

EXPLANATION OF SIGNIFICANT DIFFERENCES
for the
BRUIN LAGOON SUPERFUND SITE
BRUIN BOROUGH, BUTLER COUNTY, PENNSYLVANIA

I. INTRODUCTION

Site Name: Bruin Lagoon Superfund Site

Site Location: Bruin Borough, Butler County, Pennsylvania

Lead Agency: U.S. Environmental Protection Agency, Region III

Support Agency: Pennsylvania Department of Environmental Protection

II. STATEMENT OF PURPOSE

The U.S. Environmental Protection Agency ("EPA") is issuing this Explanation of Significant Differences ("ESD") in accordance with Section 117(c) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. § 9617(c), and Section 300.435(c)(2)(i) of the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 C.F.R. § 300.435(c)(2)(i). Section 117(c) of CERCLA and Section 300.435(c)(2)(i) of the NCP require the publication of an ESD when modifications to the remedial action ("RA") are necessary, and such modifications significantly change, but do not fundamentally alter, the remedy selected in a Record of Decision ("ROD") with respect to scope, performance, or cost.

On September 29, 1986, EPA issued a ROD that selected a remedy ("Selected Remedy") for Operable Unit 2 ("OU2") of the Bruin Lagoon Superfund Site ("Site").

The Selected Remedy for OU2 did not include a requirement for institutional controls ("ICs"). However, on September 18, 2000, the Commonwealth of Pennsylvania issued an Administrative Order pursuant to Section 512 of the Hazardous Sites Cleanup Act ("2000 Order") to AH-RS Coal Corporation; J.T.C. Industries, Inc.; and Shaler Contracting & Development Corporation prohibiting certain activities at the Site. This ESD modifies the remedy to include certain ICs from the 2000 Order in the Selected Remedy for OU-2. Specifically, the 2000 Order prohibits activities at the Site, and the adjacent properties, which would adversely impact the Selected Remedy for OU2 and compromise the protection of human health and the environment. This ESD provides the public with an explanation of why ICs are necessary at the Site, describes the ICs currently in place, summarizes the information that supports this modification, and confirms that the remedial action complies with the statutory requirements of Section 121 of CERCLA, 42 U.S.C. § 9621. This ESD will become part of the Administrative Record file for the Site in accordance with Section 300.825(a)(2) of the NCP, 40 C.F.R. § 300.825(a)(2).

III. SUMMARY OF THE SITE HISTORY AND SITE CONDITIONS

The Site is located in Bruin Borough, Butler County, Pennsylvania approximately 45 miles north of Pittsburgh (Figure 1). The Site occupies over four (4) acres and is located along the western bank of the South Branch of Bear Creek, approximately seven (7) miles upstream of Bear Creek's confluence with the Allegheny River. The adjacent property to the south, previously owned by Bruin Oil Company, has undergone a site cleanup by the Pennsylvania Department of Environmental Protection ("PADEP") and is currently in the operation and maintenance ("O&M") phase. The Site also borders the South Branch of Bear Creek to the east and northeast, and residential properties to the west and north (Figure 2).

From the 1930's until the 1970's, a one-acre earthen-diked lagoon was used at the Site for disposal of wastes generated by the Bruin Oil Company. Investigations conducted at the Site determined that the waste material consisted of white oil production wastes, residue from motor oil, coal fines, and fly ash. The lagoon contained approximately 130,000 gallons of acidic liquid and 35,000 cubic yards of sludge.

In June 1982, EPA issued a ROD for OU1 at the Site. OU1 addressed the removal and offsite disposal of approximately 130,000 gallons of acidic liquid supernatant and the removal of scrap tanks. In 1984, during remedial activities, toxic gases were released during an accidental breach of a previously unidentified sludge layer in the lagoon. EPA ceased remedial activities and initiated an emergency response action which successfully mitigated the release. In September 1984, a new Remedial Investigation ("RI") was initiated for the lagoon.

