Hazardous Contaminants On Church Recreation Fields Where Children And Adults Recreate Would Be An Imminent, Immediate Hazard To Human Health.

Breach of VCC's wastewater treatment lagoons would dump contaminated sediments onto Bowmar Baptist Church's recreational fields, which border the banks of Hennesseys Bayou directly across from VCC's property. This situation creates a direct exposure route for deposited contaminants to church members (primarily children) using the recreational fields. Many of the contaminants occur on VCC's site at significantly high levels, as described in more detail herein.

C. An Old Landfill On VCC's Site That Contains Hazardous Wastes Borders Hennesseys Bayou.

Documents filed by VCC with MDEQ reference an abandoned landfill located on VCC's site within 200 feet of Hennesseys Bayou. VCC's own report states that at present a portion of this landfill's cover has eroded away on the southwest edge nearest Hennesseys Bayou, which allows the direct discharge of any contaminants in the landfill to the Bayou. It is reported that a variety of waste is disposed in this landfill, including hazardous waste. In addition, VCC has reported to MDEQ that when sediment is removed from the treatment ponds, it is spread over the top of this old landfill. This sediment is contaminated with the constituents in VCC's wastestream. To make matters even worse, the landfill is not lined. Failure to properly monitor and maintain this landfill will result in waste, some hazardous, being dumped into Hennesseys Bayou. Since the landfill is unlined, migration of contamination into groundwater is inevitable. Documents filed with MDEQ by VCC report that the shallow groundwater under its site is hydraulically connected with surface water (including Hennesseys Bayou) and that it is probable that Hennesseys Bayou will be impacted by groundwater contamination from the site.

Continuing groundwater monitoring and maintenance of the landfill are critical to prevent migration of contamination into Hennesseys Bayou.

D. Other Imminent, Immediate Hazards Involve Products And Wastes On Site.

MDEQ staff inspected the VCC site on August 21, 2002. Although VCC has taken some action to remove existing product and waste, MDEQ found the following: approximately 30,000 pounds of Nitrogen Tetroxide, a partial rail car of Chlorine, approximately 90,000 gallons of Nitric acid, Potassium Nitrate, gasoline/diesel bulk cars, various lab chemicals from two on-site laboratories, bulk tote-bins of Cobalt Octo-ate, Nitric and Sulfuric acids, and various other materials. Failure to remove remaining products and waste, drain process lines and other equipment will result in leaks and discharges further contaminating the environment. These leaks and discharges will also result in additional opportunities for direct exposure of these contaminants to the public.

E. Debtors' Failure To Properly Maintain Its Carbon Absorption Beds Will Result In Further Discharge Of Hazardous Contaminants.

Over one year ago, on August 21, 2001, a joint USEPA/MDEQ inspection was performed at the VCC site. During that inspection, USEPA and MDEQ Staff noted spent (used) carbon spread inside and outside the containment area of the carbon absorption units. Spent carbon from these units can be saturated with hazardous materials removed from VCC's wastestream. Staff of MDEQ and USEPA directed VCC to sample the spent carbon piles to ensure proper characterization and disposal. At the close of the August 2001 inspection, MDEQ and USEPA Staff directed VCC to correct a number of deficiencies including the spent carbon referenced above and other problem areas including piles of used oil drums, spent batteries, used tires, oil

filters and other maintenance wastes. MDEQ and USEPA directed VCC properly to dispose of these wastes to prevent further pollution of stormwater and groundwater.

On August 21, 2002, MDEQ Staff again inspected VCC after being notified of possible abandonment. MDEQ Staff noted that the carbon absorption area was in the same condition as noted in the August 2001 inspection. VCC Staff informed MDEQ that a request for funding was made to corporate offices but that the expenditures had not been approved. The condition of the carbon absorption units remains in this status. No maintenance to the activated carbon beds or the process area has occurred.

Failure to maintain the carbon beds will render the units useless in treating contaminated wastewater and will cause exposure of the environment and the public to the contaminants in the stormwater runoff. VCC advised MDEQ that new activated carbon was needed in at least 2 beds in the unit. VCC Staff advised that the clean-up and maintenance of the carbon absorption unit is not on VCC's current list of priorities, which is further evidence of VCC's flippant attitude toward environmental compliance.

F. Unrestricted Access To The Most Contaminated Portions Of VCC Exacerbates The Imminent Dangers Associated With Abandonment.

VCC currently has a manned, gated entrance on Rifle Range Road, the north plant entrance. The gate access on Dabney Drive (used in the past) is locked but not manned, making access possible with minimal effort. Unrestricted access is a major problem at the southern end of the south plant area. A rail spur from the Kansas City Southern rail line enters the plant from the south and runs the length of the plant. This entrance is not access-restricted. There are no gates or guards preventing entry from the railway. The south plant is the most contaminated

portion of VCC. It should be noted that railroad lines are traditionally popular areas for recreational walking. The lines are typically maintained, infrequently used, and have good walking surfaces. In fact, there is an effort in Mississippi to convert abandoned railroad lines into walking and cycling trails (the "Rails To Trails" Program). The public could walk unhindered and unnoticed into the south plant area, in particular the south plant sump. As previously noted, the minimal containment in this sump could easily overflow leaving an untreated wastewater stream within feet of the rail line. From the south plant sump, a person could continue into the process area of the south plant, through the former toxaphene and Dinoseb plant areas, to the wastewater treatment area, and into the north plant process area. Exposure to all the hazards of these areas would be imminent to the curious.

G. VCC Has Filed Documents With MDEQ Identifying At Least Eighteen Contaminants.

Documents developed and filed by VCC with MDEQ identify at least eighteen contaminants present at VCC, *at least fourteen of which are known carcinogens*. These contaminants include:

1. **Arsenic.** In its pure form, arsenic is a gray metal-like material. According to USEPA's Integrated Risk Information System, arsenic is a carcinogenic compound. Soil and groundwater associated with VCC's site is grossly contaminated with arsenic. Concentrations of arsenic on VCC's site are as high as 288,000 parts per billion (ppb) in groundwater and 501,000 ppb in soil. The target cleanup levels for arsenic are 50 ppb in water and 426 ppb in soil. Large doses of arsenic (above 60,000 ppb in food or water) can produce death. Ingesting lower levels of arsenic (ranging from about 300 to 30,000 ppb in food or water) can produce irritation of the

human stomach and intestines, with symptoms such as pain, nausea, vomiting, and diarrhea. Swallowing arsenic has been reported to increase the risk of cancer in the liver, bladder, kidneys and lungs. Skin contact with arsenic can cause irritation, redness and swelling. Since children have a tendency to play in dirt and put their hands in their mouths, ingestion of contaminated soil may be a more significant source of exposure for children than for adults.³

2. **Dinoseb.** Dinoseb is an organic solid used as a contact herbicide for post-emergence weed control. Concentrations of Dinoseb on VCC's site are as high as 18,821 ppb in groundwater and 8,282,600 ppb in soil. The target cleanup levels for Dinoseb are 7 ppb in water and 78,200 ppb in soil. Short-term health effects reported by USEPA include sweating, headache, and mood changes. USEPA has reported the following long-term health effects: Decreased body and thyroid weight, degeneration of testes, and thickening of intestinal lining.⁴ Dinoseb is readily absorbed through the human skin, gastrointestinal tract, and lung surface and is highly toxic to birds and fish. Use of Dinoseb was banned by USEPA in 1986 based on the potential risk of birth defects and other adverse health effects.⁵ In the event of overflow of the treatment process, Dinoseb in VCC's wastestream poses an immediate threat to the health of the receiving stream, Hennesseys Bayou.

³Toxicological Profile for Arsenic (Update), August 1998, U. S. Department of Health and Human Resources Public Health Service, Agency for Toxic Substances and Disease Registry.

⁴U.S. Environmental Protection Agency Consumer Factsheet on Dinoseb (last updated May 22, 2002).

⁵Extonet Toxicology Network Pesticide Information Profiles (Revised June 1996).

3. **Toxaphene.** Toxaphene is an insecticide which contains over 670 chemicals. Most uses of toxaphene were banned in the United States in 1982. Concentrations of toxaphene on VCC's site are as high as 110,964 ppb in soil. The target cleanup levels for toxaphene are 581 ppb in soil and 3 ppb in water. Exposure to toxaphene can occur through inhalation, ingestion and/or dermal contact. Poisoning in humans from inhaling and/or ingesting (through eating or drinking) high levels of toxaphene for brief periods has been reported to cause damage to lungs, nervous system, liver and kidneys and can cause death. According to USEPA's Integrated Risk Information System, toxaphene is a carcinogenic compound.⁶

4. **Carbon Tetrachloride.** Carbon tetrachloride is a clear liquid that evaporates very easily. Concentrations of carbon tetrachloride at VCC are as high as 357,500 ppb in groundwater and 6,659 ppb in soil. The target cleanup levels for carbon tetrachloride are 5 ppb in water and 371 ppb in soil. Exposure to carbon tetrachloride can occur by breathing air and/or ingesting water or soil or through contact with contaminated soil. The liver and kidneys are sensitive to carbon tetrachloride. The liver becomes swollen and tender with mild exposure. Severe cases can result in the damage or destruction of liver cells which leads to a decrease of liver function. With respect to the kidneys, exposure to carbon tetrachloride can result in less urine being formed and a buildup of water and waste products in the blood. High exposure to carbon tetrachloride can result in kidney failure. Exposure to high levels of carbon tetrachloride can affect the nervous system causing headaches, dizziness, sleepiness, nausea, and vomiting. In

⁶Toxicological Profile for Toxaphene, U.S. Department of Health & Human Services (December 1990) pages 1- 4.

severe cases a stupor or coma can result.⁷ According to USEPA's Integrated Risk Information System, carbon tetrachloride is a carcinogenic compound.

5. Chloroform. Chloroform is a colorless liquid with a pleasant, nonirritating odor and a slightly sweet taste. Chloroform can occur in air, water, and soil. In air, the breakdown products of chloroform include phosgene and hydrogen chloride which are more toxic than chloroform. Chloroform can enter the human body through inhalation, ingestion (food and water), and dermal contact. In humans, chloroform affects the central nervous system (brain), liver, and kidneys. Breathing high levels of chloroform for a short time causes fatigue, dizziness, and headache. Human kidneys and liver may be damaged by breathing air, eating food, or drinking water containing elevated levels of chloroform over a long period. Concentrations of chloroform at VCC are as high as 37,380 ppb in groundwater and 2186 ppb in soil. The target cleanup levels for chloroform are 0.155 ppb in water and 312 ppb in soil. According to USEPA's Integrated Risk Information System, Chloroform is a carcinogenic compound.

The following table summarizes some of the remaining contaminants identified by VCC:

Contaminant	Groundwater	MDEQ Groundwater Target Remediation Goal (TRG)	Soil	MDEQ Soil TRG
Atrazine *	146 ppb	3 ppb	3514 ppb	2880 ppb
Benzene*	23.7 ppb	5 ppb	n/a	n/a
Bromodichloro-methane*	296 ppb	0.168 ppb	165 ppb	1240 ppb

⁷Toxicological Profile for Carbon Tetrachloride, U.S. Department of Health & Human Services (May 1994), pages 1 - 5.

Chloromethane*	126 ppb	1.43 ppb	n/a	n/a
1,1-Dichloroethane*	54.6 ppb	7 ppb	n/a	n/a
1,2-Dichloroethane	1758 ppb	7 ppb	n/a	n/a
1,2-Dichloropropane	42.3 ppb	5 ppb	51.7 ppb	445
Methylene Chloride*	908 ppb	5 ppb	602 ppb	14,300 ppb
Tetrachloroethane*	180 ppb	5 ppb	n/a	n/a
1,1,2-Trichloroethane *	290 ppb	5 ppb	47.7 ppb	1090 ppb
Trichloroethane *	1346 ppb	5 ppb	n/a	n/a
Total Petroleum Hydrocarbons	n/a	n/a	15,431,000 ppb	200,000 ppb
Vinyl Chloride*	46.5 ppb	2 ppb	n/a	n/a

An * denotes a carcinogenic compound identified in USEPA's Integrated Risk Information System (IRIS).

VI. Case Law, Federal And State Law And Regulations, VCC's Permits, And Even The Bankruptcy Code Support Denial Of Debtors' Motion To Abandon.

A. Caselaw Supports Denial Of Debtors' Motion To Abandon.

It is well settled that property may not be abandoned "in contravention of state or local laws designed to protect public health or safety." *Midlantic Nat'l Bank v. New Jersey Dep't of Envtl. Protection*, 474 U.S. 494 (1986). Accordingly, "[t]he Bankruptcy Court does not have the power to authorize an abandonment without formulating conditions that will adequately protect the public's health and safety." *Id.* at 506-507. In *Midlantic*, the Court noted that the debtor in

that case had received over 470,000 gallons of highly toxic and carcinogenic waste oil and that the oil was in unguarded, deteriorating containers. *Id.* at 497. *Midlantic* further noted that the contaminated oil presented risks of explosion, fire, contamination of water supplies, destruction of natural resources, and injury, genetic damage, or death through personal contact." *Id.* at 499 n.3. MDEQ and the Commission submit that the dangers in *Midlantic* compare easily to the imminent and identifiable dangers associated with VCC in the event of abandonment. As noted above, groundwater and soil at VCC is heavily contaminated with at least eighteen contaminants, fourteen of which are carcinogenic. Unrestricted access exists to VCC's south plant, the most heavily contaminated portion. Overflow of VCC's wastewater treatment sumps and ponds will result in the event of abandonment, dumping a "witch's brew" of contaminants into Hennesseys Bayou and on neighboring fields where children and adults recreate.

Following *Midlantic*, the Western District of Pennsylvania proclaimed that "[t]he trustee may not abandon property, even if it is burdensome to the estate and is of inconsequential value and benefit to the estate, if so doing would contravene state statutes or regulations that are reasonably calculated to protect public health and safety from identified hazards." (*In re Guterl Special Steel Corp.*, 198 B.R. 128, 133, (W.D. Penn. 1996). In *Guterl Special Steel*, the Chapter 7 trustee filed a motion to abandon real property that was grossly contaminated with chemical and radioactive contamination. The Court in *Guterl* documented the serious threat to human health and safety posed by the various discarded chemicals present at the site and the fact that human contact with the compounds may result in serious illness and life-threatening conditions. The Court further noted that abandonment of the site would be in violation of state law. For the foregoing reasons, the trustee's motion to abandon was denied. *Id.* at 135.

In *Ohio v. Kovacs*, 469 U.S. 274, 285 (1985), the United States Supreme Court declared that the person in possession of a site must comply with environmental laws and that such person "may not maintain a nuisance, *pollute the waters of the State, or refuse to remove the source of such conditions.*" (Emphasis added).

In the Matter of Environmental Waste Control, Inc., 125 B.R. 546, (Bankr. N.D. Ind. 1991), the court held that a Chapter 11 debtor-in-possession would be required to comply with environmental cleanup plans ordered by state and federal agencies despite the claim of insufficient funds to complete the cleanup. The site had soil and groundwater contaminated with benzene, carbon tetrachloride, 1,2 dichloroethane, and trichloroethane, which are four of the eighteen contaminants found at VCC's site. The court held that the Debtor "must comply with environmental law and pursue cleanup and corrective action at the landfill, regardless of its financial insolvency." *Id.* at 552.

As noted above, VCC has failed to comply with state laws and regulations and its NPDES permit applicable to transfer and closure of VCC. These laws and regulations are designed to protect public health and safety and specifically include the approval of closure plans by the State's environmental regulators. *See* note 1, *supra*. The Debtor should not be allowed to ignore its regulatory obligations to the State of Mississippi, and the Commission/MDEQ respectfully suggest that this Court lacks the authority to negate those obligations and, simultaneously, urge the Court to exercise its discretion in avoiding such a conflict with state environmental regulation.

B. Federal And State Laws And Regulations And VCC's Permits Support Denial Of Debtors' Motion.

28 U.S.C. Section 959 requires that:

A Trustee, receiver or manager appointed in any cause pending in any court of the United States, including a debtor in possession, shall manage and operate the property in his possession as such trustee, receiver or manager according to the requirements of the valid laws of the State in which such property is situated, in the same manner that the owner or possessor thereof would be bound to do if in possession thereof.

VCC has not complied with Mississippi law and regulations applicable to the operation and closure of its plant. Miss. Code Ann. Section 49-17-29 provides that the modification of any environmental permit, such as a transfer to another owner or a change in operation due to closure, must be approved by the Mississippi Environmental Quality Permit Board. The corresponding regulation related to transfer of VCC's NPDES Permit provides as follows:

A permit transfer shall be approved if the applicant for transfer approval can demonstrate to the Permit Board it has the financial resources, operational expertise and environmental compliance history over the last five years to insure compliance with the terms and conditions of the permit to be transferred.

WPC-1, Chapter One, § V.C.2.c.

The regulation relating to transfer of VCC's Title V permit is almost identical. VCC has filed no applications for transfer of either its NPDES or Title V permits. In addition, VCC has not complied with its permits and Commission regulations regarding closure of its facility. With regard to closure, VCC's NPDES Permit, Part. III.B., provides as follows:

Should the permittee decide to permanently close and abandon the premises upon which it operates, it shall provide a Closure Plan to the Permit Board no later than 90 days prior to doing so. This Closure Plan shall address how and when all manufactured products, byproducts, raw materials, stored chemicals, and solid and liquid waste and residues will be removed from the premises or permanently disposed of on site such that no potential environmental hazard to the waters of

the State will be presented. Closure plan(s) submitted to and approved by Mississippi Department of Environmental Quality for compliance with other environmental regulations will satisfy the closure requirements for those items specifically addressed in the closure plan(s) as long as the closure does not present a potential for environmental hazard to waters of the State.

The corresponding Commission regulation relating to closure provides as follows:

When issuing a State or NPDES permit pursuant to the State law and this regulation, the Permit Board shall require submittal of a Closure Plan no later than 90 days prior to abandonment and permanent closure of the premises. The Closure Plan shall address how and when all manufactured products, by-products, raw materials, stored chemicals, and solid and liquid waste and residues will be removed from the premises so that no potential environmental hazard to the waters of the State will be presented.

WPC-1, Chapter One, § IV.A.11.

Additionally, VCC's abandonment could very well result in application of RCRA regulations relating to closure to the site due to the presence of large amounts of hazardous waste onsite. These regulations have been adopted as Mississippi Hazardous Waste Management Regulations and provide as follows:

Section 265.111 Closure performance standard.

The owner or operator must close the facility in a manner that:

- (a) Minimizes the need for further maintenance, and
- (b) Controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run-off, or hazardous waste decomposition products to the ground or surface waters or to the atmosphere,

Section 265.114 Disposal or decontamination of equipment, structures and soils.

During the partial and final closure periods, all contaminated equipment, structures and soil must be properly disposed of, or decontaminated unless specified otherwise in Sections 265.197, 265.228, 265.258, 265.280, or 265.310.

VCC also must comply with Commission Order No. 1253-87 which provides as follows:

[G]roundwater monitoring has been required of this facility pursuant not only to the regulations, but also on the basis of the Clean Water Act. [Cedar Chemical] continues to have a responsibility to sample and analyze groundwater monitoring wells that have been installed on the perimeter of the surface impoundment on a regular basis and to report the analytical results of such samples to the [MDEQ] on a quarterly basis. In the event the [MDEQ] should determine on the basis of such analytical results the corrective action is *necessary to protect human health or the environment*, the [MDEQ] still maintains the power and indeed the duty to require the Respondent to implement such corrective action as shall be reasonably required. Cedar Chemical maintains a closure trust fund for the Vicksburg Plant, which the Respondent is willing to maintain intact, in order to provide financial assurance that the surface impoundment will eventually be closed when it is no longer needed for waste management, including collection of contaminated storm water runoff. Moreover, the company maintains the responsibility of maintaining the integrity of the containment dikes around the surface impoundment. This obligation exists under both the Clean Water Act and RCRA. Further the company must continue to comply with all provisions of its NPDES permit as it pertains to the treatment and discharge of a fluid from the surface impoundment, including not only non-hazardous wastewater discharge to the surface impoundment from inorganic production operations at the plant, but also surface and storm water runoff received from the surface impoundment.

(Emphasis added).

The purpose of these laws, regulations, permits, and order is to protect the public health or safety from imminent and identifiable harm. VCC has filed neither an application for permit transfer nor a closure plan with MDEQ and, therefore, is in violation of the aforementioned laws, regulations and permits. Hence, its motion to abandon should be denied pursuant to the *Midlantic* factors.