The 1984 RI concluded that the groundwater and bedrock underlying the Site were contaminated by releases of hazardous substances from the lagoon, and area groundwater had been impacted by elevated metals due to past mining and oil/gas exploration activities. It also determined that residential wells were hydraulically upgradient and therefore not likely impacted by the Site.

A 1986 Public Health Evaluation identified metals as the primary contaminants of concern ("COCs") in soil, groundwater, and surface water. pH was also identified as a COC due to the presence of highly acidic sludge in the lagoon which posed a threat to human health and the environment. Volatile organic compounds ("VOCs") were detected in the sludge but were generally not present in groundwater samples collected during the 1986 RI.

On September 29, 1986, EPA issued a ROD for OU2 at the Site. The remedy selected in the OU2 ROD included:

- On-site stabilization/neutralization of sludge and perched liquid zone;
- in-situ treatment of bedrock underneath the former lagoon area;
- completion of dike reinforcement;
- capping of the former lagoon area with a multi-layer cap; and
- monitoring and maintenance of the Site cap and groundwater.

The OU2 ROD identified remedial action objectives ("RAOs") including the following:

- containing, reducing, and/or eliminating Site contaminants identified as representing possible sources of exposure to human and other potential receptors;
- reducing or eliminating exposure of Site contaminants to potential receptors by controlling potential contaminant pathways;
- ensuring technical feasibility;
- protecting public health and the environment; and
- ensuring the cost-effectiveness of the RA.

The RA for the OU2 ROD began in March 1989 and construction activities were completed in June 1991. The specific work conducted as part of the RA included:

- excavating the waste in the lagoon down to bedrock and performing onsite neutralization and stabilization;
- placing layers of lime over the bedrock surface to promote neutralization of acid in the bedrock;
- returning the stabilized waste to the excavated lagoon;
- constructing a final multi-layer cap on the stabilized waste;
- installing gas vents;
- constructing a surface water drainage system around the stabilized lagoon to prevent surface water from entering the capped area;
- monitoring the perimeter continuously by direct reading of instruments for gases such as sulfur dioxide; and
- stopping work if any readings were observed over safe limits.

The RAOs have been achieved at the Site and EPA issued a Close-Out Report for the Site in March 1992. PADEP performs annual O&M activities pursuant to an EPA-approved O&M Plan dated 1992 and a Post-Closure Monitoring Plan Amendment 1, dated August 2010. These activities include inspecting and maintaining the lagoon cap such as mowing overgrown vegetation; inspecting surface water drainage systems and areas of discharge of surface water into the South Branch of Bear Creek; and performing groundwater, surface water, and off-gas monitoring.

Post-closure O&M monitoring has confirmed that VOCs are not present in groundwater beneath the former lagoon area. The Site was deleted from the National Priorities List ("NPL") in 1997.

The Fifth Five-Year Review Report prepared by EPA, dated September 17, 2014, states that the Selected Remedy is protective of human health and the environment because there are no human or environmental receptors currently exposed to Site contaminants. The cap is functioning as designed and the formation of toxic gases has been eliminated. The results of groundwater and surface water sampling conducted at the Site since 2009 show that the source stabilization and bedrock neutralization remedy is functioning by significantly reducing the migration of contaminants to groundwater and preventing off-site migration. In addition, the Site and surrounding properties are located within the Bear Creek Area Chemical Site ("BCACS"). From 2003 through 2007, PADEP connected residences within the BCACS to a public water supply and communities located within the BCACS, including Bruin Borough, have

implemented ordinances prohibiting the use of groundwater wells for potable water and requiring property owners to connect to the public water system. This prohibited area includes the groundwater underlying the Bruin Lagoon Site, which is part of the larger BCACS area of groundwater contamination.