C. The Bankruptcy Code Supports Denial Of VCC's Motion To Abandon.

11 U.S.C. Section 362 (b)(4) excepts "the commencement or continuation of an action or proceeding by a governmental unit to enforce such government unit's police or regulatory power." This Bankruptcy Code provision recognizes the importance of allowing a governmental

unit to enforce its laws and regulations even to the detriment of the Debtors' assets. As expressed in *United States v. ILCO, Inc.*, 48 B.R. 1016 (Bankr. N.D. Ala. 1985):

Congress indicated in Section 362(b), however, that preserving the debtor's estate was not always the dominant goal. The legislative history ... indicates that the enforcement of an injunction ordering compliance with environmental laws is more important than the debtor's right to have a breathing spell from its creditors or than the creditors' rights to an orderly administration of the estate.

Accordingly, it is likely that the Commission will issue an order in the near future requiring VCC to comply with the closure planning requirements of its NPDES permit.

D. The Case Most Heavily Relied Upon By Debtors Actually Supports Denial Of Debtors' Motion.

Debtors cite *In the Matter of MCI, Inc.*, 151 B.R. 103 (Bankr. E.D. Mich. 1992) in support of abandonment of VCC. A brief review of that case confirms that it actually supports denial of Debtors' motion. *In the Matter of MCI, Inc.* involved a Chapter 7 trustee's application to abandon assets, including contaminated real property, to USEPA and the Michigan Department of Natural Resources (MDNR). When the trustee originally applied to the court to abandon MCI's assets, USEPA and MDNR objected because MDNR's investigation revealed that hazardous substances were present at the site. *The Bankruptcy Court denied the trustee's initial application to abandon and allowed MDNR access to the site.* Thereafter, USEPA spent approximately one million dollars on remediation of MCI's site. Only then, when the trustee applied the second time to the Court to abandon MCI's site, did neither USEPA nor MDNR oppose the abandonment. The court noted "[a] reasonable inference from this [no objection from USEPA or MDNR] is that the agencies did not opine that the property was an imminent threat to the public." *Id.* at 108. The Bankruptcy Court found that MCI's property did not constitute an

imminent harm or danger to the public and that the trustee had no unencumbered assets to finance a cleanup of the soil. *Id.* at 107. Based on these findings, the Court allowed abandonment.

VCC's case is clearly distinguishable from *MCI*. In this case, it cannot reasonably be disputed that the VCC site constitutes an imminent harm and/or danger to the public and to the environment. In addition, both related state environmental agencies and USEPA object to the abandonment. Clearly, Debtors' motion should be denied, as was the Debtor's first motion in *MCI*.

VII. Debtors' Claim Of No Funds To Cover The Cleanup Is Also Frivolous.

MDEQ Staff has spoken very recently with the City of Vicksburg and has been advised that the City is very interested in purchasing all uncontaminated portions of VCC's property in Warren County (over 500 acres) for construction of a golf course. In fact, the City has retained an environmental consultant to evaluate the feasibility of a golf course on this site. This sale, at least, would generate funds that should be applied directly to the cleanup of VCC consistent with the court's similar action in *In re Guterl Special Steel*. Basic to this entire discussion and to *Midlantic* and its progeny is the understanding that a Debtor's assets must be used to avoid harm to public health and the environment when necessary. That prioritization of funding is necessary here.

VIII. Conclusion.

For the reasons explained above, the Commission and MDEQ, acting on behalf of the State of Mississippi, urge the Court to deny Debtors' Motion To Abandon the Vicksburg, Mississippi facility either for lack of jurisdiction or, alternatively, on the merits of the motion.

Respectfully submitted,

Mississippi Commission on Environmental Quality

Mississippi Department of Environmental Quality

Dated: Jackson, Mississippi
September 20, 2002

Chuck D. Barlow

Sworn to and subscribed before me this 20th day of September, 2002.

Notary Public

My Commission Expires:

By: /s/ Chuck D. Barlow
Chuck D. Barlow (MSB No. 8430)

Nor is there any precedent for Debtors' application to foist the Properties upon the environmental authorities, including the EPA, without the EPA's consent. Should the Debtors desire to abandon the Properties, they must, as a condition to abandonment, ameliorate any imminent and readily identifiable dangers to the public health and safety. Even the Debtors have already admitted that abandonment of the Properties would endanger the public health and safety.¹ For these reasons, the Debtors' application to abandon should be denied.

FACTUAL BACKGROUND

A. The Parties

3. On March 8, 2002, the Debtors commenced these Chapter 11 cases by filing voluntary petitions for relief under 11 U.S.C. § 101 et seq. (the Code).

¹ On May 10, 2002, Debtors told the Court, in opposition to a motion by the Committee of Unsecured Creditors to compel abandonment, that:

If such Properties were abandoned, the public health or safety from the identified hazards at the Properties would not and could not be protected. Thus, as in Midlantic, the Properties here may not be abandoned either.

Debtors' Opposition to Motion of Creditors' Committee for Order Directing the Debtors to Abandon Certain Property to Lenders, May 10, 2002, ¶ 12.

4. The Debtors continue to manage their properties and to operate their business as debtors-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.

5. This Objection is respectfully submitted on behalf of the Environmental Protection Agency ("EPA"), an agency of the United States.

B. Prior Litigation Concerning the Properties

6. The Properties have been the subject of prior litigation between the Government, Debtors, and others. On May 3, 2002, the Committee of Unsecured Creditors, by its counsel Satterlee Stephens Burke & Burke, LLP, filed a Motion for an Order Pursuant to 11 U.S.C. § 554(b) and Federal Rule of Bankruptcy Procedure 6007(b) Directing the Debtors to Abandon Certain Property, including the Properties identified in the present motion (the "Committee Motion").

7. The Debtors opposed that motion to abandon, asserting that, first, Midlantic prohibited the abandonment of the Properties; and second, the Court could not compel abandonment of the Properties to entities which did not consent to assume a possessory interest. See Debtors' Opposition to Motion of Creditors' Committee for Order Directing the Debtors to Abandon Certain Property to Lenders, May 10, 2002 ("Debtors' Opp. to Committee Motion"). Debtors' unexplained change of heart on these points is addressed infra. Objections to the Committee's Motion

were filed by the Secured Lenders, JP Morgan Chase Bank on May 17, 2002, by BSFS Leasing on May 9, 2002, and by the Government on May 13, 2002. The Government's previous objection also objected to abandonment, on behalf of the Defense Logistics Agency, Department of Defense.

8. In the course of a hearing on August 29, 2002, counsel for the Committee withdrew its motion to compel abandonment.

9. On August 8, 2002, the Government moved for a partial lifting of the automatic stay to permit termination of its contract with Debtor Vicksburg Chemical Company for the production and storage of dinitrogen tetroxide (" N_2O_4 "). The Court granted the Government's Motion by Order dated September 9, 2002.²

10. On September 19, 2002, counsel for Vicksburg and the Government entered into a Stipulation providing for the return of Government property at Vicksburg. The presentment date of the Stipulation is October 3, 2002. In addition to the objections set forth herein, the Government objects to any abandonment of the Vicksburg Property while Government furnished property, including cylinders, rail cars, and computer equipment, is at the Vicksburg Property.

C. The Vicksburg Property

² There is no indication in the Debtors' Motion that any of the pollution at the site is attributable to the production and storage of N_2O_4 .

11. On June 28, 1980, Vicksburg notified EPA that it was treating, storing or disposing of numerous hazardous wastes at its facility, pursuant to Section 3005(e)(1) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6925(e)(1), as required by Section 3010(a) of RCRA, 42 U.S.C. § 6930(a). (See Debtors' Motion ¶ 16.)

12. On April 17, 1992, a Consent Decree was entered in United States v. Cedar Chemical Corp. (Civ. No. W92-008(B)(C)), in the United States District Court for the Southern District of Mississippi ("the RCRA Consent Decree"), pursuant to 42 U.S.C. § 6928(a), (g) and (h), and the federal regulations and state hazardous waste management laws and regulations promulgated thereunder, arising from releases of hazardous wastes and hazardous waste constituents at the Vicksburg Property. (See Debtor's Motion ¶ 17; Proof of Claim filed by the Environmental Protection Agency, Sept. 4, 2002 ("EPA Proof of Claim"), ¶ 2.a.)

13. In addition to the liability arising under RCRA, Vicksburg is obliged to continue to operate the wastewater treatment plant located on the Property, or to cease all discharges of pollutants from the Property into waters of the United States, as required by Sections 301(a) and 402 of the Federal Water Pollution Control Act, or Clean Water Act, ("CWA"), 33 U.S.C. §§ 1311(a) and 1342, and by Cedar Chemical's National Pollutant Discharge Elimination ("NPDES") Permit No. MS007995,

issued by the State of Mississippi on September 24, 2001, and which expires on August 31, 2006. (EPA Proof of Claim ¶ 2.b.)

14. Pursuant to 42 U.S.C. § 6928(a), (g) and (h), Vicksburg is obliged to perform closure and post-closure care for hazardous waste management units at the Property, and to perform corrective action at the Property. EPA has determined that Vicksburg treats, stores and disposes or has treated, stored and disposed of "hazardous wastes" within the definition of that term in 42 U.S.C. § 6903(5), and 40 C.F.R. § 261.3. (EPA Proof of Claim ¶ 3.a.)

15. The closure and post-closure care and corrective action obligations and investigative activities that Vicksburg is required to perform at the Property include, but are not limited to, the obligations required by the RCRA Consent Decree. Vicksburg has not satisfied the requirements of the RCRA Consent Decree at the Property. (EPA Proof of Claim ¶ 3.a.)

16. On September 10, 2002, EPA and Mississippi Department of Environmental Quality ("DEQ") personnel conducted a facility visit to the Vicksburg site in Vicksburg, Mississippi. The purpose of the visit was to tour the facility, assess the status of the ongoing work being performed by the current operator and to evaluate any potential public health, environmental and safety hazards which might result should the facility be abandoned by Vicksburg. (See Declaration of Kevin S. Misenheimer, Sept. 20, 2002 ("Misenheimer Decl."), ¶ 3.)

17. EPA and DEQ met with representatives of Vicksburg to discuss the current status of the site. Vicksburg staff informed EPA that they are currently working to secure and stabilize various components of the existing process. The facility is also working to find either buyers or disposal options for many of the process chemicals and products which are still on site. (See Misenheimer Decl. ¶ 4.)

18. At the time of the meeting, Vicksburg provided an overview of what was being done and an estimate of the quantities of potentially hazardous materials left on site, which EPA confirmed by touring the Property:

a. Approximately 850 tons of nitric acid (65%) is stored on site. A buyer has allegedly been found for this material but it is unclear when it can be transported off site. Additional nitric acid is contained within the units of the crystallizer, and the vessels and process lines in the North Plant. (See Misenheimer Decl. ¶ 5a.)

b. 20,000 pounds of dinitrogen tetroxide is being stored in two tanks. (See Misenheimer Decl. ¶ 5b.)

c. A partially full rail car of chlorine is on site. It is estimated that the rail car contains 60,000 pounds of chlorine. (See Misenheimer Decl. ¶ 5c.)

d. Several thousand pounds of caustic material are contained in the South Plant. (See Misenheimer Decl. ¶ 5d.)

e. The facility is currently purging the two ammonia spheres with nitrogen gas. (See Misenheimer Decl. ¶ 5e.)

f. There is an oil and lubricant storage area as well as several fuel storage tanks on site. (See Misenheimer Decl. ¶ 5f.)

g. Contaminated runoff from the process area and contaminated soil area is being contained in sumps and pumped to storage ponds on site. This water is then pumped through a carbon treatment system. This treatment system requires significant maintenance to ensure operation so that contaminated water does not overtop the storage ponds and thus contaminate Hennessy Bayou, and eventually the Mississippi River. (See Misenheimer Decl. ¶ 5g.)

h. Security at the site is currently being provided by Vicksburg. However, access to the site is not completely restricted due to breaches in the fence and lack of fencing around the rail road lines. (See Misenheimer Decl. ¶ 5h.)

19. Based on the visit to the Vicksburg Property, EPA has determined that there are a variety of potential hazards associated with the Vicksburg Chemical Company site that would pose a threat of imminent and identifiable harm to public health and safety. (See Misenheimer Decl. ¶ 6.)

20. While Vicksburg is maintaining the facility, most of the hazards can be managed. However, if the facility is abandoned a potentially hazardous condition could result. These hazards are:

a. There are bulk storage containers of acids, caustics, oxidizers, fuels and lubricants on Site. Additionally, there are process lines and vessels which may still contain products. If left unattended, release of these materials would present a hazard to trespassers and the nearby community. An accidental release of nitric acid, dinitrogen tetroxide, or chlorine, in certain quantities, would present a threat of an imminent and identifiable hazard to nearby residents. If the facility is abandoned by Vicksburg, such a release could go undetected and appropriate mitigation efforts could be delayed. The process of stabilizing, moving, transferring and transporting these materials should be completed until all hazards are removed. (See Misenheimer Decl. ¶ 6a.)

b. It is essential that the carbon treatment system be maintained and operated to prevent a release of contaminated water from the storage ponds into Hennessy Bayou and the Mississippi River. Without the treatment system online, a large rainfall event would quickly fill the ponds and would present a threat of release of contaminated water. (See Misenheimer Decl. ¶ 6b.)

c. If abandoned, access to the site would be uncontrolled. Trespassers could be exposed to contaminated soils and surface water. Additionally, vandals may sabotage process lines and bulk storage vessels resulting in an uncontrolled release of hazardous substances. (See Misenheimer Decl. ¶ 6c.)

D. The Cedar Property

21. The Cedar Property is located in West Helena, Arkansas. (See Debtors' Motion ¶ 6.)

22. Because the EPA has not yet undertaken a specific investigation of the conditions at the Cedar Property, the Government respectfully refers the Court to the facts outlined in the Objection to the Debtors' Motion filed by the Arkansas Department of Environmental Quality, dated September 13, 2002, ¶¶ 1-15, setting forth the soil and water contamination present at the Cedar Property.

ARGUMENT

I. THE BANKRUPTCY CODE, AND THE FEDERAL ENVIRONMENTAL LAWS, PLAINLY PROHIBIT THE UNCONDITIONAL ABANDONMENT REQUESTED BY DEBTORS

A. The Debtors Fail to Show Abandonment Would Not Result in the Release, or Threat of Release, of Hazardous Substances

23. The Midlantic Court held that "the Bankruptcy Court does not have the power to authorize an abandonment without formulating conditions that will adequately protect the public's health and safety." Midlantic, 474 U.S. at 506-07. Although Debtors are aware of the relevance of the Supreme Court's decision in Midlantic (see Debtor's Motion ¶¶ 37-40), they ignore the fact that the present Motion seeks the very relief precluded by Midlantic: the unconditional abandonment of property without the formulation of any conditions to protect the public health and safety.

24. The trustee in Midlantic sought to abandon a large quantity of highly toxic and carcinogenic waste oil stored in unguarded, deteriorating containers which presented risks of explosion, fire, contamination, injury and death. Upon abandonment, the security service would be terminated and the fire suppression system shut down. See Midlantic, 474 U.S. at 497-500. Hence the Supreme Court sought to reconcile the potential conflict between environmental laws, which would guard against these dangers, and 11 U.S.C. § 554(a). Section 554(a) provides that, "After notice and a hearing, the trustee may abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate." Id.³ Midlantic interpreted § 554 as preserving longstanding common law rules providing an exception to this power:

Congress did not intend for section 554(a) to pre-empt all state and local laws. The Bankruptcy Court does not have the power to authorize an abandonment without formulating conditions that will adequately protect the public's health and safety. Accordingly . . . we hold that a trustee may not abandon property in contravention of a state statute or regulation that is reasonably designed to protect the public health or safety from identified hazards.

³ Although Midlantic and cases interpreting it have typically involved motions by trustees to abandon property, the analysis is similar when the debtor-in-possession seeks abandonment. See 11 U.S.C. § 1107(a) ("Subject to any limitations on a trustee serving in a case under this chapter . . . a debtor in possession shall have all the rights . . . and shall perform all the functions and duties . . . of a trustee serving in a case under this chapter.").

Midlantic, 474 U.S. at 507.⁴ In discussing the limitations on the power of a trustee to abandon property of the estate, the Supreme Court specifically noted Congress's "goal of protecting the environment against toxic pollution," Chemical Mfs. Ass'n, Inc. v. Natural Res. Def. Council, Inc., 470 U.S. 116, 143 (1985), in RCRA and CERCLA, see Midlantic, 474 U.S. at 504, precisely the statutory obligations at issue here.⁵ The Midlantic Court stated that the exception to the abandonment power was narrow, and would not encompass "a speculative or indeterminate future violation" of environmental laws, rather it exists only "to protect the public health or safety from imminent and identifiable harm." Midlantic, 474 U.S. at 507 n.9.

25. Several courts have concurred that applying the exception in Midlantic requires evaluation of the following factors:

- (1) an identified hazard exists that poses a risk of imminent and identifiable harm to the public health and

⁴ The omission indicated by the ellipsis notes that the Court did not "reach[] the question of whether certain state laws imposing conditions on abandonment may be so onerous as to interfere with the bankruptcy adjudication itself." Midlantic, 474 U.S. at 507.

⁵ The fact that Midlantic arose in the context of state environmental law, rather than federal environmental law, would not justify application of a standard more favorable to abandonment. First, the Midlantic court noted that "Congress also presumably included the established corollary that a trustee could not exercise his abandonment power in violation of certain state and federal laws." Midlantic, 474 U.S. at 501 (emphasis added). Second, CERCLA and RCRA are federal laws which, unlike state laws, cannot be preempted by the Bankruptcy Code through the Supremacy Clause. U.S. Const. art. VI, § 2.

safety; (2) abandonment of the property will violate a state statute or regulation; (3) the statute or regulation being violated is reasonably designed to protect the public health and safety from imminent and identifiable harm caused by identified hazards; and (4) compliance with the statute or regulation would not be so onerous as to interfere with the bankruptcy administration itself.

See, e.g., In re St. Lawrence Corp., 248 B.R. 734, 739 (D.N.J. 2000). Debtors correctly cite these factors (Debtors' Motion ¶ 41), yet having done so, ignore the most crucial factor - whether there is any imminent and identifiable threat to the public health and welfare - and instead rely solely on the fourth factor, whether compliance with state and/or federal environmental law would be "so onerous as to interfere with the bankruptcy adjudication itself." (Debtor's Motion ¶ 42.)

26. Debtor's reductive application of the Midlantic factors is particularly faulty in that two of the cases upon which they rely to articulate the Midlantic factors hinged not on cost, but whether there was imminent and identifiable harm to the public health and safety. See St. Lawrence, 248 B.R. at 739; In re Anthony Ferrante & Sons, Inc., 119 B.R. 45 (D.N.J. 1990).⁶ The court in St. Lawrence permitted abandonment because "the property

⁶ The other case upon which Debtors rely, In re Microfab, Inc., 105 B.R. 161, 169 (Bankr. D. Mass. 1989), permitted a trustee to abandon property notwithstanding a violation of state environmental law. As the operative environmental laws in this case are federal - CERCLA, RCRA, and CWA - the Bankruptcy Code cannot be held to preempt these statutes. Moreover, the Government respectfully submits that Microfab, which relies more heavily on the dissent in Midlantic than the majority opinion, was wrongly decided.

does not constitute a hazard that poses a risk of imminent and identifiable harm to the public health and safety." St. Lawrence, 248 B.R. at 742; see also Ferrante, 119 B.R. at 50 (permitting abandonment because no "imminent and identifiable harm" to the public health and safety). Debtors' failure to address this factor fully is telling.

27. Under Midlantic, therefore, a critical issue is whether abandonment of the property in question would create an imminent and identifiable threat to public health and safety. See, e.g., Pennsylvania v. Conroy, 24 F.3d 568, 569 (3d Cir. 1994) (noting that in Midlantic, "the Supreme Court held that Section 554 does not preempt a state law that, in a reasonable effort to promote public health or safety, prohibits the abandonment of property containing hazardous wastes."); In re Wall Tube Metal & Prods. Co., 831 F.2d 118, 122 (6th Cir. 1987) ("[T]he trustee could not abandon property 'in contravention of a state statute or regulation designed to protect the public health or safety from identified hazards'" (quoting Midlantic, 474 U.S. at 507); In re Mowbray Engineering Co., Inc., 67 B.R. 34, 35 (Bankr. M.D. Ala. 1986) ("Although 11 U.S.C. section 554 permits a trustee to abandon property, the authority to abandon property must yield to governmental interests in public health and safety, which includes using assets of the estate for the necessary cleanup.").

28. Indeed, one court has specifically rejected the reductionist approach taken by Debtors here, which by focusing solely on the financial state of the Debtors ignores any threat to public health or safety:

[T]he established case law is clear that a bankruptcy trustee or debtor in bankruptcy is obligated to comply with environmental laws, particularly in regards to property in its possession. . . . The law requires the debtor to take action to fulfill that obligation, regardless of its financial situation.

In re Environmental Waste Control, 125 B.R. 546, 550-51 (N.D. Ind. 1991) (emphasis added); see also id. at 552 (noting that debtor "must comply with environmental law and pursue cleanup and corrective action at the landfill, regardless of its financial insolvency.").

29. Debtors make nothing more than the conclusory assertion that they "believe that abandonment of the Plants will not adversely affect public health and safety." (Debtors' Motion ¶ 55.) Debtors' subjective "belief," unsupported by any evidence, is insufficient to support the relief sought. To accept these assertions at face value would be error. The court in New Jersey Department of Environmental Protection v. North American Products Acquisition Corp., 137 B.R. 8 (D.N.J. 1992), ruled that a hearing was required to assess whether abandonment would aggravate the danger to the public. See id. at 12-13; see also Leavell v. Karnes, 143 B.R. 212, 220 (S.D. Ill. 1990) (ruling that the bankruptcy court erred in allowing abandonment without making a

finding as to whether conditions on the property posed an immediate and identifiable threat to public health or safety).

30. Tellingly, Debtors introduce no evidence of any kind as to the condition of the Properties. By contrast, the EPA has determined that abandonment of the Vicksburg Property facility would create hazardous conditions at the Property that would pose a threat of imminent and identifiable harm to public health and safety, and that abandonment of the Property would increase that risk. (See Misenheimer Decl. ¶¶ 6.) Specifically, release of acids, caustics, oxidizers, fuels and lubricants at the Property would present a hazard to trespassers and the nearby community. (See id. ¶ 6a.) An accidental release of nitric acid, dinitrogen tetroxide, or chlorine, in certain quantities, would present a threat of an imminent and identifiable hazard to nearby residents. (See id.) If the facility is abandoned by Vicksburg, such a release could go undetected and appropriate mitigation efforts could be delayed. (See id.) Furthermore, unless the carbon treatment system is maintained and operated to prevent a release of contaminated water from the storage ponds into Hennessy Bayou and the Mississippi River, a large rainfall event would quickly fill the ponds and would present a threat of release of contaminated water. (See id. ¶ 6b.) Finally, if abandoned, access to the site would be uncontrolled. (See id. ¶ 6c.)

31. Debtors' objection that they lack funds sufficient to engage in remediation of imminent and identifiable threats to the public health or safety is insufficient. Debtors state that they "do not know whether any unencumbered funds in any substantial amount will exist." (Debtors' Motion ¶ 51.) Debtor's uncertainty on this point, hedged with vague qualifying language, cannot form the foundation of their argument that the estates cannot bear any cost of environmental removal and/or remediation.

32. Similarly, Debtors assert that "[a] debtor is not required to exhaust estate funds, if the end result would not significantly improve the condition of the property that is subject to environmental problems." (Debtors' Motion ¶ 52 (citing Microfab, 105 B.R. at 170).) Debtors fail to explain, however, why the Court or the EPA should simply accept at face value the conclusory assertion that any removal or remediation activities would be both insignificant and futile. Absent any evidence that expenditures by the Debtors would not alleviate environmental problems, the present Motion is premature.

33. Even apart from these fatal flaws in Debtors' reasoning, it is curious that the position taken by Debtors on the present motion is precisely the opposite position taken by Debtors only four months ago, when it opposed the Committee's motion to compel the abandonment of these same Properties. In opposing the Committee's motion, the Debtors stated, unequivocally:

As in Midlantic, this Court may not compel abandonment of the Properties in this case. As was admitted to by the Committee, the Properties have considerable environmental problems attached to them. If such Properties were abandoned, the public health or safety from the hazards at the Properties would not and could not be protected. Thus, as in Midlantic, the Properties here may not be abandoned either.

(Debtors' Opp. to Committee Motion ¶ 13.) Debtors offer no mention, much less explanation, of their complete reversal. The Government respectfully submits that the Debtors should be held to their prior admission that, as a matter of law, the Properties cannot be abandoned.

B. Debtors' Failure to Formulate Any Conditions to Abandonment Compels the Rejection of the Abandonment Motion

34. Even apart from Debtors' failure to demonstrate that abandonment would not result in an imminent and identifiable threat to public health and safety, the Debtors' motion must also be denied because Debtors seek unconditional abandonment of the properties. This is precisely the relief foreclosed by Midlantic: the authorization of an abandonment without the formulation of conditions that will adequately protect the public's health and safety. See Midlantic, 474 U.S. at 507.

35. While lower courts have disagreed as to the precise nature and degree of compliance required under Midlantic, there is no dispute that the bankruptcy court cannot permit unconditional abandonment of the property. Several courts have ruled that Midlantic requires full compliance with applicable environmental

laws prior to abandonment. See, e.g., In re Peerless Plating, 70 B.R. 943, 946-47 & n.1 (W.D. Mich. 1987); cf. Ferrante, 11 B.R. at 49 (concurring with Peerless, but permitting abandonment on particular facts of the case). Others have limited Midlantic to require the Trustee or Debtor to address only imminent dangers to public health and safety. See, e.g., In re Smith Douglass, Inc., 856 F.2d 12, 15-17 (4th Cir. 1988); Leavell, 143 B.R. at 218; In re Franklin Signal Corp., 65 B.R. 268, 271-72 (Bankr. D. Minn. 1986). As Debtors do not even purport to address imminent and identifiable dangers to public health and safety, their application is beyond the pale of even the most forgiving application of Midlantic.

36. Consequently, abandonment cannot occur until after the Debtors, following consultation with the EPA and the relevant state environmental authorities, agree to ameliorate any imminent and identifiable hazards to the public health and safety. Debtors simply cannot wash their hands of the environmental problems for which they are liable. As one court has noted, "[u]nless Midlantic is to be disregarded, the trustee may not be permitted simply to walk away from hazardous wastes in circumstances where the bankruptcy court itself would be powerless to authorize their abandonment." In re Stevens, 68 B.R. 774, 782 (D. Me. 1987); see also id. at 781 ("Consistent with Midlantic, the bankruptcy court may only authorize an abandonment of hazardous wastes upon

conditions which will provide adequate protection of the public health and safety.").

37. The precise steps that a trustee or debtor must take before abandonment can occur varies from case to case. See, e.g., Stevens, 68 B.R. at 782 (ruling that trustee was responsible for removal of drums containing contaminated waste oil); Franklin Signal, 65 B.R. at 273 (abandonment permitted only after trustee undertook investigation and report concerning potential hazards). Identifying and remediating the imminent environmental hazards in this case will require extensive consultation and negotiation with the EPA and the environmental protection authorities of Mississippi and Arkansas, and final review and determination by the Court that abandonment will not violate environmental laws protecting against imminent and identifiable harm to the public health and safety. Moreover, the \$567,000 Debtors state that they have found in an escrow account for the remediation of environmental hazards should be turned over to the EPA or otherwise devoted to environmental remediation. (See Debtor's Motion at 15 n.1; In re FCX, Inc., 96 B.R. 49, 55 (Bankr. E.D.N.C. 1989) (permitting abandonment on the condition that the debtor set aside \$250,000 for the payment of EPA and State clean-up costs). At a minimum, Vicksburg must continue to satisfy its obligations under the RCRA Consent Decree.

38. In sum, because Debtors' Motion does not discuss specific

imminent and identifiable threats to the public health and safety, or document the lack thereof, and EPA has demonstrated that abandonment would violate laws designed to protect against imminent and identifiable harm to the public health and safety, Debtors' Motion does not meet the threshold established by Midlantic and must be denied.

C. Debtors' Application Violates 28 U.S.C. § 959

39. Debtors' application to avoid their responsibilities under RCRA, CERCLA, and the Clean Water Act also violates 28 U.S.C. § 959(b). That section provides, with some exceptions not relevant here, that:

a trustee, receiver, or manager appointed in any cause pending in any court of the United States, including a debtor in possession, shall manage and operate the property in his possession as such trustee, receiver or manager according to the requirements of the valid laws of the State in which such property is situated, in the same manner that the owner or possessor thereof would be bound to do if in possession thereof.

Id.; see Ohio v. Kovacs, 469 U.S. 274, 285 (1985) (Court does "not question that anyone in possession of the site . . . must comply with the environmental laws of the State").

40. It is the responsibility of the trustee, or in this case the debtor-in-possession, to comply with applicable environmental laws. Numerous courts have denied motions for abandonment on the ground that a trustee who sought to abandon property would violate § 959(b). See, e.g., Wall Tube, 831 F.2d at 122 (enforcing limitation of § 959(b) because "that the trustee in this case is

liquidating the estate rather than reorganizing it is inconsequential, especially in the critical context of the public's welfare."); Stevens, 68 B.R. at 781 ("Since the trustee cannot abandon hazardous waste and 28 U.S.C. section 959(b) requires that the trustee comply with valid state laws affecting such property, it follows that the cleanup of the hazardous waste remains the responsibility of the estate."); see also Leavell, 143 B.R. at 219 ("[T]he trustee may be held liable for any violations of state or federal environmental laws that occurred while the oil-producing properties were in the Trustee's possession.").

41. The same logic applies here. 28 U.S.C. § 959(b) expressly includes a "debtor in possession" among those who must obey applicable environmental laws. As Debtors essentially concede that hazardous conditions are present on the Properties (Debtors' Motion ¶¶ 30-32), section 959(b) precludes the relief they seek.

II. DEBTORS CANNOT COMPEL THE ENVIRONMENTAL PROTECTION AGENCY TO TAKE POSSESSION OF THEIR FACILITIES

42. Implicitly conceding that the Properties are so contaminated with hazardous materials that the Properties cannot be left unattended, Debtors seek to compel the environmental authorities of the United States, the State of Mississippi, and the State of Arkansas to assume possession of the properties. (See, e.g., Debtors' Motion ¶ 53 ("In order for this decade-long remediation process to continue to go forward, it is necessary that the Environmental Agencies now take the lead.")).

43. This request would be misguided even if the United States, Arkansas, and Mississippi, were not sovereign entities. The law is clear that "[s]uch abandonment is to the person having the possessory interest in the property." Kovacs, 469 U.S. at 284 n.12 (citing S. Rep. No. 95-989, at 92 (1978)); see also St. Lawrence, 248 B.R. at 744 n.11 (same); Ferrante, 119 B.R. at 49 n.8 ("[T]he result of abandonment under section 554(a) is the revesting of a possessory interest in the Debtor."); In re Milbar Boulevard, Inc., 91 B.R. 213, 220 (Bankr. E.D.N.Y. 1988) ("Upon abandonment the asset reverts to the debtor or party with possessory interest."). Consequently, if the motion to abandon is granted, only the Debtors may assume possession. Debtors fail to explain why this rule should not apply here.

44. Further complicating the Debtors' tenuous argument is the fact that neither the United States, nor the Environmental Protection Agency, has waived its sovereign immunity to permit the Court to compel the Government to assume property. It is well-settled law that the "United States, as sovereign, is immune from suit save as it consents to be sued . . . , and the terms of its consent to be sued in any court define that court's jurisdiction to entertain the suit." United States v. Mitchell, 445 U.S. 535, 538 (1980) (citations omitted); see also Robinson v. Overseas Military Sales Corp., 21 F.3d 502, 510 (2d Cir. 1994). Congress can waive the Government's sovereign immunity only through clear and unequivocal statutory language, see Lane v. Pena, 518 U.S.

187, 192 (1996). Furthermore, all ambiguities in terms of the scope of the waiver must be resolved in favor of the Government. See Lane, 518 U.S. at 192. Debtors have not identified any waiver of sovereign immunity permitting the United States, or its agencies, to be compelled to assume possessory interests in properties against their will, nor does such a waiver exist.

45. Indeed, the environmental laws specifically prohibit the relief Debtors seek. Section 104j of CERCLA, 42 U.S.C. § 9604j, provides: "There shall be no cause of action to compel the President to acquire any interest in real property under this chapter"; see also 41 U.S.C. § 14 ("No land shall be purchased on account of the United States, except under a law authorizing such purchase."). The plain meaning of CERCLA section 104j precludes the relief Debtors seek. See, e.g., United States v. W.R. Grace & Co., 134 F. Supp. 2d 1182, 1186 (D. Mont. 2001) (distinguishing EPA's grant of access from assertion of a possessory interest).

46. While Debtors note certain cases in which the Court directed that the possessory interest in the property be conveyed to the EPA (see Debtors' Motion ¶ 48), Debtors neglect to mention that each such conveyance to EPA was conditioned upon EPA's consent. See, e.g., Milbar, 91 B.R. at 214 (permitting abandonment of possessory interest, but not title, to EPA "provided that the following prerequisites are met: 1. The EPA agrees to accept possessory interest in the subject real property.") (emphasis added); see also id. (conveyance conditioned upon agreement

between EPA and Debtors, to be approved by the Court, concerning future possessory interests in the property). The cases upon which Debtors rely, moreover, are cases granting the EPA a right of access to the property, not compelling EPA to assume a possessory interest. See, e.g., In re Better Brite Plating, Inc., 105 B.R. 912, 917 (Bankr. E.D. Wisc. 1989) (granting EPA right of access, not compelling possession), vacated as moot, 136 B.R. 526 (Bankr. E.D. Wisc. 1990); Mowbray, 67 B.R. at 36 (same).⁷ As EPA does not consent to assume a possessory interest in the property, and the relevant statutory provision prohibits EPA from assuming possession of such property, the Motion must be denied.

47. Debtors' insistence that an entity may be compelled to accept a possessory interest in property against its will is also inconsistent with their prior representations to the Court. In opposing the motion of the Committee of Unsecured Creditors to abandon the Properties to the secured lenders, the Debtors took a very different position: "[T]he debtor wishes to force the property upon a non-possessory entity. The Code does not authorize such a transaction under the guise of abandonment." (Debtor's Opp. to Committee Motion, ¶ 17 (quoting In re Samuel Service, 155 B.R. 512, 514 (Bankr. E.D. Mo. 1993)) (emphasis added). As the Debtors told the Court just four months ago:

⁷ In In re MCL, Inc., 151 B.R. 103 (E.D. Mich. 1992), upon which Debtors also rely, there is no indication that the EPA did not consent to abandonment. See id. at 109.

Simply put, the Court may not compel abandonment to the Lenders where, as here, the Lenders have no possessory interest in the Properties (nor is there even an attempt by the Committee to establish such a possessory interest). This is especially true since, upon information and belief, the Lenders do not consent to such abandonment.

(Debtors' Opp. to Committee's Motion ¶ 16.) Debtors' recent views on this matter further confirm that they are not entitled to the relief they now seek - an order providing for abandonment to an entity - the EPA - that has no possessory interest in the Properties and that does not consent to such abandonment.

CONCLUSION

In sum, the Motion should be denied for the reasons articulated by the Third Circuit, in the decision affirmed in Midlantic:

If trustees in bankruptcy are to be permitted to dispose of hazardous wastes under the cloak of the abandonment power, compliance with environmental protection laws will be transformed into governmental cleanup by default. It cannot be said that the bankruptcy laws were intended to work such a radical change in the nature of local public health and safety regulation - the substitution of governmental action for citizen compliance - without an indication that Congress so intended.

In re Matter of Quanta, 739 F.2d 912, 921-22 (3d Cir. 1984), aff'd, Midlantic, 474 U.S. 494 (1986). For these reasons, and for all the reasons stated herein, the Debtors' Motion to permit abandonment should be denied.

Dated: New York, New York
September 20, 2002

Respectfully submitted,

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UNITED STATES BANKRUPTCY COURT
 SOUTHERN DISTRICT OF NEW YORK

-----X
 In re:

Chapter 11

CEDAR CHEMICAL CORPORATION and
 VICKSBURG CHEMICAL COMPANY,

Case Nos. 02-11039 (SMB) and
 02-11040 (SMB)

Debtors.

Jointly Administered
 -----X

**MOTION FOR APPROVAL OF ABANDONMENT OF WEST HELENA
 MANUFACTURING FACILITY AND VICKSBURG MANUFACTURING
 FACILITY AND GRANTING RELATED RELIEF**

TO THE HONORABLE STUART M. BERNSTEIN,
 CHIEF UNITED STATES BANKRUPTCY JUDGE:

Cedar Chemical Corporation ("Cedar") and Vicksburg Chemical Company ("Vicksburg",
 Cedar and Vicksburg hereinafter collectively referred to as the "Debtors"), by their attorneys, Angel
 & Frankel, P.C., respectfully represent as follows:

INTRODUCTION

1. On March 8, 2002 (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under Chapter 11 of Title 11, United States Code (the "Bankruptcy Code") with the United States Bankruptcy Court for the Southern District of New York.

2. No trustee has been appointed in Debtors' cases and the Debtors are operating as debtors-in-possession under sections 1107 and 1108 of the Bankruptcy Code.

3. An official committee of unsecured creditors has been appointed in Debtors' cases, and has retained the law firm of Satterlee Stephens Burke & Burke, LLP ("Creditors' Committee Counsel") to represent it.

4. By order dated March 8, 2002, the Debtors' cases are being jointly administered.

5. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.

This is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2)(A) and (O).

BACKGROUND

6. Cedar is the owner of a chemical manufacturing facility located in West Helena, Arkansas (the "Cedar Plant" or "West Helena Plant"). The Cedar Plant consists of six (6) separate processing units, a wastewater treatment plant, laboratories, administration building, finished goods warehouse, maintenance shop, spare parts warehouse and various other buildings on a 48-acre site.

7. Vicksburg is the owner of a chemical fertilizer manufacturing facility (the "Vicksburg Plant") located in Vicksburg, Mississippi. The Vicksburg Plant rests on approximately 100 acres of a 600 acre site and consists of the following manufacturing processing units: potassium nitrate, nitric acid, potassium carbonate, MAP/MKP, polymer coated fertilizer and blending. The facility also has two state of the art labs, three maintenance shops, warehouses with packaging equipment,

office space, and a wastewater treatment facility. The site has two gated entrances controlled by a central security office.

8. The largest claims against the Debtors consist of the claims of the Debtors' pre-petition lenders (the "Lenders"), who hold liens and security interests against substantially all of the Debtors' assets, including the Cedar Plant and the Vicksburg Plant (collectively, the "Plants"). Since the Petition Date, the Debtors have sold a significant portion of their inventory and have made payments to the Lenders of almost \$17,000,000. Despite these sales, the Debtors still owe the Lenders approximately \$65,000,000.

9. At or about the time of the commencement of their chapter 11 cases, the Debtors began the process of winding down their operations at both Plants and embarked upon a program for the sale of their assets for the benefit of their creditors.

10. Environmental impediments at the Plants, together with the fact that they require modernization, have resulted in the Debtors' lack of success in selling the Plants. While several entities have conducted due diligence, none has offered to purchase either of the Plants.

Vicksburg Plant History

11. The Vicksburg Plant was first developed by Spencer Chemical Company in 1953, which built and operated a nitric acid and ammonia plant. In 1961, Southwest Potash Corporation, a division of American Metal Climax Corporation, acquired the property north of the Spencer facilities and built a potassium nitrate/chlorine plant.

12. Gulf Oil Corporation purchased the Spencer facilities in 1964 and constructed a formaldehyde plant in 1966. Gulf Oil shut down the ammonia plant in 1968; in 1972 it sold the

nitric acid plant and idled ammonia plant to Southwest Potash. Southwest Potash operated the nitric acid plant to supply the potassium nitrate unit.

13. Under Southwest Potash various facilities were built that produced products that remain environmental contaminants today. In 1973, dinoseb toxaphene and methyl parathion facilities were constructed and operated. In 1978 a bladex atrazine plant was built and operated and the methyl parathion plant was idled. Southwest Potash filed for Chapter 11 protection in 1978.

14. In 1978 the company emerged from reorganization as Vertac Inc., which became Vertac Chemical Corporation. Under Vertac, the atrazine facility was operated until 1979 and the toxaphene facility was operated until 1982. Vertac also constructed and operated an MSMA unit in 1983 and 1984; that unit was closed in 1984.