IV. DESCRIPTION OF SIGNIFICANT DIFFERENCES AND THE BASIS FOR SUCH DIFFERENCES

The Fifth Five-Year Review Report recommended that an ESD be issued to document the implementation of ICs as a remedy component. The remedies selected in the OU1 and OU2 RODs do not include ICs. EPA is modifying the Selected Remedy in the OU2 ROD to include the ICs that are in the 2000 Order in order to protect human health and the environment; maintain the integrity of the remedy; and to prohibit activities that could interfere with the Selected Remedy. The specific ICs in the 2000 Order include the following:

- Cease any activity which would disturb or be inconsistent with the RAs implemented at the Site at the time the Order was issued;
- Assure that groundwater monitoring wells are not disturbed;
- Prevent any disturbance of the landfill cap which would cause underlying waste to be exposed or that could contribute to cap erosion; and
- Require that the property deed for any future conveyance or transfers of parcels at the Site include a description of the remedial response actions taken on any parcel of property comprising the Site, and an acknowledgment that hazardous substances have been disposed there. The acknowledgment shall include, but not be limited to, the surface area, size, and exact location of the disposed of substances, as well as a description of the types of hazardous substances contained there.

Contaminated waste (soil and sludge) beneath the cap was treated to meet the Toxicity Characteristic Leaching Procedure ("TCLP") but exceeds the risk-based levels for direct contact. Therefore, ICs which prohibit the disturbance of the cap are needed to maintain the integrity of the remedy and continue to protect any potential receptors from exposure to contamination beneath the cap. While not a component of EPA's Selected Remedy, the 2000 Order includes a prohibition against the installation of additional groundwater wells without prior written approval of PADEP which provides an extra level of protection.

V. SUPPORT AGENCY COMMENTS

The changes to the OU2 ROD, as described in this ESD, have been coordinated with PADEP pursuant to 40 C.F.R. § 300.435 (c)(2). PADEP supports the changes set forth herein. PADEP has submitted its concurrence on this ESD in a letter dated August 27, 2015.

VI. STATUTORY DETERMINATIONS

EPA has determined that the remedy selected by EPA for OU2, as revised by the remedy described in this ESD complies with the statutory requirements of Section 121 of CERCLA, 42

U.S.C. § 9621. EPA believes that the Selected Remedy, as revised by this ESD, will remain protective of human health and the environment and will meet the Federal and State requirements that are applicable or relevant and appropriate to the remedial action as described in the OU2 ROD. Since there are no Applicable or Relevant and Appropriate Requirements ("ARARs") associated with the implementation of institutional controls, the ARARs established at the time of the OU2 ROD remain in place in accordance with 40 C.F.R. § 300.430(f)(1)(ii)(B).

VII. COMMUNITY INVOLVEMENT

The ESD and the information upon which it is based will be included in the Administrative Record which is available for public review at the locations listed below:

EPA Public Reading Room 1650 Arch Street Philadelphia, PA 19103 (215) 814-3157	PADEP 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6078
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Or online at http://loggerhead.epa.gov/arweb/public/advanced_search.jsp

Questions concerning EPA's action and requests to review the Administrative Record at EPA's office should be directed to:

Sibyl Dinkins
Remedial Project Manager (3HS22)
U. S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103
(215) 814-3266

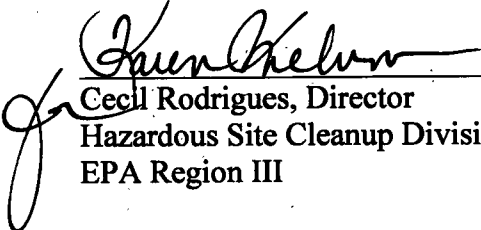
VIII. SIGNATURE

This Explanation of Significant Differences modifies the Selected Remedy for OU2 of the Bruin Lagoon Superfund Site to include institutional controls.