15. Vicksburg Chemical, a division of Cedar, purchased the facility in 1986 and produced only nitric acid, potassium nitrate, chlorine, and nitrogen tetroxide. In 1988, Trans-Resources, Inc. purchased Cedar. Developments at the Vicksburg Plant since 1988 include the construction and operation of a potassium carbonate plant (1994), a mono-potassium phosphate/mono-ammonium phosphate plant (1998) and a fertilizer polymer coating facility (1999). Both the potassium carbonate and phosphate facilities were idled in 2000.

- from Fernandez?

Vicksburg Plant Regulatory History

16. Vertac first registered the Vicksburg Plant as a pesticide producing site in 1979. In 1980 a Resource Conservation and Recovery Act (RCRA) Part A permit was filed; part B was initially filed in 1983.

17. In 1990 the company negotiated a consent decree (the "Consent Decree") with the United States Environmental Protection Agency (the "EPA") to govern a multi-year investigation

and remedial action at the Vicksburg Plant. The Consent Decree was intended to investigate and remediate hazardous waste, which resulted from operations under previous ownership prior to 1986.

The Consent Decree was filed in January of 1992.

18. In 1992 the company submitted to EPA Region IV a preliminary (current conditions) report and an interim measures work plan. In 1994 and 1995 Vicksburg, while waiting for EPA approval of the documents submitted in 1992, continued off-site disposal of soil and debris, which had been contaminated by past pesticide production. *how much?*

19. In 1996 the EPA approved the 1992 preliminary report and Vicksburg submitted a proposed work plan for a facility investigation as required by the Consent Decree. While awaiting approval of the submitted work plan, in the years between 1994 to 1997 Vicksburg implemented and accelerated interim measures to investigate and remediate those areas which were to be the subject of new plant construction. The interim measure reports were submitted to the EPA.

20. In 2000 the EPA approved the facility investigation work plan. Vicksburg then implemented the plan and submitted its investigation report to the EPA in 2000. The EPA approved the report and Vicksburg then submitted a corrective measures study in 2001, which was approved by the EPA in December 2001. The corrective measures study was initiated and drafts were submitted to the EPA in 2002.

West Helena Plant History

21. Helena Chemical Company first developed the West Helena Plant in 1970 with the construction and operation of a propanil manufacturing facility. In 1971 the plant was sold to J.A. Williams, which transferred the plant to Eagle River Chemical Corporation, a company controlled by the Ansul Company. Under Ansul's management the plant produced dinoseb, a prevalent soil

contaminant at the site. In 1972 Ansul sold its majority interest in Eagle River back to J.A. Williams and the company was merged into Vertac Chemical Company.

22. Vertac owned the plant until 1986 and produced propanil and several products for other chemical companies, as a toll manufacturer. The contracted products included, but were not limited to, various herbicides, alkyl phenols and arsenical compound. Cedar acquired the plant in 1986.

23. Trans-Resources, Inc. purchased Cedar in 1988. From 1988 to the present, the West Helena Plant has produced propanil and continued to perform toll manufacturing, producing various herbicides and nitroparaffin derivatives. In 1991 Cedar constructed and began operating a facility to manufacture dichloraniline, the active ingredient in propanil.

West Helena Plant Regulatory History

24. During construction in April of 1990, Cedar discovered buried drums, which were found to contain dinoseb, a product produced in 1972 under prior ownership. A removal plan was approved by the Arkansas Department of Pollution Control and Ecology, now known as the Arkansas Department of Environmental Quality ("Arkansas DEQ"), under which Cedar investigated and delineated the full extent of the drum burial site.

25. In July of 1991 a consent administrative order ("CAO") was entered into with the Arkansas DEQ for the purpose of removing the buried drums and performing a plant-wide facility investigation. The CAO took the form of a RCRA corrective action order. The CAO was amended in 1992 to include the development and implementation of work plans to remediate two additional buried drum sites found through further investigation.

26. As required by the CAO, in 1992 Cedar submitted its proposed work plan for implementing the facility investigation to the Arkansas DEQ. In 1993 the Arkansas DEQ approved a revised work plan for the facility investigation and Cedar in turn implemented the plan and submitted an investigation report to the Arkansas DEQ in December of 1993.

27. From 1994 to 1996 the Arkansas DEQ requested additional investigation of the West Helena Plant; in response to these requests Cedar submitted additional work plans and additional investigation reports. The final investigation report was submitted in 1996. The facility investigation report was approved by the Arkansas DEQ and the agency then requested a corrective measures study.

28. Around 1996 Cedar submitted plans to the Arkansas DEQ for a risk assessment study relating to off-site groundwater contamination. In 1998 the Arkansas DEQ requested a revised risk assessment plan to include both on-site and off-site ground water contamination. The revised plan was approved and implemented and a resulting risk assessment report was submitted in 1999. After some revisions were made in 2000, the risk assessment report was approved in 2001.

29. In 2001 the Arkansas DEQ indicated it would dismiss the CAO requirement for a formal corrective measures study, and requested the development of corrective action work plans. Cedar's contractor was in the process of developing these work plans at the time the chapter 11 cases were commenced.

Current Status

30. As disclosed on the Debtors' chapter 11 petitions, both of the Plants remain subject to environmental infirmities. Specifically, at the Cedar Plant:

- (a) Buried drums have been removed with all remediation approved by the State of Arkansas. To Cedar's knowledge there are no more buried drums, but the possibility of further burial sites exists.
- (b) There are several "hot spots" on the plant site, i.e., evidence of soil contamination below ground level which exceed regulatory levels.
- (c) Since the 1970s drums have been stored in a vault under one of the warehouses. Although this method of storage was approved by the State of Arkansas when it was done, there are no known records to accurately identify the contents of the drums and the condition of those drums is unknown.
- (d) There is groundwater contamination in a non-drinking water aquifer from several chemicals that exceed regulatory levels. The contamination "plumb₂" extends as far as approximately 0.5-1.0 mile from the plant site and at least one irrigation well has shown excessive levels of contamination.

31. The environmental problems at the Vicksburg Plant include:

- (a) Soil contamination in south plant area (dinoseb and toxaphene).
- (b) MSMA (arsenic based cotton defoliate) in south plant area.
- (c) Hexavalent chromium from cooling towers and corrosion of plant.
- (d) Petroleum in north plant area.
- (e) Ground wide contamination in south plant area (nitrates) and north plant area (nitrates, production of KN03).

Sediment 3.3
pg 3-2
pg 3-5

32. Interim clean-up measures taken postpetition include removal and disposal of hazardous chemicals from the Plants and stabilizing the equipment to prevent unanticipated chemical

reactions or deterioration. These interim clean-up activities have been completed at the Cedar Plant and will be completed over the next two weeks at the Vicksburg Plant. In addition, since the Petition Date, Cedar and Vicksburg have continued their ongoing monitoring and control program in conjunction with the Arkansas DEQ and the EPA (the Arkansas DEQ and the EPA are sometimes collectively referred to herein as the "Environmental Agencies").

33. Security at the Plants was upgraded at the commencement of these cases by the employment of a third party security force. This enhanced security has been gradually reduced, as the level of risk has subsided. At this stage twenty-four hour security at the Plants is being provided by the Debtors' internal security force and third party security services have been eliminated.

34. Since the Petition Date, the Debtors have spent more than \$5 million to alleviate environmental problems and to discontinue operations at the Plants in a safe and secure manner. Although the Plants currently are "moth-balled," they still require a significant cash outlay on a monthly basis for security and environmental control. Thus, even in the moth-ball phase, the Debtors still must expend approximately \$200,000 a month for the Cedar Plant and approximately \$300,000 a month for the Vicksburg Plant.

35. These costs are being funded by the Lenders under cash collateral orders entered in the Debtors' cases. The Lenders have indicated that they are no longer willing to fund the amounts necessary to maintain the Plants, given a monthly cost of \$500,000 and the absence of any likelihood that the Debtors' estates or the Lenders will derive any economic benefit from these expenditures.

36. Given the inability of the Debtors to continue to maintain the Plants and the absence of any present economic value, the Debtors are herein requesting entry of an order pursuant to 11 U.S.C. §§ 105(a) and 554(a) authorizing the Debtors to abandon the Cedar Plant to the Arkansas

DEQ and the Vicksburg Plant to the EPA. As demonstrated below, abandonment is appropriate, because the Plants are of inconsequential value and benefit to the Debtors' estates. Moreover, and as further described below, the Debtors do not believe that the exception to abandonment set forth in Midlantic National Bank v. New Jersey Department of Environmental Protection, 474 U.S. 494 (1986) ("Midlantic") is applicable to the present situation or that abandonment is precluded in these cases.

ABANDONMENT OF THE PLANTS IS APPROPRIATE AND WARRANTED

37. Section 554(a) of the Bankruptcy Code grants to a debtor's estate the right to "abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate." 11 U.S.C. § 554(a). A narrow exception to this otherwise unqualified right was imposed by the Supreme Court in Midlantic.

38. In Midlantic the EPA ordered the discontinuation of operations at a New Jersey waste oil processing facility, after discovering that the debtor had accepted "more than 400,000 gallons of oil contaminated with PCB, a highly toxic carcinogen." Midlantic, 474 U.S. at 497. The debtor responded by filing for chapter 11 protection. Soon after the filing, "over 70,000 gallons of [additional] toxic, PCB-contaminated oil in deteriorating and leaking containers" were discovered in the debtor's Long Island City facility. Id.

39. In response to the debtor's motion to abandon these contaminated waste oil processing facilities, the Supreme Court ruled in Midlantic that a trustee could not abandon property in violation of laws or regulations "reasonably calculated to protect the public health or safety from imminent and identifiable harm." Id. at 507-508 n.9.

40. The Court stated in Midlantic that the "exception" to the abandonment power that it was creating was "a narrow one." Id. Accordingly, a four prong test has been developed by the courts to determine whether Midlantic's narrow exception to the abandonment power should be applied.

41. In order for the Midlantic prohibition to apply, it must be demonstrated that:

(1) an identified hazard exists that poses a risk of imminent and identifiable harm to the public health and safety; (2) abandonment of the property will violate a state statute or regulation; (3) the statute or regulation being violated is reasonably designed to protect the public health and safety from imminent and identifiable harm caused by identified hazards; and (4) compliance with the statute or regulation would not be so onerous so as to interfere with the bankruptcy administration itself.

In re St. Lawrence Corp., 248 B.R. 734, 739 (D.N.J. 2000). Accord In re Anthony Ferrante & Sons, Inc., 119 B.R. 45 (D.N.J. 1990); In re Microfab, Inc., 105 B.R. 161, 169 (Bankr. D. Ma. 1989).

42. The fourth prong of this test mirrors the Supreme Court's statement in Midlantic that it was not addressing the question of whether abandonment would be allowed, where the limitations imposed by state environmental laws were "so onerous as to interfere with the bankruptcy adjudication itself." Id. at 507.

43. In Midlantic the Supreme Court found that the seemingly unqualified debtor's right of abandonment reflected in the broad language of section 554(a) was limited by a longstanding "judicially developed doctrine intended to protect legitimate state or federal interests." Id. at 500. Underlying this doctrine was the understanding that a debtor's estate must have the resources necessary to take the actions required for the protection of those essential public interests which would be jeopardized by the proposed abandonment.

44. In Ottenheimer v. Whitaker, 198 F.2d 289 (4th Cir. 1952), the first of the cases relied upon by the Midlantic Court, a request to abandon three dilapidated barges was denied. The Ottenheimer Court found that such abandonment would have resulted in an obstruction of ship traffic while at the same time "the trustee . . . holds on to the valuable assets of the estate." Id. at 290. In the second case relied upon by the Midlantic Court, In re Chicago Rapid Transit Co., 129 F.2d 1 (7th Cir. 1942), cert denied sub nom. Chicago Junction R. Co. v. Sprague, 317 U.S. 683 (1942), the debtor had sufficient funds to continue to operate a railway line for which abandonment was requested, because the court authorized such operation without payment of the rent owing under the debtor's lease of the railway line.

45. Finally, in the third case relied upon by the Midlantic Court, In re Lewis Jones, Inc., 1 BCD 277 (Bankr. E.D. Pa. 1974), later opinion, In re Lewis Jones, Inc., 9 CBC 166 (Bankr. E.D. Pa. 1976), three bankrupt steam heat companies had sufficient funds to remedy the dangers which would arise from the proposed abandonment of their systems. Thus, the bankruptcy court conditioned its authorization for abandonment upon the trustees' sealing of the vents, manholes and steam pipes of the underground steam heat systems.

46. In total, the limited prohibition to the abandonment power recognized in Midlantic is premised upon the assumption that a debtor's estate has the funds necessary to remedy the public safety problems which such abandonment would create or exacerbate.

47. This principle also is reflected in subsequent case law interpreting Midlantic. In one of the first decisions subsequent to the Midlantic opinion, the bankruptcy court in In re Franklin Signal Corp., 65 B.R. 268 (Bankr. D. Minn. 1986) ruled that Midlantic did not bar the granting of a trustee's request for abandonment of drums of toxic waste, where state environmental authorities had been kept apprised of the problem and the estate lacked the unencumbered cash for even an

initial cleanup. Id. at 274. More recently, in In re St. Lawrence Corp., 248 B.R. 734 (D. N.J. 2000), the district court wrote that the Midlantic prohibition against abandonment was inapplicable "when the estate lacks unencumbered assets with which to comply with state law." Id. at 739 n.6. Accord, e.g., In re Peerless Plating Co., 70 B.R. 943, 947 n.3 (Bankr. W.D. Mich. 1987).

48. When confronted with the dilemma of an estate without funds and unresolved environmental problems, the courts have adopted an approach which adheres to the goal of Midlantic – responsible handling of environmental hazards, rather than focusing upon the narrow exception to the abandonment power recognized in Midlantic. Thus, in situations in which debtors are without the resources to address environmental problems, courts have directed that environmentally contaminated property be abandoned to the governmental entity responsible for addressing such problems, usually the EPA. See In re MCI, Inc., 151 B.R. 103 (E.D. Mich. 1992) (confirming order abandoning environmentally contaminated property to EPA and Michigan Department of Natural Resources); In re Better-Brite Plating, Inc., 105 B.R. 912 (Bankr. E.D. Wisc. 1989), partially vacated on other grounds, In re Better-Brite Plating, Inc., 136 B.R. 526 (Bankr. E.D. Wisc. 1990) (abandonment of environmentally contaminated property granted, subject to right of EPA and Wisconsin Department of Natural Resources to have access and conduct remediation on the sites); In re Mowbray Engineering Co., 67 B.R. 34 (Bankr. M.D. Ala. 1986) (abandonment of environmentally contaminated property approved, subject to continued right of access of EPA to conduct remediation).

49. By seeking to abandon the Plants to the EPA and the Arkansas DEQ, the Debtors are building upon this established precedent for responsibly addressing the problems created by environmentally contaminated properties, when a debtor no longer has the funds to continue the remediation process.

50. More than a decade has passed since the Debtors entered into consent decrees with the EPA for the Vicksburg Plant and the Arkansas DEQ for the West Helena Plant. Between 1992 and 2001 approximately \$5 million was spent by the Debtors for planning and clean-up activities. Since the filing of their chapter 11 petitions, an additional \$5 million of the Lenders' cash collateral has been spent by the Debtors on continued environmental work and related security and safety measures (including \$1.8 million in severance payments).

51. The Lenders have a security interest in substantially all of the Debtors' assets. The Debtors do not know whether any unencumbered funds in any substantial amount will exist. In contrast, it is estimated that further environmental clean-up of the Plants will cost many millions of dollars and will take a substantial period of time. Having allowed a substantial expenditure of their funds to finance the moth-balling of the Plants, and in light of the absence of any purchaser for the Plants, the Lenders are unwilling to continue to fund these enterprises.

52. A debtor is not required to exhaust estate funds, if the end result would not significantly improve the condition of the property that is subject to environmental problems. E.g., Microfab, 105 B.R. at 170. That is clearly the result that would occur in these cases, if the Debtors were required to continue to remedy the environmental hazards at the Plants. While such actions would surely exhaust any unencumbered assets in the estate, they would not be sufficient to remediate the environmental infirmities at the Plants.

53. In order for this decade-long remediation process to continue to go forward, it is necessary that the Environmental Agencies now take the lead. The narrow exception to the abandonment power recognized in Midlantic is to protect public safety, not to shield the public

treasury from costs that may be incurred as a result of abandonment. See In re Smith-Douglas, Inc., 856 F.2d 12, 16 (4th Cir. 1988); In re McCrory Corp. 188 B.R. 763, 768 (Bankr. S.D.N.Y. 1995).¹

54. Abandonment also is required because an absence of funds likely will make it impossible to retain a chief executive officer of the Debtors. Where it becomes impossible to comply with environmental laws, a chief executive or trustee may be subject to personal liability. See, e.g. In re AT&T Trailer Park, Inc., 53 B.R. 144 (Bankr. D. Wy. 1985) (abandonment authorized where estate lacks funds to comply with environmental laws and trustee subject to personal liability); Cf. In re Vel Rey Properties, Inc., 174 B.R. 859 (Bankr. D.C. 1994)) (court authorized abandonment of property, as it lacked the authority to immunize trustee from personal liability and estate lacked funds to comply with local health and safety laws).

55. Finally, the Debtors believe that abandonment of the Plants will not adversely affect public health and safety. First and foremost, until such time as the Plants are abandoned, the Debtors intend to continue to monitor and perform whatever requirements are and have been necessary to ensure compliance with applicable environmental laws. It is submitted that the Environmental Agencies, which in any event ultimately would be required to take control of the Plants, are in the best position to satisfy public health and safety requirements. Abandonment directly to the Environmental Agencies, therefore, insures adequate protection of the public health and safety.

¹ The vast bulk of the contamination of the Plants arose from the operation of prior owners. The Debtors recently have discovered a trust account in the amount of approximately \$567,000 established by Vertac under a 1982 trust agreement for the remediation of environmental hazards at the Plants.

NOTICE

56. The Debtors intend to serve a copy of this motion by first class mail at least twenty days prior to the hearing upon (a) the Environmental Agencies, (b) Creditors' Committee Counsel, (c) counsel to the Lenders, (d) the Office of the United States Trustee and (e) all entities which have filed (and served on Debtors' counsel) a notice of appearance and request for papers in these cases.

57. Bankruptcy Rule 6007 provides that unless otherwise directed by a court, a motion for abandonment is to be served upon all creditors of a debtor, so as to provide parties-in-interest at least fifteen days to file an objection. Given the large size of the Debtors' creditor body, the Debtors respectfully submit that the proposed manner of notice set forth above and in the proposed scheduling order annexed hereto as Exhibit "A" be found by the Court to satisfy the requirements of Bankruptcy Rule 6007.

WHEREFORE, it is respectfully requested that the Court enter an order authorizing the Debtors to abandon the Plants to the Environmental Agencies, and that the Court grant the Debtors such other and further relief as it deems just and proper.

Dated: New York, New York
August 29, 2002

ANGEL & FRANKEL, P.C.
Attorneys for Cedar Chemical Corporation and
Vicksburg Chemical Corporation
Debtors and Debtors-in-Possession

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EXHIBIT "A"

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
In re:

Chapter 11

CEDAR CHEMICAL CORPORATION and
VICKSBURG CHEMICAL COMPANY,

Case Nos. 02-11039 (SMB) and
02-11040 (SMB)

Debtors.

Jointly Administered
-----X

**ORDER SCHEDULING A HEARING AND LIMITING NOTICE
ON DEBTORS' MOTION FOR ENTRY OF A FURTHER ORDER
AUTHORIZING ABANDONMENT OF WEST HELENA
MANUFACTURING FACILITY AND VICKSBURG MANUFACTURING
FACILITY AND GRANTING RELATED RELIEF**

Upon the motion dated August 29, 2002 (the "Motion") of Cedar Chemical Corporation ("Cedar") and Vicksburg Chemical Corporation ("Vicksburg"), debtors and debtors-in-possession (collectively, the "Debtors"), pursuant to 11 U.S.C. §§ 105(a) and 554(a) seeking an order authorizing the abandonment by Cedar of its manufacturing facility located in West Helena, Arkansas to the Arkansas Department of Environmental Quality and the abandonment by Vicksburg of its manufacturing facility located in Vicksburg, Mississippi to the United States Environmental Protection Authority and granting related relief; and no adverse interest appearing or being represented and sufficient cause appearing to me therefor; it is

NOW, on motion of Angel & Frankel, P.C., attorneys for the Debtors,

ORDERED, that a hearing (the "Hearing") shall be held before the Honorable Stuart M. Bernstein, Chief United States Bankruptcy Judge, on the ____ day of September, 2002 at _____ m., in Courtroom 723 of the United States Bankruptcy Court for the Southern District of New York (the "Court"), Alexander Hamilton Custom House, One Bowling Green, New York, New

ORDERED, that any requirements for the filing of a memorandum of law in support of the Motion be, and hereby are, dispensed with and waived.

Dated: New York, New York
_____, 2002

Chief United States Bankruptcy Judge

Vendor	SERIAL NUMBER	MONTHLY PAYMENT	DESCRIPTION	CONTRACT DATE
GE CAPITAL	4UZR6DR1XT2S08340		HOLIDAY RAMBLER OWNED VCC	
	4UZ6XFBC8XCF28053	Keep 3,664.35	HOLIDAY RAMBLER	
	A31169	TURN IN → 3,326.68	KOMATSU LOADER	9-1-99 60 MONTHS
	817234	Keep 3,287.58	JOHN DEERE LOADER	
AMERICAN LEASE	1GBJG31J3Y1224866	Keep 1,238.26	2001 TIOGA CHEV	12/5/00, 48 months
	Tioga #743D15232377			
SAFECO CREDIT		TURN-IN-2,771.60	Trackmobile	12/31/97, 60 months
STEELCASE FIN		OK 270.49	Office Furniture	02/23/00 50 MONTHS
		OK 1,270.45	Office Furniture	04/30/99 60 MONTHS
BIRMINGHAM RAIL		OK 5,000.00	Switch Engine	03/03/00 24 MONTHS
CITICORP	H177B11889W	520.96	Fork lifts	09/15/99 36 MONTHS
	H177B15018X	TURN-IN 520.96	Fork lifts	01/27/00 36 MONTHS
	D177B46040V	520.96	Fork lifts	03/01/00 36 MONTHS
NMHG Financial Serv.	H177B26045Y	Keep 414.00	Fork lifts	
	H177B29614Y	430.00	Fork lifts	
	H177B29621Y	TURN IN 425.00	Fork lifts	
De Lage Financial Serv.	H177B31403Y	Keep 457.00	Fork lifts	2/18/2002 36 Months
	H177B31404Y	Keep 457.00	Fork lifts	2/18/2002 36 Months
Copiers and fax machines				
XEROX	3DG031301	149.71	Accounting	01/01/02
	3HL100135	564.83	Engineering	02/01/02
	K5P200933	TURN-IN 436.79	Mailroom	09/01/04
	V5H114101	TURN-IN 111.65	Mailroom	08/01/04
	N8N077230	TURN-IN 136.37	Warehouse	05/01/02
	N8N077212	136.37	Maintenance	04/01/05
	NE4002053	TURN-IN 658.82	Traffic	04/01/05
	8HD073008	TURN-IN - 216.50	Mailroom	01/01/01

IBM PRINTER (TRAFFIC)

IBM TO PICK-UP W/E 4/19

BSFS LEASING Telephone equipment OK 2,723.67

Count Regan
318-574-1404

Vendor	SERIAL NUMBER	MONTHLY PAYMENT	DESCRIPTION	CONTRACT DATE
GE CAPITAL	4UZR8DR1XT2308340		HOLIDAY RAMBLER OWNED VCC	
	4UZ6XFBC8XCF28053	Keep 3,664.35	HOLIDAY RAMBLER	
	A31169	TURN IN → 3,326.68	KOMATSU LOADER	9-1-99 60 MONTHS
	817234	Keep 3,287.58	JOHN DEERE LOADER	Great Southern Tractor
AMERICAN LEASE (1239)	1GBJG31J3Y1224866	Keep 1,238.26	2001 TIOGA CHEV —	12/5/00, 48 months
	Tioga #743D15232377			
SAFECO CREDIT		TURN-IN - 2,771.60	Trackmobile	12/31/97, 60 months —
STEELCASE FIN (27295)		OK 270.49	Office Furniture	02/23/00 50 MONTHS
		OK 1,270.45	Office Furniture	04/30/99 60 MONTHS
		OK 5,000.00	Switch Engine	03/03/00 24 MONTHS
BIRMINGHAM RAIL CITICORP	H177B11889W	520.96	Fork lifts	09/15/99 36 MONTHS
	H177B15018X	TURN-IN 520.96	Fork lifts	01/27/00 36 MONTHS
	D177B46040V	520.96	Fork lifts	03/01/00 36 MONTHS
NMHG Financial Serv. 21475	H177B26045Y	Keep 414.00	Fork lifts	
	H177B29614Y	430.00	Fork lifts	
	H177B29621Y	TURN IN 425.00	Fork lifts	picked up 7/24/02
De Lage Financial Serv. (8150)	H177B31403Y	Keep 457.00	Fork lifts	2/18/2002 36 Months
	H177B31404Y	Keep 457.00	Fork lifts	2/18/2002 36 Months
Copiers and fax machines				
XEROX (33130)	3DG031301	149.71	Accounting Keep	01/01/02
	3HL100135	564.83	Engineering Keep	02/01/02
	K5P200933	436.79	Mailroom	09/01/04
	V5H114101	TURN-IN 111.65	Mailroom	08/01/04
	N8N077230	TURN-IN 136.37	Warehouse	05/01/02
	N8N077212	136.37	Maintenance Keep	04/01/05
	NE4002053	TURN-IN 658.82	Traffic	04/01/05
	8HD073008	TURN-IN - 216.50	Mailroom	01/01/01
IBM (14382) IPM PRINTER (TRAFFIC)				
BSFS LEASING (2685)	Telephone equipment	OK 2,723.67		IBM TO PICK-UP W/E 4/19

Conrad Nezan
318-574-1404

John Miles

From: Johnny Hanna [jhanna@cvrtmail.com]
Sent: Wednesday, May 29, 2002 2:06 PM
To: jmiles@kpower.com
Subject: FW: Hyster Forklift

-----Original Message-----

From: fschmidt@angelfrankel.com [mailto:fschmidt@angelfrankel.com]
Sent: Wednesday, May 29, 2002 1:21 PM
To: jhanna@cvrt.com; jhanna@kpower.com
Subject: Hyster Forklift

----- Forwarded by Frederick E Schmidt/Angel & Frankel
on
05/29/2002 02:20 PM -----

Frederick E Schmidt
05/29/2002 01:58 PM

To: Jhannah@cvrt.com, jhannah@kpower.com
cc:
Subject: Hyster Forklift

Johnny,

Last week I faxed Yehuda a copy of correspondence I received from
counsel to
GE
Capital regarding a lease of a Hyster Forklift Model H50XM, serial
number
H177B26045Y. In our telephone conversation today, Yehuda advised me
that he
asked you to look into the situation.

I am advised by GE Capital that lease payments have not been paid and
that
we
have not moved to reject the lease. If we intend to hang on to the
forklift
for
a while, we must make monthly lease payments.

Please call me as soon as you get a chance: (212) 752-8000.

Thank you.

Angel & Frankel, P.C.
460 Park Avenue
New York, NY 10022-1906
Tel. (212) 752-8000
Fax (212) 752-8393

April 23, 2002

Xerox Corporation
Dallas, Texas

Dear Sirs:

The following are the serial numbers for the machines that Vicksburg Chemical Company rejects the leases, under bankruptcy provisions.

<u>Serial Number</u>	<u>Location</u>
K5P200933	Mailroom
V5H114101	Mailroom
N8N077230	Warehouse
NE4002053	Traffic Dept.
8HD073008	Mailroom

Please have the above listed machines removed at your convenience,

Yours truly,

Dennis M. Walker
Controller

Vicksburg Chemical Company
 Ford Motor Credit Leases

NAME	TERM	LEASE	LOCATION		Year	VEHICLE	
		END DATE	City	State		Model	S/N
Barnes, Tim	36	4/13/02	Vicksburg	MS	1999	Ford Expedition	1FMRU1768XLB57386 ✓
Keen, Sonny	36	4/5/03	Vicksburg	MS	2000	Chev 1500 Silverado PU 4x4	2GCEK19T5Y1253348
Heggins, John	36	4/5/03	Vicksburg	MS	2000	Chev. Suburban	3GNEC16T7YG160847
Fowler, Rocky	36	5/15/03	Vicksburg	MS	2000	GMC 1 Ton Pickup	1GTGC34R8YR198799 ✓
Luckett, Michael	36	5/16/03	Vicksburg	MS	2000	Ford F-150 Pickup	1FTRF17W6YNB52286
Fowler, Rocky	48	3/31/04	Vicksburg	MS	1999	Ford Reg Cab XL	1FTN20L9XEC67421
Effluent	48	3/31/04	Vicksburg	MS	1999	Ford Reg Cab XL	1FTNF20L7XEC67420 -
McDil, Gerald	48	3/31/04	Vicksburg	MS	1999	Ford F-150 4x2	1FTRF17W5XNA20019 -
Holdiness, Roger	48	3/31/04	Vicksburg	MS	1999	Ford F-150 4x2	1FTRF17W8XNA20015 -
In Vicksburg	36	2/25/02	Vicksburg	MS	1999	Ford Expedition	1FMRU1863XLB16453 -

Attn:
 Jamie

Neely Kiser
 800-777-3395
 xt 301

4/10

Acc # 13444

Received all
 vehicles @
 Vicksburg Ford
 3/29 Frank Jyk 10

**VICKSBURG PRODUCTION & SALE FORECAST
BY PRODUCT
Cash Flow Support
As of March 25, 2002**

Handwritten notes:
 KN23 3185
~~2860~~
 300
 N2O4 1900
 Nutri/mc 769
 Haifa m/l
 6,154

INVENTORY

- Ledger Total	\$	7,959.7	
- Less: Platinum Gauze		(232.4)	
- Less: Bags		(328.0)	
- Less: Env Chemical		(19.7)	
- Less: Misc		(418.2)	
- Less: Pot Carbonate		(105.9)	
ADJ Ledger	\$	6,855.5	
Inv below	\$	3,775.3	
Var	\$	3,080.2	
AG Prill Var	\$	1,365.0	44%
Crystal Tech Var	\$	317.4	10%
Glass Grade Var	\$	1,099.1	36%
All Other Var	\$	298.8	10%
	\$	3,080.2	

INVENTORY ROLLFORWARD

	Quantity	Avg Cost	Total
N ₂ O ₄	690,000 lbs	\$.44	30.4
CHLORINE	800 ton	\$ 102.00	81.6
NUTRICOTE	700 ton	\$ 1,290.00	903.0
MULTICOTE	940 ton	\$ 738.00	693.7
POTASSIUM NITRATE			
- Untreated <i>m/p</i>	4000	-	-
- Glass Grade	1800	2000 ton \$ 275.00	550.0
- Tech Crystal	100	30 ton \$ 275.00	8.3
- Golf Course SGN 100	400	ton \$ 275.00	110.0
- Florida Tech	250	ton \$ 275.00	68.8
- Super Tech	150	ton \$ 275.00	41.3
- Green House Grade	600	ton \$ 275.00	165.0
- AG Prill	700	ton \$ 275.00	192.5
- WHSE - Wilmington NC AG Prill	1,000	ton \$ 900	275.0
- WHSE - ERT - Untreated	1,000	ton \$ 1300	275.0
- WHSE - Stockton - Purchased Haifa GG	500	ton \$ 320.41	160.2
- WHSE - LA - Purchased Haifa GG	500	ton \$ 320.41	160.2
AMMONIA	57 ton	\$ 136.18	7.8
NITRIC ACID	798 ton	\$ 66.00	52.7

1686

10,000

TOTAL INVENTORY	\$ 3,775.3
Add: Purchases	-
Less: COGS	-
ENDING INVENTORY	\$ 3,775.3

3/25
14,582.98

VCE
10,160
7,400
#760

100	TGC/H
300	M/P
1500	I/P
1500	tail
4000	STD
<u>7400</u>	

Prod Group	Whse	ITEM	DESC	PRODUCT, Nutricote, Nutricote, n204, Chlorine	QTYRESV	ONHAND	CONTQTY	TOTQTY	STDCST	VALUE	TOTAL
67	HYDRO/KIRBY AGRI	20140	NUTRICOTE 18-6-8 T100	Nutricote	4	15	1.00000	15	1387.48	20,368.21	
67	HYDRO/KIRBY AGRI	20145	NUTRICOTE 18-6-8 T140	Nutricote	24	40	1.00000	40	1387.48	55,429.63	
67	HYDRO/KIRBY AGRI	20155	NUTRICOTE 18-6-8 T180	Nutricote	63	55	1.00000	55	1387.48	76,283.65	
67	HYDRO/KIRBY AGRI	20165	NUTRICOTE 18-6-8 T270	Nutricote		4	1.00000	4	1388.00	5,552.00	
67	HYDRO/KIRBY AGRI	20166	NUTRICOTE 20-7-10 T40/140	Nutricote		20	1.00000	20	1388.00	27,760.00	
67	HYDRO/KIRBY AGRI	20167	NUTRICOTE 20-7-10 T70	Nutricote		6	1.00000	6	1388.00	8,328.00	
67	HYDRO/KIRBY AGRI	20169	NUTRICOTE 20-7-10 T40/180	Nutricote		1	1.00000	1	1241.20	1,241.20	
67	HYDRO/KIRBY AGRI	20175	NUTRICOTE 20-7-10 T100	Nutricote	22	25	1.00000	25	1198.00	29,950.00	
67	HYDRO/KIRBY AGRI	20180	NUTRICOTE 20-7-10 T140	Nutricote		59	1.00000	59	1198.00	70,584.00	
67	HYDRO/KIRBY AGRI	20185	NUTRICOTE 20-7-10 T180	Nutricote	8	5	1.00000	5	1198.00	5,990.04	
67	HYDRO/KIRBY AGRI	20190	NUTRICOTE 20-7-10 T270	Nutricote		0	1.00000	0	1198.00	275.08	
67	NORMEO LEASING	20055	NUTRICOTE 14-14-14 T100	Nutricote	1	1.00000	1	1196.01	1,196.01		
67	NORMEO LEASING	20070	NUTRICOTE 18-10-10 T40/14	Nutricote	1	1.00000	1				
67	NORMEO LEASING	20071	NUTRICOTE 18-10-10 T70	Nutricote	1	1.00000	1				
67	NORMEO LEASING	20085	NUTRICOTE 18-10-10 T140	Nutricote	0	1.00000	0	1242.00	521.64		
67	NORMEO LEASING	20130	NUTRICOTE 17-7-8 T70/180	Nutricote	4	1.00000	4	1242.00	5,117.04		
67	NORMEO LEASING	20131	NUTRICOTE 17-7-8 T70/270	Nutricote	3	1.00000	3	1438.00	4,917.96		
67	NORMEO LEASING	20135	NUTRICOTE 18-6-8 T40	Nutricote	1	1.00000	1	1438.00	780.90		
67	NORMEO LEASING	20140	NUTRICOTE 18-6-8 T100	Nutricote	2	1.00000	2	1388.00	2,498.40		
67	NORMEO LEASING	20155	NUTRICOTE 18-6-8 T180	Nutricote	38	1.00000	38	1387.48	52,585.49		
67	NORMEO LEASING	20156	NUTRICOTE 18-6-8 T360	Nutricote	28	1.00000	28	1387.48	38,800.95		
67	NORMEO LEASING	20157	NUTRICOTE 18-6-8 T360	Nutricote		1	1.00000	1	1387.48	929.81	
67	NORMEO LEASING	20165	NUTRICOTE 18-6-8 T270	Nutricote	20	40	1.00000	40	1387.48	55,499.20	
67	NORMEO LEASING	20171	NUTRICOTE 20-7-10 T70/360	Nutricote		87	1.00000	87	1388.00	93,023.78	
67	NORMEO LEASING	20175	NUTRICOTE 20-7-10 T100	Nutricote	10	98	1.00000	98	1241.36	121,369.72	
67	NORMEO LEASING	20185	NUTRICOTE 20-7-10 T180	Nutricote		6	1.00000	6	1198.00	7,188.00	
67	NORMEO LEASING	20190	NUTRICOTE 20-7-10 T270	Nutricote		0	1.00000	0	1198.00	263.58	
67	NORMEO LEASING	20200	NUTRICOTE 20-7-10 T360	Nutricote		34	1.00000	34	1198.00	40,903.20	
67	NORMEO LEASING	20225	NUTRICOTE 24-3-8 T180	Nutricote	30	38	1.00000	36	1198.00	43,056.00	
67	NORMEO LEASING	20230	NUTRICOTE 24-3-8 T270	Nutricote		7	1.00000	7	1000.00	7,000.00	
67	NORMEO LEASING	20235	NUTRICOTE 24-3-8 T360	Nutricote		8	1.00000	8	1000.00	7,800.00	
67	HYDRO/KIRBY AGRI	20000	AGRIMAX	Nutricote	0	1.00000	0				
67	NORMEO LEASING	20000	AGRIMAX	Nutricote	1	1.00000	1	1248.00	1,684.80		
67	VICKSBURG PLANT	33530	POLYMERIC MDI (DIC)	Nutricote	1	1.00000	1	1248.00	1,310.40		787
27	VICKSBURG PLANT	1440	POTASSIUM CARBONATE-50#	Pol Carbonate		1.00000			0.78	57,158.40	
27	JMAX COMMERCIAL STORAGE	1440	POTASSIUM CARBONATE-50#	Pol Carbonate	44	1.00000	44	409.47	18,024.67		
27	TRADEMARK NITROGEN CORP.	1440	POTASSIUM CARBONATE-50#	Pol Carbonate	11	1.00000	11	409.47	4,504.17		
27	TRI-ISLAND DISTRIBUTION	1440	POTASSIUM CARBONATE-50#	Pol Carbonate	22	1.00000	22	409.47	9,008.34		
27	FERRD CORP.	1440	POTASSIUM CARBONATE-50#	Pol Carbonate	10	1.00000	10	409.47	4,094.70		
67	VICKSBURG PLANT	18061	KP 15-15-15 NURSERY BAGS	Prod Bags	32	1.00000	32	409.47	13,074.38		
65	U.A.P. FLORIDA, INC.	18061	KP 15-15-15 NURSERY BAGS	Prod Bags	10800	1.00000	10800	0.75	8,100.00		
65	U.A.P. FLORIDA, INC.	18062	KP 15-7-15 NURSERY BAGS	Prod Bags	10677	1.00000	10677	0.75	8,007.75		
67	VICKSBURG PLANT	18057	KP 17-17-17 NURSERY BAGS	Prod Bags	9756	1.00000	9756	0.75	7,317.00		
65	U.A.P. FLORIDA, INC.	18057	KP 17-17-17 NURSERY BAGS	Prod Bags	3600	1.00000	3600	0.59	1,404.00		
67	VICKSBURG PLANT	18083	KP 17-5-11 NURSERY BAGS	Prod Bags	3784	1.00000	3784	0.59	1,467.96		
65	U.A.P. FLORIDA, INC.	18083	KP 17-5-11 NURSERY BAGS	Prod Bags	10800	1.00000	10800	0.75	8,100.00		
67	VICKSBURG PLANT	18058	KP 18-6-12 NURSERY BAGS	Prod Bags	1249	1.00000	1249	0.75	936.75		
65	U.A.P. FLORIDA, INC.	18058	KP 18-6-12 NURSERY BAGS	Prod Bags	15840	1.00000	15840	0.40	6,336.00		
67	VICKSBURG PLANT	18059	KP 18-6-12 NURSERY BAGS	Prod Bags	7256	1.00000	7256	0.40	2,903.20		
67	VICKSBURG PLANT	18064	KP GENERIC NURSERY BAGS	Prod Bags	5200	1.00000	5200	0.75	3,900.00		
67	VICKSBURG PLANT	18065	KP GENERIC NURSERY BAGS	Prod Bags	1600	1.00000	1600	0.75	1,200.00		
67	VICKSBURG PLANT	18067	KP GENERIC NURSERY BAGS	Prod Bags	1600	1.00000	1600	0.75	1,200.00		
65	U.A.P. FLORIDA, INC.	18064	KP GENERIC NURSERY BAGS	Prod Bags	1600	1.00000	1600	0.75	1,200.00		
65	U.A.P. FLORIDA, INC.	18065	KP GENERIC NURSERY BAGS	Prod Bags	3561	1.00000	3561	0.75	2,670.75		
65	U.A.P. FLORIDA, INC.	18066	KP GENERIC NURSERY BAGS	Prod Bags	331	1.00000	331	0.75	248.25		
65	U.A.P. FLORIDA, INC.	18067	KP GENERIC NURSERY BAGS	Prod Bags	3322	1.00000	3322	0.75	2,491.50		
67	VICKSBURG PLANT	30200	ANHYDROUS AMMONIA	RM	3114	1.00000	3114	0.75	2,335.50		
18	VICKSBURG PLANT	530	GREENHOUSE SOLUPRILL 25KG	Super tech	57	1.00000	57	136.18	7,735.02		
18	VICKSBURG PLANT	560	GREENHOUSE SOLUPRILL 50#	Super tech	154	1.00000	154	275.00	42,350.00		
16	LPC PACKAGING, INC.	560	GREENHOUSE SOLUPRILL 50#	Super tech	72	8	1.00000	80	275.00	21,917.50	
16	RADIUS TRANSPORTATION	560	GREENHOUSE SOLUPRILL 50#	Super tech		3	1.00000	3	275.00	2,084.50	
16	VICKSBURG PLANT	520	TECH PRILL 1-TON BULK BAG	Super tech		3	1.00000	3	275.00	893.75	
16	VICKSBURG PLANT	510	TECH PRILL KN03-50# BAG	Super tech	20	-42	1.00000	-42	275.00	11,575.00	
16	TRI-ISLAND DISTRIBUTION	510	TECH PRILL KN03-50# BAG	Super tech	154	-41	1.00000	-41	275.00	11,275.00	
16	VICKSBURG PLANT	510	TECH PRILL KN03-50# BAG	Super tech		3	1.00000	3	275.00	828.50	
16	VICKSBURG PLANT	610	GREENHOUSE KN03 50# BAG	Tech Crystal	22	-63	1.00000	-63	275.00	17,325.00	11
16	TRADEMARK NITROGEN CORP.	610	GREENHOUSE KN03 50# BAG	Tech Crystal	8	45	1.00000	45	275.00	12,375.00	
16	VICKSBURG PLANT	420	KN03 TECH GRADE 50 KG BAG	Tech Crystal		-1	1.00000	-1	275.00	275.00	
16	VICKSBURG PLANT	400	TECH CRYSTAL KN03 BULK	Tech Crystal		1142	1.00000	1142	275.00	314,121.50	311,861.00
41	TRI-ISLAND DISTRIBUTION	6420	TECH CRYSTAL WITH	Tech Crystal (HAIFA)	22	22	1.00000	22	326.15	7,031.79	
41	TRI-ISLAND DISTRIBUTION	6420	TECH CRYSTAL WITHOUT	Tech Crystal (HAIFA)	33	33	1.00000	33	280.24	9,682.41	
23	VICKSBURG PLANT	1100	65% NITRIC ACID		798	1.00000	798	66.00	52,656.12		1178