Approved By:

SEP 28 2015

Date



Cecil Rodrigues, Director
Hazardous Site Cleanup Division
EPA Region III

Attachments

Figure 1 - Site Location Map

Figure 2 - Bruin Lagoon Site Map

Appendix 1 – Commonwealth of Pennsylvania Department of Environmental Protection, Order under Section 512 of the Hazardous Sites Cleanup Act

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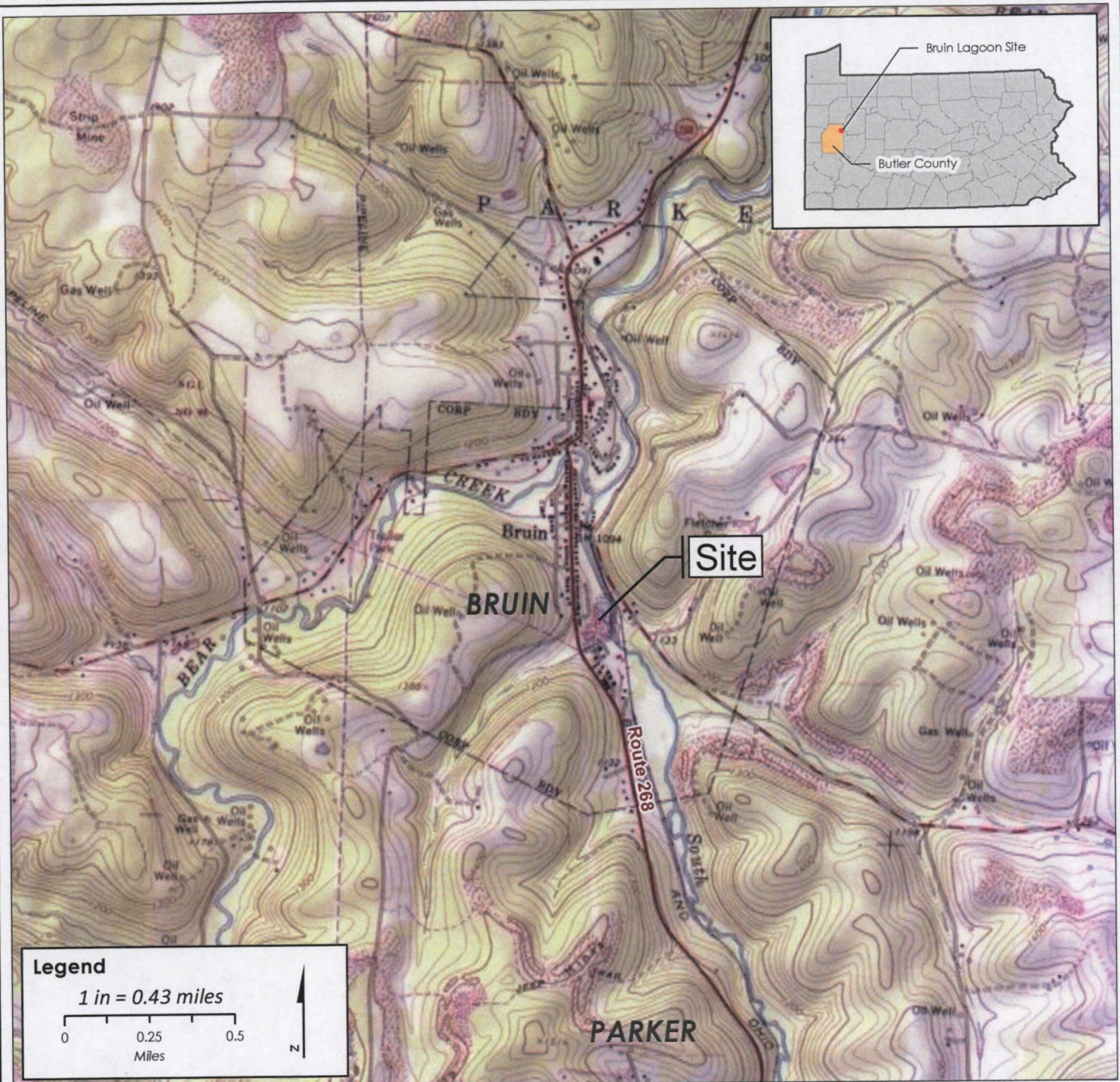
ATTACHMENTS

FIGURE 1 - Site Location Map

FIGURE 2 - Bruin Lagoon Site Map

**APPENDIX 1 - Commonwealth of Pennsylvania Department of Environmental Protection,
Letter of Concurrence, August 27, 2015**

**APPENDIX 2 - Commonwealth of Pennsylvania Department of Environmental Protection,
Order under Section 512 of the Hazardous Sites Cleanup Act, September 18, 2000**



Source: USGS 7.5 Minute Series
 Topographic Quadrangle 1979
 Countour Interval = 20'



Figure 1 - Site Location Map
Bruin Lagoon Superfund Site
 State Route 268
 Bruin Borough, Pennsylvania
 August 2015

AR300412



Source:
Aerial Imagery - Bing Maps, 2015



Figure 2 - Site Detail Map
Bruin Lagoon Superfund Site
State Route 268
Bruin Borough, Pennsylvania
August 2015

AR300413

APPENDIX 1



AUG 27 2015

Mr. Cecil Rodrigues
Director, Hazardous Site Cleanup Division
USEPA Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Re: Explanation of Significant Differences
Bruin Lagoon Superfund Site
Bruin Borough, Butler County

Dear Mr. Rodrigues:

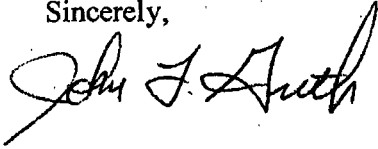
The Pennsylvania Department of Environmental Protection (Department) has received and reviewed the *Explanation of Significant Differences* (ESD) for the Bruin Lagoon Superfund Site (Site) proposed by the United States Environmental Protection Agency (USEPA). This Proposed ESD modifies the Selected Remedy in the Operable Unit 2 (OU2) Record of Decision (ROD) to include the Institutional Controls (ICs) that are currently in place pursuant to an Administrative Order (Order) issued to AH-RS Coal Corporation; J.T.C. Industries, Inc.; and Shaler Contracting & Development Corporation by the Department dated September 18, 2000, pursuant to Section 512 of the Hazardous Sites Cleanup Act. The specific ICs in the Order include the following:

1. Cease any activity which would disturb or be inconsistent with the Remedial Actions (RAs) implemented at the Site at the time the Order was issued.
2. Assure that groundwater monitoring wells are not disturbed.
3. Prohibit installation of additional groundwater wells without prior written approval of the Department.
4. Prevent any disturbance of the landfill cap which would cause underlying waste to be exposed or that could contribute to cap erosion.
5. Require that the property deed for any future conveyance or transfers of parcels at the Site include a description of the remedial response actions taken on any parcel of property comprising the Site and an acknowledgement that hazardous substances have been disposed there. The acknowledgement shall include, but not be limited to, the surface area, size, and exact location of the disposed substances, as well as a description of the types of hazardous substances contained there.

AUG 27 2015

The Department hereby concurs with this ESD to the Selected Remedy in the OU2 ROD for the Bruin Lagoon Superfund Site selected by the USEPA. If you have any questions regarding this matter, please contact Mr. Gary Mechtly at 814.332.6836.

Sincerely,



John F. Guth
Regional Director
Northwest Regional Office

cc: Mr. Khona – USEPA
Ms. Dinkins – USEPA
Mark Conaron – DEP (*via email*)
Ms. Hoffman – DEP
Mr. Tordella – DEP
Mr. Mechtly – DEP
NWRO File

JFG:MEH:keb

APPENDIX 2



SDMS DocID 2073420

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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In The Matter Of:

AH-RS Coal Corporation
J.T.C. Industries, Inc.
Shaler Contracting & Development Corporation
Bruin Lagoon CERCLA Site
Shaler/J.T.C. HSCA Site
Bruin Borough, Butler County, Pennsylvania :

Instr: 200010080023801 10/05/2000
Pages: 10 F: \$27.50 8:22AM
Nichele Mustelle T20000029121
Butler County Recorder RL JAMES M

Hazardous Sites Cleanup Act

ORDER

NOW, this 18th day of SEPTEMBER, 2000, the Commonwealth of Pennsylvania,
Department of Environmental Protection ("Department") has made and determined the following
findings of fact:

Findings of Fact

A. General Background

A. The Department is the executive agency of the Commonwealth of Pennsylvania vested with the duty and authority to administer and enforce the Hazardous Sites Cleanup Act ("HSCA"), Act of October 18, 1988, P.L. 756, 35 P.S. §§ 6020.101-6020.1305; the Comprehensive Environmental Response, Compensation and Liability Act of 1980, *as amended*, 42 U.S.C. §§ 9601-9675 ("CERCLA"); Section 1917-A of the Administrative Code of 1929, P.L. 177, *as amended*, 71 P.S. § 510-17 ("Administrative Code"); and the rules and regulations promulgated thereunder.