7,959,682.88
 \$ 3960,175
 KN03

Prod. Grac.	Whse	ITEM	DESC	PRODUCT: Multicote, Multicote, n2o4, Chlorine	QTYRESV	ONHAND	CONQTY	TOTQTY	STDCST	VALUE	TOTAL
67	VICKSBURG PLANT	30300	PLATINUM GAUZE	Acid Plant Matl		57	1,00000	57	790.00	332,400.00	
17	VICKSBURG PLANT	210	13-24 PRILL BULK	AG Prill	88	4	1,00000	4	275.00	1,124.75	
12	VICKSBURG PLANT	200	AG PRILL KN03 BULK	AG Prill	2491	3735	1,00000	3735	275.00	1,027,148.75	
12	LYKES AGRI SALES, INC.	200	AG PRILL KN03 BULK	AG Prill		60	1,00000	60	275.00	16,500.00	
12	LYKES AGRI SALES, INC.	200	AG PRILL KN03 BULK	AG Prill		5706	1,00000	5706	275.00	15,651.50	
12	TRADEMARK NITROGEN CORP.	200	AG PRILL KN03 BULK	AG Prill		13	1,00000	13	275.00	3,671.25	
12	LPC PACKAGING, INC.	200	AG PRILL KN03 BULK	AG Prill		-7	1,00000	-7	275.00	(2,027.50)	
12	ELIZABETH RIVER TERMINAL	200	AG PRILL KN03 BULK	AG Prill	578		1,00000		275.00		
12	PARHOED DRY BULK TERMNL	200	AG PRILL KN03 BULK	AG Prill		285	1,00000	285	275.00	78,245.75	
12	D I R E C T S H I P	200	AG PRILL KN03 BULK	AG Prill		-24	1,00000	-24	275.00	(6,600.00)	
12	ALMONT SHIPPING TERMINAL	200	AG PRILL KN03 BULK	AG Prill	120	939	1,00000	939	275.00	258,170.00	
12	VICKSBURG PLANT	220	AG PRILL KN03-50# BAG	AG Prill		-1	1,00000	-1	275.00	(89.50)	
12	JMAX COMMERCIAL STORAGE	220	AG PRILL KN03-50# BAG	AG Prill	24	118	1,00000	118	275.00	32,450.00	
12	LPC PACKAGING, INC.	220	AG PRILL KN03-50# BAG	AG Prill		3	1,00000	3	275.00	825.00	
12	TRI-ISLAND DISTRIBUTION	220	AG PRILL KN03-50# BAG	AG Prill		4	1,00000	4	275.00	1,100.00	
12	VICKSBURG PLANT	230	AG PRILL KN03-1 TON BAG	AG Prill		132	1,00000	132	275.00		
12	VICKSBURG PLANT	100	AG STANDARD KN03 BULK	AG Prill		1225	1,00000	1225	275.00	338,868.75	
12	ELIZABETH RIVER TERMINAL	100	AG STANDARD KN03 BULK	AG Prill	48	1253	1,00000	1253	275.00	344,517.25	2,107,476.25
67	VICKSBURG PLANT	35540	1 TON MULTICOTE BAGS	Bags			1,00000		8.53	6,824.00	
67	VICKSBURG PLANT	35500	1 TON MULTICOTE BAGS	Bags			1,00000		14.12	25,853.72	
67	VICKSBURG PLANT	35510	110# POLY BAGS(50 KILO)	Bags			1,00000		0.40	83,900.00	
67	VICKSBURG PLANT	35500	BAGS-KN03	Bags			1,00000		0.30	128,958.30	
67	VICKSBURG PLANT	36000	BAGS-MKP/MAP 50# OR 25KG	Bags			1,00000		0.29	22,973.80	
51	VICKSBURG PLANT	6440	SAPP P/G, 25 KG BAGS	Bags		8	1,00000	8			
25	VICKSBURG PLANT	750	SODIUM HYPOCHLORITE	Bleach	93300	-8431	1,00000	-8431			
21	VICKSBURG PLANT	700	CHLORINE BULK	Chlorine	2430	1364	1,00000	1364			
21	VICKSBURG PLANT	710	CHLORINE CYLINDERS	Chlorine	100	-206	1,00000	-206			1158
67	VICKSBURG PLANT	30400	CAUSTIC	Env chemical		57	1,00000	57	0.10	16,472.40	
67	VICKSBURG PLANT	31210	SULFURIC ACID-93 %	Env chemical			1,00000		0.03	3,204.00	
14	LPC PACKAGING, INC.	370	SOLUBLE PRILL -1 TON BAG	Florida Tech		95	1,00000	95	275.00	26,017.75	
14	RADIUS TRANSPORTATION	370	SOLUBLE PRILL -1 TON BAG	Florida Tech	36	70	1,00000	70	275.00	19,184.00	
14	VICKSBURG PLANT	290	SOLUBLE PRILL BULK KN03	Florida Tech		-47	1,00000	-47	275.00	(12,987.50)	
14	TRADEMARK NITROGEN CORP.	290	SOLUBLE PRILL BULK KN03	Florida Tech	95	28	1,00000	28	275.00	7,684.25	
14	VICKSBURG PLANT	280	SOLUBLE PRILL 50# BAG	Florida Tech		-140	1,00000	-140	275.00	(38,500.00)	
14	LPC PACKAGING, INC.	280	SOLUBLE PRILL 50# BAG	Florida Tech	45	93	1,00000	93	275.00	25,685.00	99
10	VICKSBURG PLANT	110	GG FLOWABLE EXPORT -10#	GG		-18	1,00000	-18	275.00	(4,950.00)	
10	VICKSBURG PLANT	170	GG FLOWABLE 1 TON BAG	GG	102	-79	1,00000	-79	275.00	(21,725.00)	
10	VICKSBURG PLANT	270	GG FLOWABLE 29KG BAG	GG		-158	1,00000	-158	275.00	(43,325.00)	
10	RADIUS TRANSPORTATION	270	GG FLOWABLE 29KG BAG	GG	22	38	1,00000	38	275.00	10,548.25	
10	VICKSBURG PLANT	280	GG FLOWABLE 50# BAG	GG	872	-312	1,00000	-312	275.00	(85,800.00)	
10	JMAX COMMERCIAL STORAGE	280	GG FLOWABLE 50# BAG	GG		2	1,00000	2	275.00	508.75	
10	TRADEMARK NITROGEN CORP.	280	GG FLOWABLE 50# BAG	GG	1	2	1,00000	2	275.00	508.75	
10	LPC PACKAGING, INC.	280	GG FLOWABLE 50# BAG	GG	70	69	1,00000	69	275.00	18,968.50	
10	TRI-ISLAND DISTRIBUTION	280	GG FLOWABLE 50# BAG	GG	22	23	1,00000	23	275.00	6,325.00	
10	ELIZABETH RIVER TERMINAL	280	GG FLOWABLE 50# BAG	GG		12	1,00000	12	275.00	3,300.00	
10	D I R E C T S H I P	280	GG FLOWABLE 50# BAG	GG		-3	1,00000	-3	275.00	(825.00)	
10	RADIUS TRANSPORTATION	280	GG FLOWABLE 50# BAG	GG	72	18	1,00000	18	275.00	4,950.00	
10	ELIZABETH RIVER TERMINAL	240	GG FLOWABLE BULK	GG		96	1,00000	96	275.00		
10	ALMONT SHIPPING TERMINAL	240	GG FLOWABLE BULK	GG		-118	1,00000	-118	275.00	(32,575.00)	(16,626.75)
41	JMAX COMMERCIAL STORAGE	6120	HAIFA GG GRADE 25KG BAG	GG (HAIFA)		0	1,00000	0	320.41	96.12	
41	LPC PACKAGING, INC.	6120	HAIFA GG GRADE 25KG BAG	GG (HAIFA)	180	505	1,00000	505	320.41	161,807.05	
41	TRI-ISLAND DISTRIBUTION	6120	HAIFA GG GRADE 25KG BAG	GG (HAIFA)		1	1,00000	1	320.41	362.06	
41	RADIUS TRANSPORTATION	6120	HAIFA GG GRADE 25KG BAG	GG (HAIFA)	182	527	1,00000	527	320.41	168,884.91	
41	TRI-ISLAND DISTRIBUTION	6130	HAIFA GG GRADE 50# BAG	GG (HAIFA)	67	126	1,00000	126	361.23	45,551.10	
41	TRI-ISLAND DISTRIBUTION	6160	HAIFA KN03 FOOD GRADE	GG (HAIFA)		13	1,00000	13	362.89	4,838.81	650
14	TRADEMARK NITROGEN CORP.	17210	13-048 GREENS GRADE BAGS	Glass Grade	4		1,00000		275.00		
14	TRADEMARK NITROGEN CORP.	17210	13-048 GREENS GRADE BAGS	Glass Grade		10	1,00000	10	415.00	4,150.00	
65	LPC PACKAGING, INC.	17210	13-048 GREENS GRADE BAGS	Glass Grade		17	1,00000	17	415.00	7,055.00	
14	VICKSBURG PLANT	330	MICRO PRILL 25 KG BAG	Glass Grade		1	1,00000	1	275.00	143.00	
14	TRI-ISLAND DISTRIBUTION	310	MICRO PRILL GLASS BULK	Glass Grade		10	1,00000	10	275.00	2,750.00	
14	VICKSBURG PLANT	300	MICRO PRILL GLASS BULK	Glass Grade	652	5715	1,00000	5715	275.00	1,571,617.75	
14	TECHNIGLASS/TRACK STORGE	300	MICRO PRILL GLASS BULK	Glass Grade		-100	1,00000	-100	275.00	(27,500.00)	
14	THOMSON CONSUMER PRODS.	300	MICRO PRILL GLASS BULK	Glass Grade		200	1,00000	200	275.00	55,005.00	
14	CORNING GLASS WORKS	300	MICRO PRILL GLASS BULK	Glass Grade		362	1,00000	362	275.00	99,668.25	
14	VICKSBURG PLANT	320	MINI PRILL KN03 1 TON BG	Glass Grade	263		1,00000		275.00		
14	VICKSBURG PLANT	340	MINI PRILL AG GRADE BULK	Glass Grade	623	-325	1,00000	-325	275.00	(89,137.50)	
14	VICKSBURG PLANT	380	MINI PRILL-AG GRADE 50#	Glass Grade	14	12	1,00000	12	275.00	3,300.00	
14	TRADEMARK NITROGEN CORP.	380	MINI PRILL-AG GRADE 50#	Glass Grade	14	14	1,00000	14	275.00	3,850.00	
14	LPC PACKAGING, INC.	380	MINI PRILL-AG GRADE 50#	Glass Grade		43	1,00000	43	275.00	11,825.00	
14	RADIUS TRANSPORTATION	380	MINI PRILL-AG GRADE 50#	Glass Grade	19	1,00000	19	275.00	5,128.75	5984	
14	VICKSBURG PLANT	390	MICRO PRILL SGN-100 50#	Golf Course KN03	6		1,00000	6	275.00	1,650.00	
14	VICKSBURG PLANT	350	MICRO PRILL SGN-100 1 TON	Golf Course KN03	396	-23	1,00000	-23	275.00	(6,325.00)	
14	LPC PACKAGING, INC.	350	MICRO PRILL SGN-100 1 TON	Golf Course KN03		47	1,00000	47	275.00	13,037.75	1,657,363.25
67	VICKSBURG PLANT	30100	MURATE	KCL - KN03		1711	1,00000	1711	102.00	174,537.30	
67	VICKSBURG PLANT	35330	50# POT. CARBONATE BAGS	KN03			1,00000		0.34	26,715.50	
33	VICKSBURG PLANT	6290	MONO AMMONIUM PHOSPHATE	MAP	57		1,00000	57	0.18	34,573.50	
33	VICKSBURG PLANT	6380	MONO AMMONIUM PHOSPHATE	MAP	37		1,00000	37	454.55	17,041.08	
33	VICKSBURG PLANT	6390	MONO AMMONIUM PHOSPHATE	MAP	21		1,00000	21	477.86	10,082.86	
33	TRADEMARK NITROGEN CORP.	1610	MONO AMMONIUM PHOSPHATE	MAP	6		1,00000	6	515.00	2,878.86	
33	TRADEMARK NITROGEN CORP.	1640	MONO AMMONIUM PHOSPHATE	MAP	47		1,00000	47	515.00	24,206.00	
33	LPC PACKAGING, INC.	6360	MONO AMMONIUM PHOSPHATE	MAP	1		1,00000	1	477.86	296.27	
33	TRI-ISLAND DISTRIBUTION	6290	MONO AMMONIUM PHOSPHATE	MAP	7		1,00000	7	454.55	3,100.03	
33	TRI-ISLAND DISTRIBUTION	6390	MONO AMMONIUM PHOSPHATE	MAP	121		1,00000	121	477.86	57,615.58	
33	FERRO CORP.	6390	MONO AMMONIUM PHOSPHATE	MAP	47		1,00000	47	477.86	22,492.87	
33	RADIUS TRANSPORTATION	6390	MONO AMMONIUM PHOSPHATE	MAP	14		1,00000	14	477.86	6,623.14	
29	VICKSBURG PLANT	6380	MONO POTASSIUM PHOSPHATE	MAP	10	9	1,00000	9	557.64	4,979.73	
29	TRADEMARK NITROGEN CORP.	6380	MONO POTASSIUM PHOSPHATE	MAP	16	20	1,00000	20	557.64	11,202.99	
29	LPC PACKAGING, INC.	6380	MONO POTASSIUM PHOSPHATE	MAP		3	1,00000	3	557.64	1,711.95	
29	TRI-ISLAND DISTRIBUTION	6380	MONO POTASSIUM PHOSPHATE	MAP	70	46	1,00000	46	557.64	25,762.97	
29	D I R E C T S H I P	6380	MONO POTASSIUM PHOSPHATE	MAP		106	1,00000	106	557.64	58,719.84	
29	RADIUS TRANSPORTATION	6380	MONO POTASSIUM PHOSPHATE	MAP		6	1,00000	6	557.64	3,223.16	
67	VICKSBURG PLANT	33000	PHOSPHORIC ACID	MAP/MKP	84		1,00000	84	603.60	50,678.26	
67	VICKSBURG PLANT	33060	ANTIFOAM JG 8810	Misc			1,00000		1.18	7,670.00	
67	VICKSBURG PLANT	32100	CARBON DIOXIDE	Misc		15	1,00000	15	37.25	540.13	
67	VICKSBURG PLANT	33640	CASTOR OIL	Misc			1,00000		0.46	28,596.40	
67	VICKSBURG PLANT	33040	CLAY, CUSTOM GRANULAR	Misc		44	1,00000	44	155.55	6,800.20	
67	VICKSBURG PLANT	30600	FREON	Misc		57	1,00000	57	3.24	95,181.20	
67	VICKSBURG PLANT	32200	LIME	Misc		70	1,00000	70	85.20	4,584.00</	