B. AH-RS Coal Corporation ("AH-RS"), J.T.C. Industries, Inc. ("JTC"), and Shaler Contracting & Development Corporation ("Shaler") are each an owner of a parcel of property

located contiguous to one another on the east side of State Route 268 and bordering the south branch of Bear Creek, at the southern end of the town of Bruin in Bruin Borough, Butler County, Pennsylvania. The three parcels comprise the site ("site") that is the subject of this Order. (See the site location map attached hereto as Exhibit A and the site layout sketch attached hereto as Exhibit B.)

C. The AH-RS-owned parcel contains approximately 5.702 acres and is referenced in Deed Book 995, pages 497-500 in the Butler County, Pennsylvania Recorder of Deeds Office. The JTC-owned parcel contains approximately 6.825 acres and is referenced in Deed Book 1116, pages 303-308 in the Butler County, Pennsylvania Recorder of Deeds Office. The Shaler-owned parcel contains approximately 8.423 acres and is referenced in Deed Book 1156, pages 674-677 in the Butler County, Pennsylvania Recorder of Deeds Office.

D. The site is presently inactive. From the early 1930s through the mid-1970s, a succession of corporations operated a petroleum refinery at the site: Ultra-Penn Refining Company (1931 to 1962); Borne Chemical Company (1962-1965); Bruin Oil Company (1965-1968); and American International Refining Company (1968-1974). All of these corporations are presently defunct.

E. In 1974, AH-RS purchased the site at a foreclosure sale and began the operation of a coal washing facility there. In 1977, AH-RS filed for Chapter 7 bankruptcy and deeded approximately 6.825 acres of the site to JTC. In 1982, as part of its bankruptcy, AH-RS sold an additional 8.423 acres of the site to Shaler.

B. AH-RS-owned Parcel

F. In 1981-1982, and later in 1985, pursuant to CERCLA, the United States Environmental Protection Agency ("EPA") conducted remedial investigation/feasibility studies of

the AH-RS-owned parcel. Essentially, EPA found at the parcel a lagoon filled with some 17,500 cubic yards of unstabilized sludge characterized by high levels of heavy metal contamination.

G. In 1984, during remedial work following the first of these remedial investigation/feasibility studies, the EPA conducted an emergency action at the AH-RS-owned parcel to contain a release of toxic gas that had penetrated the lagoon's crust layer.

H. In 1989-1991, EPA remediated the AH-RS-owned parcel as a result of the following: (a) on-site stabilization and neutralization of the lagoon's unstabilized sludge; (b) reinforcement of the lagoon's dike embankments; (c) capping the lagoon with a synthetic liner; and (d) grading and revegetating the cap and the surrounding area to minimize erosion.

I. After EPA completed its remediation in 1991, pursuant to CERCLA, the Department undertook operation and maintenance activities at the AH-RS-owned parcel and has continued responsible for the parcel's operation and maintenance through the present.

C. JTC- and Shaler-owned Parcels

J. Beginning in 1974 and continuing through approximately 1985, the JTC- and Shaler-owned parcels were operated by Robert Snyder, who presently resides in Eau Claire, Pennsylvania.

K. Both the Department and the EPA have conducted environmental investigations at the JTC- and Shaler-owned parcels: (a) a March, 1985 preliminary assessment by the Department; (b) a July, 1985 site reconnaissance by EPA; (c) a December, 1986 site investigation by EPA; (d) a September, 1991 preliminary sampling survey by EPA; and (e) a 1993-94 remedial investigation and feasibility study by the Department.