Prod Group	Whse	ITEM	DESC	PRODUCT, Multicote, Nutricote, r264, Chlorine	QTYRESV	ONHAND	CONTQTY	TOTQTY	STDCST	VALUE	TOTAL
65	VICKSBURG PLANT	16967	21-5-14 MULTI-TOP 4 MO	Multicote	-4	1 00000	-4	798.16		31,162.64	
65	VICKSBURG PLANT	16968	21-5-14 MULTI-TOP 6 MOS	Multicote	-20	1 00000	-20	798.16		15,963.20	
65	VICKSBURG PLANT	16970	16-8-12 MULTICOTE (8)	Multicote	156	1 00000	156	985.00		156,255.55	
65	VICKSBURG PLANT	16971	16-8-12 MULTICOTE BULK(6)	Multicote	21	1 00000	21	935.00		114,257.00	
65	VICKSBURG PLANT	16980	16-8-11 MULTICOTE (4)	Multicote	22	1 00000	22	1200.00		26,780.00	
65	VICKSBURG PLANT	16981	16-8-11 MULTICOTE (4)	Multicote	1	1 00000	1	1320.00		1,320.00	
65	VICKSBURG PLANT	17000	12-0-42 MULTICOTE MINI	Multicote	103	1 00000	103	760.44		78,477.41	
65	VICKSBURG PLANT	17009	39-0-0 Multicote (8) 50#	Multicote	-8	1 00000	-8	760.00		6,080.00	
65	VICKSBURG PLANT	17010	39-0-0 MULTICOTE (9)	Multicote	48	1 00000	48	760.00		36,180.80	
65	VICKSBURG PLANT	17020	40-0-0 MULTICOTE BULK	Multicote	30	1 00000	30	690.00		22,125.80	
65	VICKSBURG PLANT	17021	40-0-0 MULTICOTE (4)*ME	Multicote	89	1 00000	89	690.00		61,686.00	
65	VICKSBURG PLANT	17025	42-0-0 MULTICOTE (2)	Multicote	22	1 00000	19	610.00		11,590.00	
65	VICKSBURG PLANT	17030	12-0-43 MULTICOTE 4 MTH	Multicote	36	169 00000	169	680.00		111,406.00	
65	VICKSBURG PLANT	17032	12-0-43 MULTICOTE (2)	Multicote	68	40 00000	40	610.00		24,400.00	
65	VICKSBURG PLANT	17040	10-46-0 MULTICOTE BULK	Multicote	7	71 00000	71	730.00		52,136.60	
65	VICKSBURG PLANT	17041	10-46-0 MULTICOTE (4)*ME	Multicote	103	1 00000	103	780.00		78,249.60	
65	VICKSBURG PLANT	17069	12-0-43 MULTICOTE (8)BULK	Multicote	22	142 00000	142	780.00		110,916.00	
65	VICKSBURG PLANT	17072	12-0-43 MULTICOTE (4)*ME	Multicote	111	1 00000	111	690.00		76,866.00	
65	VICKSBURG PLANT	17240	16-4-20 MULTICOTE	Multicote	26	1 00000	26				
65	VICKSBURG PLANT	17281	12-25-12 (9) SCHULTZ FWY	Multicote	10	1 00000	10	542.57		5,479.86	
65	VICKSBURG PLANT	17490	15-15-15 MULTICOTE	Multicote	-228	1 00000	-228	854.00		(194,712.00)	
65	VICKSBURG PLANT	17510	17-17-17 MULTICOTE	Multicote	-36	1 00000	-36	944.96		(34,019.20)	
65	VICKSBURG PLANT	17511	17-17-17 (4) Schult2	Multicote	-21	1 00000	-21	776.43		(16,354.63)	
65	VICKSBURG PLANT	17520	20-10-20 MULTICOTE	Multicote	-241	1 00000	-241	782.15		(188,297.15)	
65	VICKSBURG PLANT	17530	24-8-16 MULTICOTE	Multicote	8	15 00000	15	765.40		11,089.20	
65	VICKSBURG PLANT	17530	24-8-16 MULTICOTE	Multicote	-2	1 00000	-2	762.43		(1,524.86)	
65	VICKSBURG PLANT	17560	18-6-12 MULTICOTE	Multicote	10	-136 00000	-136	1064.80		(144,312.80)	
65	VICKSBURG PLANT	17562	18-6-12 MULTICOTE (5)	Multicote	-6	1 00000	-6	1004.72		(6,028.32)	
65	LYKES AGRI SALES, INC.	18940	15-7-15 MULTICOTE (12)	Multicote	-5	1 00000	-5	1074.35		(5,371.75)	
65	LYKES AGRI SALES, INC.	17020	40-0-0 MULTICOTE BULK	Multicote	2	1 00000	2	660.00		1,320.20	
65	LYKES AGRI SALES, INC.	17030	12-0-43 MULTICOTE 4 MTH	Multicote	12	1 00000	12	660.00		7,920.00	
65	LYKES AGRI SALES, INC.	17550	18-8-12 MULTICOTE	Multicote	-3	1 00000	-3	1064.80		(3,194.40)	
65	TRADEMARK NITROGEN CORP.	16925	12-5-9 MULTI-TOP	Multicote	3	1 00000	3	418.44		1,171.63	
65	TRADEMARK NITROGEN CORP.	16981	17-5-11 MULTICOTE (12)	Multicote	2	2 00000	2	1153.70		2,307.40	
65	TRADEMARK NITROGEN CORP.	16985	18-5-10 MULTI-TOP (2-3)	Multicote	1	1 00000	1	581.83		756.38	
65	TRADEMARK NITROGEN CORP.	16988	21-5-14 MULTI-TOP 6 MOS	Multicote	2	1 00000	2	788.16		1,596.32	
65	TRADEMARK NITROGEN CORP.	16981	18-8-11 MULTICOTE (4)	Multicote	0	1 00000	0	1320.00		290.40	
65	TRADEMARK NITROGEN CORP.	17020	40-0-0 MULTICOTE BULK	Multicote	8	1 00000	8	860.00			
65	TRADEMARK NITROGEN CORP.	17040	10-46-0 MULTICOTE BULK	Multicote	10	10 00000	10	730.00		7,300.00	
65	TRADEMARK NITROGEN CORP.	17240	16-4-20 MULTICOTE	Multicote	8	1 00000	8	542.57		3,255.42	
65	TRADEMARK NITROGEN CORP.	17510	17-17-17 MULTICOTE	Multicote	-4	1 00000	-4	776.43		(3,105.72)	
65	LPC PACKAGING, INC.	17490	15-15-15 MULTICOTE	Multicote	1	1 00000	1	944.96		614.24	
65	U.A.P. FLORIDA, INC.	16955	13-13-13 MULTICOTE (8)	Multicote	1	1 00000	1	985.00		985.00	
65	U.A.P. FLORIDA, INC.	16960	17-5-11 MULTICOTE (12)	Multicote	-1	1 00000	-1	1065.00		(1,065.00)	
65	U.A.P. FLORIDA, INC.	16981	17-5-11 MULTICOTE (12)	Multicote	1	1 00000	1	1153.70		1,695.94	
65	U.A.P. FLORIDA, INC.	16985	18-5-10 MULTI-TOP (2-3)	Multicote	1	1 00000	1	581.83		581.83	
65	U.A.P. FLORIDA, INC.	16970	18-8-12 MULTICOTE (8)	Multicote	0	1 00000	0	985.00		88.65	
65	U.A.P. FLORIDA, INC.	16971	18-8-12 MULTICOTE BULK(6)	Multicote	2	1 00000	2	935.00		1,693.00	
65	U.A.P. FLORIDA, INC.	17020	40-0-0 MULTICOTE BULK	Multicote	1	1 00000	1	660.00		369.60	
65	U.A.P. FLORIDA, INC.	17025	42-0-0 MULTICOTE (2)	Multicote	1	1 00000	1	610.00		396.50	
65	U.A.P. FLORIDA, INC.	17030	12-0-43 MULTICOTE 4 MTH	Multicote	1	1 00000	1	660.00		462.00	
65	U.A.P. FLORIDA, INC.	17032	12-0-43 MULTICOTE (2)	Multicote	0	1 00000	0	610.00		81.50	
65	U.A.P. FLORIDA, INC.	17040	10-46-0 MULTICOTE BULK	Multicote	2	1 00000	2	730.00		1,730.10	
65	U.A.P. FLORIDA, INC.	17041	10-46-0 MULTICOTE (4)*ME	Multicote	0	1 00000	0	760.00		250.60	
65	U.A.P. FLORIDA, INC.	17069	12-0-43 MULTICOTE (4)*ME	Multicote	1	1 00000	1	690.00		434.70	
65	U.A.P. FLORIDA, INC.	17510	17-17-17 MULTICOTE	Multicote	0	1 00000	0	776.43		287.28	
65	U.A.P. FLORIDA, INC.	17560	18-8-12 MULTICOTE	Multicote	2	3 00000	3	1054.80		3,119.86	
65	UAP-WEST	17030	12-0-43 MULTICOTE 4 MTH	Multicote	17	16 00000	16	860.00		10,560.00	
65	UAP-WEST	17040	10-46-0 MULTICOTE BULK	Multicote	24	1 00000	24	730.00		17,877.70	
65	NORMEO LEASING	16942	14-14-16 (4) Multicote	Multicote	-5	1 00000	-5	844.72		(4,223.60)	
65	NORMEO LEASING	17551	18-6-12 MULTICOTE	Multicote	3	1 00000	3	1942.00		5,973.90	
65	UAP-WEST	17281	12-25-12 (9) SCHULTZ FWY	Multicote	1	1 00000	1	854.00		854.00	
67	VICKSBURG PLANT	33560	COBALT OCTOATE	Multicote	1	1 00000	1	4.10		28,400.00	
67	VICKSBURG PLANT	33550	DISTILLED TALL OIL	Multicote	1	1 00000	1	0.35		18,852.00	
67	VICKSBURG PLANT	33580	MAG OXIDE	Multicote	1	1 00000	1	0.17		11,730.00	
46	VICKSBURG PLANT	6370	MAGNESIUM NITRATE 50# BAG	Multicote	24	24 00000	24	473.05		11,447.81	
46	LPC PACKAGING, INC.	6370	MAGNESIUM NITRATE 50# BAG	Multicote	42	1 00000	42	473.05		19,868.10	
46	TRI-ISLAND DISTRIBUTION	6370	MAGNESIUM NITRATE 50# BAG	Multicote	22	34 00000	34	473.05		16,131.01	
46	RADIUS TRANSPORTATION	6370	MAGNESIUM NITRATE 50# BAG	Multicote	5	30 00000	30	473.05		13,954.98	
67	VICKSBURG PLANT	33600	MICRO ELEMENTS, #1 MIX	Multicote	1	1 00000	1	1.20		72,000.00	
67	VICKSBURG PLANT	33605	MICRO ELEMENTS, #2 MIX	Multicote	1	1 00000	1	0.38		12,800.00	
67	VICKSBURG PLANT	33570	PARAFFIN	Multicote	1	1 00000	1	0.47		24,440.00	
67	VICKSBURG PLANT	33560	UREA, 46-0-0	Multicote	15	1 00000	15	235.00		3,506.20	
22	VICKSBURG PLANT	800	N204 BROWN	Multicote/Nutricote Blend	-43	1 00000	-43				881
22	VICKSBURG PLANT	850	N204 GREEN MON-1	N204	2000	-3880	1 00000	-3880	0.44	(1,717.76)	
22	VICKSBURG PLANT	1000	N204-LOW IRON	N204	132844	1 00000	132844	0.44	58,451.96		
22	VICKSBURG PLANT	20158	NUTRICOTE 18-6-8 T360	N204	331600	1 00000	331600	0.44	145,904.00		
67	VICKSBURG PLANT	20157	NUTRICOTE 18-6-8 T360	Nutricote	29	1 00000	29	1387.48		40,236.92	
67	VICKSBURG PLANT	20020	NUTRICOTE 13-13-13 T100	Nutricote	-7	1 00000	-7	1387.48		(9,712.36)	
67	LPC PACKAGING, INC.	20045	NUTRICOTE 13-13-13 T270	Nutricote	5	1 00000	5	1387.48		6,937.40	
67	LPC PACKAGING, INC.	20065	NUTRICOTE 14-14-14 T180	Nutricote	0	1 00000	0	1388.00		59.40	
67	LPC PACKAGING, INC.	20068	NUTRICOTE 14-14-14 T270	Nutricote	4	1 00000	4	1198.00		4,792.00	
67	LPC PACKAGING, INC.	20071	NUTRICOTE 16-10-10 T100	Nutricote	2	1 00000	2	890.00		1,780.00	
67	LPC PACKAGING, INC.	20080	NUTRICOTE 16-10-10 T100	Nutricote	2	1 00000	2	1242.00		2,484.00	
67	LPC PACKAGING, INC.	20135	NUTRICOTE 18-6-8 T40	Nutricote	1	1 00000	1	1242.00		621.00	
67	LPC PACKAGING, INC.	20140	NUTRICOTE 18-6-8 T100	Nutricote	2	1 00000	2	1368.00		2,736.00	
67	LPC PACKAGING, INC.	20146	NUTRICOTE 18-6-8 T180	Nutricote	1	1 00000	1	1367.48		1,367.48	
67	LPC PACKAGING, INC.	20155	NUTRICOTE 18-6-8 T180	Nutricote	0	1 00000	0	1387.48		188.50	
67	LPC PACKAGING, INC.	20158	NUTRICOTE 18-6-8 T360	Nutricote	2	1 00000	2	1387.48		2,774.96	
67	LPC PACKAGING, INC.	20167	NUTRICOTE 20-7-10 T70	Nutricote	2	1 00000	2	1368.00		2,736.00	
67	LPC PACKAGING, INC.	20230	NUTRICOTE 24-3-6 T270	Nutricote	0	1 00000	0	1000.00		50.00	
67	HYDROKIRBY AGRI	20001	NUTRICOTE 13-13-13 T430	Nutricote	3	3 00000	3	1440.00		4,320.00	
67	HYDROKIRBY AGRI	20010	NUTRICOTE 13-13-13 T70	Nutricote	23	35 00000	35	1242.00		43,470.00	
67	HYDROKIRBY AGRI	20020	NUTRICOTE 13-13-13 T100	Nutricote	25	29 00000	29	1387.48		39,661.93	
67	HYDROKIRBY AGRI	20025	NUTRICOTE 13-13-13 T14								

CEDAR CHEMICAL CORPORATION

FROM THE DESK OF...
JOHNNY L. HANNA

TO:

Dennis

Please call me about
this

Johnny

JHUGHLEY

VICKSBURG CHEMICAL COMPANY

ARSDOOR

3/31/02

NON CUSTOMER

NET / DEPOSIT

DISCOUNT

ACCOUNTS RECEIVABLE

DATE

BATCH

BATCH	DATE	ACCOUNTS RECEIVABLE	DISCOUNT	NET / DEPOSIT	NON CUSTOMER
801	3/01/02	51,354.26		52,691.30	1,337.04
802	3/04/02	139,764.47	586.68	139,177.79	
803	3/05/02	137,053.10	27.20	136,025.90	1,000.00
804	3/05/02	186,823.50		186,823.50	
805	3/06/02	9,000.00		9,000.00	
806	3/04/02	211,018.50		211,018.50	
807	3/07/02	3,124.80		3,124.80	
808	3/06/02	276,398.29		276,398.29	
809	3/07/02	223,042.02	924.92	222,243.10	
810	3/07/02	7,000.00		7,000.00	
811	3/06/02	717,640.89		717,640.89	
812	3/07/02	187,658.00	132.75	187,699.58	
813	3/08/02	27,658.00		27,658.00	
814	3/11/02	234,498.37	.27	234,649.84	26,191.20
815	3/11/02	355,953.89	760.16	356,372.22	1,178.49
816	3/13/02	184,948.66		185,028.66	80.00
817	3/12/02	629,428.00		629,428.00	
818	3/12/02	127,000.00		127,000.00	
819	3/14/02	265,481.63		265,481.63	
820	3/15/02	244,045.37	200.00	243,845.37	
821	3/18/02	10,560.00		10,560.00	
822	3/18/02	359,784.21	.30	360,112.16	828.25
823	3/19/02	562.92		562.92	
824	3/20/02	1,340.00		1,340.00	
825	3/20/02	95,497.48		95,497.48	
826	3/22/02	63,089.79	124.15	62,965.64	
827	3/19/02	8,140.00		8,140.00	
828	3/19/02	572,682.33	918.57	573,763.76	
829	3/25/02	76,648.00		76,648.00	
830	3/25/02	33,230.00	326.40	32,903.60	
831	3/25/02	72,678.65	348.75	72,329.90	
832	3/26/02	39,190.80		39,190.80	
833	3/26/02	37,235.57		37,235.57	
834	3/18/02	760.16		760.16	
835	3/18/02	1,030,975.46	1,698.08	1,030,238.69	961.31
836	3/26/02	19,600.00		19,600.00	
837	3/28/02	39,035.10		39,035.10	
838	3/27/02	170,173.35	.20	172,256.05	2,082.50
839	3/28/02	8,224.62		8,224.62	
840	3/28/02	120,048.30		120,048.30	
841	3/12/02				
842	3/31/02				
MONTHLY TOTAL					6,076,302.45
					6,047.49
					6,040,304.40

*ACCOUNT et
TRACCO - (45) W/M*

Vicksburg Chemical Company
Summary of Cash Receipts

Date	Ref	Reg #	Collections	Disbursements	Funds
3/1	Lock Box	801	52,691.30		
3/1	Manual Cchecks			5,039.97	
3/1	WT Mather Engineering	99303		8,453.11	
3/1	WT Deep South	99302		10,000.00	
3/1	WT Vicksburg Pallets	99304		4,737.04	
3/1	WT Kinder Morgan	99305		4,830.23	
3/1	WT Gilscoot Guidroz	99306		5,040.34	
3/1	WT LPC Packaging	99307		10,120.48	
3/1	WT Sunco Carriers	99309		9,797.61	
3/1	WT Normco Leasing	99310		6,280.50	
3/1	WT TRI-Island	99308		14,965.75	
3/1	WT Canusamex	99311		35,085.22	
3/1	WT Nelson International	99301		5,009.95	
3/1	WT Ganduglia Trucking	99317		9,456.22	
3/1	WT Southwest Brokerage	99314		8,096.80	
3/1	WT Industrial Gas	99318		109,725.76	
3/1	WT Ben Kennedy	99317		36,210.68	
3/1	WT Stegemeyer Machine	99316		8,096.80	
3/4	WT Stegemeyer Machine	99316		3,664.00	
3/4	WT Denman Trucking	99312		9,975.58	
3/4	WT RSH Engineering			20,000.00	
3/4	WT Radius Transportation	99313		9,942.60	
3/4	Lock Box	802	139,177.79		
3/4	WT Pechiney	806	211,018.50		
3/4	WT Pendleton Pallets	99315		19,122.80	
3/5	Lock Box	802-803	163,457.40		
3/5	Lock Box	803-804	161,390.00		
3/6	Lock Box	808	276,398.29		
3/6	KOCH			125,723.22	
3/6	WT Mangox Cust 9997	811	7,000.00		
3/6	Lock Box	805	9,000.00		
3/6	WT Payroll			187,734.50	
3/7	Lock Box	807-809	225,367.90		
3/8	Lock Box	813	187,699.38		
3/11	Lock Box	814-815	288,347.84		
3/11	WT Payroll			521,288.65	
3/12	Lock Box	816	356,372.22	✓	
3/12	WT U.S. Govt	818	567,000.00	✓	
3/12	WT U.S. Govt	818	62,428.00	✓	
3/12	WT N.P.K	828	8,229.62	✓	
3/12	WT Payroll Taxes			353,102.44	
3/13	Lock Box	817	185,028.66	✓	
3/14	Lock Box	819	127,000.00	✓	
3/15	Lock Box	820	265,481.63	✓	
3/18	Lock Box	821	254,405.37	✓	
3/18	returned check		(37,235.59)	✓	
3/18	Wire in Zen-Noh	829	571,763.76	✓	
3/19	Lock Box	823	360,612.16	✓	
3/19	WT Florikan		76,648.00	✓	
3/19	Returned check	828	(8,140.00)	✓	
3/20	Lock Box	824-825	1,902.92	✓	
3/20	WT Canusamex	99305		38,930.43	
3/20	WT Payroll	99303		118,215.28	
3/21	Lock Box	826	95,497.48	✓	
3/22	Lock Box	827-	62,965.54	✓	
3/22	PR Taxes			67,619.40	
3/22	WT Kansas City	99304		6,134.09	
3/22	WT Nelson International	99301		1,649.22	
3/22	Manual Cchecks			91,380.87	
3/25	Lock Box	831-832	105,233.50	✓	
3/26	Lock Box	833-836	1,069,429.49	✓	
3/26	Returned check		(36.52)	✓	
3/27	Lock Box	839	39,035.10	✓	
3/28	Lock Box	840	172,256.05	✓	
3/28	WT Dupont Dow	837	19,600.00		
				230,000.00	

4245,501.18

Checks held		6,077,025.99	2,095,429.54	-
Collections in excess of disbursements		3,981,596.45		
1st week		52,691.30	290,946.46	
2nd week		1,380,509.46	376,162.70	-
3rd week	15-Mar	1,859,887.97	874,391.09	-
4th week	22-Mar	1,378,419.64	323,929.29	
5th week	29-Mar	1,405,517.62	230,000.00	

4831,524.81
120,048.00
4,951,572.81

VICKSBURG A/R ROLLFORWARD
From Filing Date - 3-8-02

Date	DESCRIPTION	Add: SALES	Less: RECEIPTS	(Included in AR) DISCOUNT	OTHER	BALANCE	Comparison: AR Aging	Variance
3/7/02	Outstanding AR as of 3/7/02					\$ 12,140,851	3/7	\$ 12,140,851
3/8/02			(187,832)	133		\$ 11,953,019		
3/11/02			(27,658)			\$ 11,925,361		
3/11/02	Not included - \$26,191 ins rec		(234,498)	(0)		\$ 11,690,863		
3/12/02			(355,954)	760	(1,178)	\$ 11,333,730		
3/12/02			(629,428)			\$ 10,704,302		
3/12/02			(8,230)			\$ 10,696,073		
3/13/02			(184,949)		(80)	\$ 10,511,044		
3/14/02	Sales - By Invoice Date	1,316,232				\$ 11,827,276		
3/14/02			(127,000)			\$ 11,700,276		
3/15/02			(265,482)			\$ 11,434,794		
3/18/02	Sales - By Invoice Date	288,639				\$ 11,723,434		
3/18/02			(244,045)	200		\$ 11,479,388		
3/18/02			(10,560)	0	(828)	\$ 11,468,000		
3/18/02			37,236			\$ 11,505,236		
3/18/02			760			\$ 11,505,996		
3/19/02			(359,784)			\$ 11,146,212		
3/19/02			8,140			\$ 11,154,352		
3/19/02			(76,648)			\$ 11,077,704		
3/20/02	Sales - By Invoice Date	375,969				\$ 11,453,672		
3/20/02			(563)			\$ 11,453,110		
3/20/02			(1,340)			\$ 11,451,770		
3/21/02	Sales - By Invoice Date	257,150				\$ 11,708,919		
3/21/02			(95,497)			\$ 11,613,422		
3/22/02	Sales - By Invoice Date	315,507				\$ 11,928,929		
3/22/02			(63,090)	124		\$ 11,865,839		
3/25/02	Sales - By Invoice Date	405,552				\$ 12,271,390		
3/25/02			(572,682)	919		\$ 11,698,708		
3/25/02			(33,230)	326		\$ 11,665,478		
3/25/02			(72,679)	349		\$ 11,592,799		
3/26/02	Sales - By Invoice Date	259,183				\$ 11,851,982		
3/26/02			(39,191)			\$ 11,812,792		
3/26/02			(1,030,975)	1,698	(961)	\$ 10,780,855		
3/27/02	Sales - By Invoice Date	276,460				\$ 11,057,314		
3/27/02			(39,035)			\$ 11,018,279		
3/28/02	Sales - By Invoice Date	428,335				\$ 11,446,614		
3/28/02			(19,600)			\$ 11,427,014		
3/28/02						\$ 11,427,014		
3/28/02			(170,173)	(0)	(2,083)	\$ 11,254,758		
3/31/02	NaChurs (TRI co No cash)		(120,048)			\$ 11,134,710		
4/2/02	Sales - By Invoice Date	336,725				\$ 11,471,435		
4/3/02	Sales - By Invoice Date	985,270	98,527			\$ 12,456,705		
4/4/02	Sales - By Invoice Date	58,507				\$ 12,515,212	\$ 12,392,788	\$ 122,424
4/5/02	Sales - Not inc as of 4/8/02	280,235				\$ 12,795,447		
4/8/02		90,047						
4/19/02		184,452						
TOTALS		5,583,763	(4,924,037)	4,509	(5,131)	\$ 12,799,956		

769,597
763,446
11,898,156
11,904,307

Detail
12,334,281.04 3/31

A/R BALANCE
14,423,040.34 2/28
11,279,720.52 3/7

429,974
1,199,571

NOTES

- (1) Beginning AR includes 4 installments (Mar-Jun) of the \$567,000 contract amount from Space Systems.
- (2) AR Aging as of 4/8/02 does not include Sales posted 4/5/02

Dennis Walker

From: John Miles
Sent: Friday, April 05, 2002 10:18 AM
To: Yehuda Yoked
Cc: Dennis Walker; Johnny Hanna
Subject: Forklift leases

Please reject the following two under NMHG Financial Serv.

S/N H177B29614Y
S/N H177B29621Y

JHM

COURT NOTICE

Photographic Identification is now required to gain entrance to the buildings.

Proposed Guidelines for Financing Requests (Comments due 5/20/2002)

In Re: Enron Corp. click hyperlink for more information.

Position Vacancies:
System Administrator



United States Bankruptcy Court
Alexander Hamilton Custom House
One Bowling Green
New York, NY 10004-1408
(212) 668-2870

176 Church Street
Poughkeepsie, NY 12601
(845) 452-4200

300 Quarropas Street
White Plains, NY 10601
(914) 390-4060

**Hon. Stuart M. Bernstein,
Chief Judge**

**Kathleen Farrell,
Clerk of Court**

NOTICE:

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Electronic Case Filing System

- Web Browser Information

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Local Rules

- Local Rules (current as of 1/25/01)
- Administrative Orders (updated 01/23/02)

Alternative Dispute Resolution

- ADR Order amends Mediation Order
- Register of Mediators (updated 04/12/02)

UNITED STATES BANKRUPTCY COURT _____ DISTRICT OF _____		PROOF OF CLAIM
Name of Debtor _____		Case Number _____
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.		
Name of Creditor (The person or other entity to whom the debtor owes money or property): _____		<input type="checkbox"/> Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. <input type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case. <input type="checkbox"/> Check box if the address differs from the address on the envelope sent to you by the court.
Name and address where notices should be sent: _____		
Telephone number: _____		
Account or other number by which creditor identifies debtor: _____		THIS SPACE IS FOR COURT USE ONLY
		Check here <input type="checkbox"/> replaces a previously filed claim, dated: _____ <input type="checkbox"/> amends
1. Basis for Claim <input type="checkbox"/> Goods sold <input type="checkbox"/> Services performed <input type="checkbox"/> Money loaned <input type="checkbox"/> Personal injury/wrongful death <input type="checkbox"/> Taxes <input type="checkbox"/> Other _____		
<input type="checkbox"/> Retiree benefits as defined in 11 U.S.C. § 1114(a) <input type="checkbox"/> Wages, salaries, and compensation (fill out below) Your SS #: _____ Unpaid compensation for services performed from _____ (date) to _____ (date)		
2. Date debt was incurred: _____		3. If court judgment, date obtained: _____
4. Total Amount of Claim at Time Case Filed: \$ _____ If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below. <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.		
5. Secured Claim. <input type="checkbox"/> Check this box if your claim is secured by collateral (including a right of setoff). Brief Description of Collateral: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other _____ Value of Collateral: \$ _____ Amount of arrearage and other charges at time case filed included in secured claim, if any: \$ _____		6. Unsecured Priority Claim. <input type="checkbox"/> Check this box if you have an unsecured priority claim Amount entitled to priority \$ _____ Specify the priority of the claim: <input type="checkbox"/> Wages, salaries, or commissions (up to \$4,300)* earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(3). <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(4). <input type="checkbox"/> Up to \$1,950* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6). <input type="checkbox"/> Alimony, maintenance, or support owed to a spouse, former spouse, or child - 11 U.S.C. § 507(a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8). <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(____). <small>*Amounts are subject to adjustment on 4/1/01 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</small>
7. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.		THIS SPACE IS FOR COURT USE ONLY
8. Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.		
9. Date-Stamped Copy: To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.		
Date _____	Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any): _____	

INSTRUCTIONS FOR PROOF OF CLAIM FORM

The instructions and definitions below are general explanations of the law. In particular types of cases or circumstances, such as bankruptcy cases that are not filed voluntarily by a debtor, there may be exceptions to these general rules.

DEFINITIONS

Debtor

The person, corporation, or other entity that has filed a bankruptcy case is called the debtor.

Creditor

A creditor is any person, corporation, or other entity to whom the debtor owed a debt on the date that the bankruptcy case was filed.

Proof of Claim

A form telling the bankruptcy court how much the debtor owed a creditor at the time the bankruptcy case was filed (the amount of the creditor's claim). This form must be filed with the clerk of the bankruptcy court where the bankruptcy case was filed.

Secured Claim

A claim is a secured claim to the extent that the creditor has a lien on property of the debtor (collateral) that gives the creditor the right to be paid from that property before creditors who do not have liens on the property.

Examples of liens are a mortgage on real estate and a security interest in a car, truck, boat, television set, or other item of property. A lien may have been obtained through a court proceeding before the bankruptcy case began; in some states a court judgment is a lien. In addition, to the extent a creditor also owes money to the debtor (has a right of setoff), the creditor's claim may be a secured claim. (See also *Unsecured Claim*.)

Unsecured Claim

If a claim is not a secured claim it is an unsecured claim. A claim may be partly secured and partly unsecured if the property on which a creditor has a lien is not worth enough to pay the creditor in full.

Unsecured Priority Claim

Certain types of unsecured claims are given priority, so they are to be paid in bankruptcy cases before most other unsecured claims (if there is sufficient money or property available to pay these claims). The most common types of priority claims are listed on the proof of claim form. Unsecured claims that are not specifically given priority status by the bankruptcy laws are classified as *Unsecured Nonpriority Claims*.

Items to be completed in Proof of Claim form (if not already filled in)

Court, Name of Debtor, and Case Number:

Fill in the name of the federal judicial district where the bankruptcy case was filed (for example, Central District of California), the name of the debtor in the bankruptcy case, and the bankruptcy case number. If you received a notice of the case from the court, all of this information is near the top of the notice.

Information about Creditor:

Complete the section giving the name, address, and telephone number of the creditor to whom the debtor owes money or property, and the debtor's account number, if any. If anyone else has already filed a proof of claim relating to this debt, if you never received notices from the bankruptcy court about this case, if your address differs from that to which the court sent notice, or if this proof of claim replaces or changes a proof of claim that was already filed, check the appropriate box on the form.

1. Basis for Claim:

Check the type of debt for which the proof of claim is being filed. If the type of debt is not listed, check "Other" and briefly describe the type of debt. If you were an employee of the debtor, fill in your social security number and the dates of work for which you were not paid.

2. Date Debt Incurred:

Fill in the date when the debt first was owed by the debtor.

3. Court Judgments:

If you have a court judgment for this debt, state the date the court entered the judgment.

4. Total Amount of Claim at Time Case Filed:

Fill in the total amount of the entire claim. If interest or other charges in addition to the principal amount of the claim are included, check the appropriate place on the form and attach an itemization of the interest and charges.

5. Secured Claim:

Check the appropriate place if the claim is a secured claim. You must state the type and value of property that is collateral for the claim, attach copies of the documentation of your lien, and state the amount past due on the claim as of the date the bankruptcy case was filed. A claim may be partly secured and partly unsecured. (See DEFINITIONS, above).

6. Unsecured Priority Claim:

Check the appropriate place if you have an unsecured priority claim, and state the amount entitled to priority. (See DEFINITIONS, above). A claim may be partly priority and partly nonpriority if, for example, the claim is for more than the amount given priority by the law. Check the appropriate place to specify the type of priority claim.

7. Credits:

By signing this proof of claim, you are stating under oath that in calculating the amount of your claim you have given the debtor credit for all payments received from the debtor.

8. Supporting Documents:

You must attach to this proof of claim form copies of documents that show the debtor owes the debt claimed or, if the documents are too lengthy, a summary of those documents. If documents are not available, you must attach an explanation of why they are not available.

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Name of Debtor _____ Case Number _____

NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.

Name of Creditor (The person or other entity to whom the debtor owes money or property): _____

Name and address where notices should be sent: _____

Telephone number: _____

Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.

Check box if you have never received any notices from the bankruptcy court in this case.

Check box if the address differs from the address on the envelope sent to you by the court.

Account or other number by which creditor identifies debtor: _____

Check here if this claim replaces a previously filed claim, dated: _____ amends

1. Basis for Claim

Goods sold Retiree benefits as defined in 11 U.S.C. § 1114(a)

Services performed Wages, salaries, and compensation (fill out below)

Money loaned Your SS #: _____

Personal injury/wrongful death Unpaid compensation for services performed

Taxes from _____ to _____

Other _____ (date) (date)

2. Date debt was incurred: _____ **3. If court judgment, date obtained:** _____

4. Total Amount of Claim at Time Case Filed: \$ _____

If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below.

Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.

5. Secured Claim.

Check this box if your claim is secured by collateral (including a right of setoff).

Brief Description of Collateral:

Real Estate Motor Vehicle

Other _____

Value of Collateral: \$ _____

Amount of arrearage and other charges at time case filed included in secured claim, if any: \$ _____

6. Unsecured Priority Claim.

Check this box if you have an unsecured priority claim

Amount entitled to priority \$ _____

Specify the priority of the claim:

Wages, salaries, or commissions (up to \$4,300)* earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(3).

Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(4).

Up to \$1,950* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6).

Alimony, maintenance, or support owed to a spouse, former spouse, or child - 11 U.S.C. § 507(a)(7).

Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8).

Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(_____).

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8. Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.

9. Date-Stamped Copy: To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.

Date _____ Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any): _____

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Creditor

A creditor is any person, corporation, or other entity to whom the debtor owed a debt on the date that the bankruptcy case was filed.

Proof of Claim

A form telling the bankruptcy court how much the debtor owed a creditor at the time the bankruptcy case was filed (the amount of the creditor's claim). This form must be filed with the clerk of the bankruptcy court where the bankruptcy case was filed.

Secured Claim

A claim is a secured claim to the extent that the creditor has a lien on property of the debtor (collateral) that gives the creditor the right to be paid from that property before creditors who do not have liens on the property.

Examples of liens are a mortgage on real estate and a security interest in a car, truck, boat, television set, or other item of property. A lien may have been obtained through a court proceeding before the bankruptcy case began; in some states a court judgment is a lien. In addition, to the extent a creditor also owes money to the debtor (has a right of setoff), the creditor's claim may be a secured claim. (See also *Unsecured Claim*.)

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If a claim is not a secured claim it is an unsecured claim. A claim may be partly secured and partly unsecured if the property on which a creditor has a lien is not worth enough to pay the creditor in full.

Unsecured Priority Claim

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Items to be completed in Proof of Claim form (if not already filled in)

Court, Name of Debtor, and Case Number:

Fill in the name of the federal judicial district where the bankruptcy case was filed (for example, Central District of California), the name of the debtor in the bankruptcy case, and the bankruptcy case number. If you received a notice of the case from the court, all of this information is near the top of the notice.

Information about Creditor:

Complete the section giving the name, address, and telephone number of the creditor to whom the debtor owes money or property, and the debtor's account number, if any. If anyone else has already filed a proof of claim relating to this debt, if you never received notices from the bankruptcy court about this case, if your address differs from that to which the court sent notice, or if this proof of claim replaces or changes a proof of claim that was already filed, check the appropriate box on the form.

1. Basis for Claim:

Check the type of debt for which the proof of claim is being filed. If the type of debt is not listed, check "Other" and briefly describe the type of debt. If you were an employee of the debtor, fill in your social security number and the dates of work for which you were not paid.

2. Date Debt Incurred:

Fill in the date when the debt first was owed by the debtor.

3. Court Judgments:

If you have a court judgment for this debt, state the date the court entered the judgment.

4. Total Amount of Claim at Time Case Filed:

Fill in the total amount of the entire claim. If interest or other charges in addition to the principal amount of the claim are included, check the appropriate place on the form and attach an itemization of the interest and charges.

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7. Credits:

By signing this proof of claim, you are stating under oath that in calculating the amount of your claim you have given the debtor credit for all payments received from the debtor.

8. Supporting Documents:

You must attach to this proof of claim form copies of documents that show the debtor owes the debt claimed or, if the documents are too lengthy, a summary of those documents. If documents are not available, you must attach an explanation of why they are not available.

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UNITED STATES BANKRUPTCY COURT _____ DISTRICT OF _____		PROOF OF CLAIM
Name of Debtor _____		Case Number _____
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.		
Name of Creditor (The person or other entity to whom the debtor owes money or property): _____		<input type="checkbox"/> Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. <input type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case. <input type="checkbox"/> Check box if the address differs from the address on the envelope sent to you by the court.
Name and address where notices should be sent: _____		
Telephone number: _____		
Account or other number by which creditor identifies debtor: _____		THIS SPACE IS FOR COURT USE ONLY
Check here <input type="checkbox"/> replaces a previously filed claim, dated: _____ <input type="checkbox"/> amends		
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2. Date debt was incurred: _____		3. If court judgment, date obtained: _____
4. Total Amount of Claim at Time Case Filed: \$ _____ If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below. <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.		
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7. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.		THIS SPACE IS FOR COURT USE ONLY
8. Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.		
9. Date-Stamped Copy: To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.		
Date _____	Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any): _____	

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Name of Debtor _____		Case Number _____
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Name of Creditor (The person or other entity to whom the debtor owes money or property): _____		<input type="checkbox"/> Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. <input type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case. <input type="checkbox"/> Check box if the address differs from the address on the envelope sent to you by the court.
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Check here if this claim <input type="checkbox"/> replaces a previously filed claim, dated: _____ <input type="checkbox"/> amends		
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If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below. <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.		
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<input type="checkbox"/> Retiree benefits as defined in 11 U.S.C. § 1114(a) <input type="checkbox"/> Wages, salaries, and compensation (fill out below) Your SS #: _____ Unpaid compensation for services performed from _____ to _____ <div style="text-align: center; font-size: small;">(date) (date)</div>		
2. Date debt was incurred: _____		3. If court judgment, date obtained: _____
4. Total Amount of Claim at Time Case Filed: \$ _____ If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below. <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.		
5. Secured Claim. <input type="checkbox"/> Check this box if your claim is secured by collateral (including a right of setoff). Brief Description of Collateral: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other _____ Value of Collateral: \$ _____ Amount of arrearage and other charges at time case filed included in secured claim, if any: \$ _____	6. Unsecured Priority Claim. <input type="checkbox"/> Check this box if you have an unsecured priority claim Amount entitled to priority \$ _____ Specify the priority of the claim: <input type="checkbox"/> Wages, salaries, or commissions (up to \$4,300),* earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(3). <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(4). <input type="checkbox"/> Up to \$1,950* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6). <input type="checkbox"/> Alimony, maintenance, or support owed to a spouse, former spouse, or child - 11 U.S.C. § 507(a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8). <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(____). <small>*Amounts are subject to adjustment on 4/1/01 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</small>	
7. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim. 8. Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary. 9. Date-Stamped Copy: To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.		THIS SPACE IS FOR COURT USE ONLY
Date _____	Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any): _____	

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

INSTRUCTIONS FOR PROOF OF CLAIM FORM

The instructions and definitions below are general explanations of the law. In particular types of cases or circumstances, such as bankruptcy cases that are not filed voluntarily by a debtor, there may be exceptions to these general rules.

DEFINITIONS

Debtor

The person, corporation, or other entity that has filed a bankruptcy case is called the debtor.

Creditor

A creditor is any person, corporation, or other entity to whom the debtor owed a debt on the date that the bankruptcy case was filed.

Proof of Claim

A form telling the bankruptcy court how much the debtor owed a creditor at the time the bankruptcy case was filed (the amount of the creditor's claim). This form must be filed with the clerk of the bankruptcy court where the bankruptcy case was filed.

Secured Claim

A claim is a secured claim to the extent that the creditor has a lien on property of the debtor (collateral) that gives the creditor the right to be paid from that property before creditors who do not have liens on the property.

Examples of liens are a mortgage on real estate and a security interest in a car, truck, boat, television set, or other item of property. A lien may have been obtained through a court proceeding before the bankruptcy case began; in some states a court judgment is a lien. In addition, to the extent a creditor also owes money to the debtor (has a right of setoff), the creditor's claim may be a secured claim. (See also *Unsecured Claim*.)

Unsecured Claim

If a claim is not a secured claim it is an unsecured claim. A claim may be partly secured and partly unsecured if the property on which a creditor has a lien is not worth enough to pay the creditor in full.

Unsecured Priority Claim

Certain types of unsecured claims are given priority, so they are to be paid in bankruptcy cases before most other unsecured claims (if there is sufficient money or property available to pay these claims). The most common types of priority claims are listed on the proof of claim form. Unsecured claims that are not specifically given priority status by the bankruptcy laws are classified as *Unsecured Nonpriority Claims*.

Items to be completed in Proof of Claim form (if not already filled in)

Court, Name of Debtor, and Case Number:

Fill in the name of the federal judicial district where the bankruptcy case was filed (for example, Central District of California), the name of the debtor in the bankruptcy case, and the bankruptcy case number. If you received a notice of the case from the court, all of this information is near the top of the notice.

Information about Creditor:

Complete the section giving the name, address, and telephone number of the creditor to whom the debtor owes money or property, and the debtor's account number, if any. If anyone else has already filed a proof of claim relating to this debt, if you never received notices from the bankruptcy court about this case, if your address differs from that to which the court sent notice, or if this proof of claim replaces or changes a proof of claim that was already filed, check the appropriate box on the form.

1. Basis for Claim:

Check the type of debt for which the proof of claim is being filed. If the type of debt is not listed, check "Other" and briefly describe the type of debt. If you were an employee of the debtor, fill in your social security number and the dates of work for which you were not paid.

2. Date Debt Incurred:

Fill in the date when the debt first was owed by the debtor.

3. Court Judgments:

If you have a court judgment for this debt, state the date the court entered the judgment.

4. Total Amount of Claim at Time Case Filed:

Fill in the total amount of the entire claim. If interest or other charges in addition to the principal amount of the claim are included, check the appropriate place on the form and attach an itemization of the interest and charges.

5. Secured Claim:

Check the appropriate place if the claim is a secured claim. You must state the type and value of property that is collateral for the claim, attach copies of the documentation of your lien, and state the amount past due on the claim as of the date the bankruptcy case was filed. A claim may be partly secured and partly unsecured. (See DEFINITIONS, above).

6. Unsecured Priority Claim:

Check the appropriate place if you have an unsecured priority claim, and state the amount entitled to priority. (See DEFINITIONS, above). A claim may be partly priority and partly nonpriority if, for example, the claim is for more than the amount given priority by the law. Check the appropriate place to specify the type of priority claim.

7. Credits:

By signing this proof of claim, you are stating under oath that in calculating the amount of your claim you have given the debtor credit for all payments received from the debtor.

8. Supporting Documents:

You must attach to this proof of claim form copies of documents that show the debtor owes the debt claimed or, if the documents are too lengthy, a summary of those documents. If documents are not available, you must attach an explanation of why they are not available.