L. The investigations at the JTC- and Shaler-owned parcels indicated that, among other media, soil, groundwater, surface water and sediments contained hazardous substances as

the result of past operations. The parcels' surface and subsurface soil contained hydrocarbon contamination as well as elevated concentrations of copper, arsenic, lead, thallium, polychlorinated biphenyls and polynuclear aromatic hydrocarbons. The parcels' groundwater contained trichlorethene, vinyl chloride and benzene above maximum contaminant levels. The parcels' surface water contained elevated concentrations of beryllium, arsenic, manganese and thallium.

M. From approximately September, 1991 through April, 1992, EPA performed a removal action at the JTC- and Shaler-owned parcels that included: (a) the collection and off-site transport of all identified pumpable "hazardous waste" as that term is defined in the Resource Conservation and Recovery Act of 1976, 42 U.S.C.A., §§ 6901-6991(i); (b) the stabilization and securement of buildings, aboveground storage tanks, vats and drums located at the parcels; and (c) the erection of a section of cyclone fence to restrict access from State Route 268.

N. The Department performed its remedial investigation and feasibility study at the JTC- and Shaler-owned parcels in 1993 and 1994. The Department did so to define the nature and extent of contamination that was not addressed by EPA's removal action and to screen and select, from various alternatives, a final remedy.

O. In 1994, pursuant to Section 505(b) of HSCA, 35 P.S. § 6020.505(b), the Department performed a prompt interim response at the JTC- and Shaler-owned parcels to remediate those conditions that were not addressed by EPA's removal action but continued to pose an imminent threat to the surrounding community and the environment.

P. In support of its 1994 prompt interim response at the JTC- and Shaler-owned parcels, pursuant to Section 506 of HSCA, 35 P.S. § 6020.506, the Department prepared and published an administrative record for public review and comment. The Department opened the

administrative record for public review and comment on August 13, 1994 and closed the administrative record on November 12, 1994. Pursuant to Section 506(g) of HSCA, 35 P.S. § 6020.506(g), the Department reopened the administrative record for public review and comment on March 9, 1996 and closed the administrative record on May 17, 1996.

Q. In 1995, based on the findings of its remedial investigation and feasibility study of the JTC- and Shaler-owned parcels, the Department arrived at a proposed remedial response entailing *in situ* solidification of all remaining contaminated soils and materials and groundwater monitoring.

R. In support of its proposed remedial response, pursuant to Section 506 of HSCA, 35 P.S. § 6020.506, the Department prepared and published an administrative record for public review and comment. The Department opened the administrative record for public review and comment on September 16, 1995 and closed the administrative record on March 1, 1996.

S. In 1995, pursuant to Section 501 of HSCA, 35 P.S. § 6020.501, the Department initiated a remedial response at the JTC- and Shaler-owned parcels to address any outstanding release or threatened release of hazardous substances. As part of its remedial response, the Department excavated waste disposed of in impoundments or landfills, as well as associated contaminated soils. These the Department either removed for proper off-site disposal or, in the alternative, stabilized to prevent future leachability and placed under soil caps. To protect the integrity of these caps, the parcels were regraded, revegetated and fenced. Additionally, the Department installed groundwater monitoring wells for periodic sampling and analysis of the parcels' groundwater and whatever effect it might have on nearby Bear Creek. The Department completed its remedial response on December 2, 1997. The Department is currently responsible for operation and maintenance activities.

T. The Department has expended during its investigative and remedial activities at the JTC- and Shaler-owned parcels, as described in Paragraphs J through S, and will expend in future operation and maintenance activities at the parcels response costs whose final total will exceed \$7.5 million.

U. The Department's remedial response at the JTC- and Shaler-owned parcels was based on cleanup standards and their modification as described in Section 504 of HSCA, 35 P.S. § 6020.504. While the Department's remedial response resulted in a remediation of parcels that was both cost-effective and protective of the community and the environment, present conditions at the parcels continue to constitute a "release" or threatened "release" of "hazardous substances" as those terms are defined in Section 103 of HSCA, 35 P.S. § 6020.103.

V. The present conditions at the AH-RS-owned parcel likewise continue to constitute a "release" or threatened "release" of "hazardous substances" as those terms are defined in Section 103 of HSCA, 35 P.S. § 6020.103.

W. As an area where hazardous substances have been and continue to be released, the site is a "site" as defined in Section 103 of HSCA, 35 P.S. § 6020.103.

X. For purposes of this Order, the Department has determined that AH-RS, JTC and Shaler each are a "responsible person" as that term is defined in Section 103 of HSCA, 35 P.S. § 6020.103, and as that term is used in Section 701 of HSCA, 35 P.S. § 6020.701, with respect to the release and threatened release of hazardous substances described in Paragraphs F, G, L, U, V and W.

Y. Pursuant to Section 512(a) of HSCA, 35 P.S. § 6020.512(a), a site at which hazardous substances remain after completion of a response action shall not be put to a use which would disturb or be inconsistent with the response action implemented. The Department has the

authority to issue an order precluding or requiring cessation of activity at a site which the Department finds would disturb or be inconsistent with the response action it has implemented.

Z. Section 512(a) of HSCA, 35 P.S. § 6020.512(a), further states that the Department shall require the local county recorder of deeds to record an order under this subsection in a manner which will assure its disclosure in the ordinary course of a title search of the subject property. An order under this subsection, when recorded, shall be binding upon subsequent purchasers.

AA. Pursuant to Section 512(b) of HSCA, 35 P.S. § 6020.512(b), the grantor, in every deed for the conveyance of property on which a hazardous substance is either presently being disposed of or has ever been disposed of by the grantor or to the grantor's actual knowledge, shall include in the property description section of the deed an acknowledgment of the hazardous substance disposal. To the extent the information is available, the acknowledgment shall include, but not be limited to, the surface area size and exact location of the disposed of substances and a description of the types of hazardous substances contained therein. This property description shall be made a part of the deed for all future conveyances or transfers of the subject property. A description of any response undertaken with respect to the disposal of the hazardous substance shall also be made a part of the deed.

NOW, THEREFORE, this 18th day of SEPTEMBER, 2000, under the authority of Sections 512 and 1102 of HSCA, 35 P.S. §§ 6020.512 and 6020.1102, and Section 1917-A of the Administrative Code, 71 P.S. § 510-17, it is hereby ORDERED that:

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1. Immediately upon their receipt of this Order, AH-RS, JTC and Shaler shall each preclude and require cessation of any activity at their respectively owned parcels at the site which would disturb or be inconsistent with the response action implemented there.

2. Specifically, but not exclusively, AH-RS, JTC and Shaler shall each assure the following in regard to their respectively owned parcels at the site:

(a) groundwater monitoring wells will not be tampered with or damaged;

(b) because site groundwater is contaminated and not potable, no installation of additional groundwater wells will be allowed, except as approved in writing in advance by the Department;

(c) soil caps will not be disturbed in a manner that would cause underlying waste to be exposed or that would contribute to cap erosion;

(d) fencing that surrounds the parcels will not be removed or damaged; and

(e) the Department will be provided access to and entry upon each parcel to conduct operation and maintenance of those remedial measures it and the EPA have put in place, including sampling from groundwater monitoring wells, and to confirm that all applicable deed restrictions have been duly observed.

3. On any future conveyance of its respectively owned parcels at the site, AH-RS, JTC and Shaler shall include in the property description of the deed to that parcel an acknowledgment that hazardous substances have been disposed of there. The acknowledgment shall include, but shall not be limited to, the surface area size and exact location of the disposed of substances, as well as a description of the types of hazardous substances contained there. AH-RS, JTC and Shaler shall also file with the deed to their respectively owned parcels at the site a description of the EPA's (in respect to the AH-RS-owned parcel) or the Department's (in respect

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to the JTC- and Shaler-owned parcels) remedial response. The property description and the description of the EPA's and the Department's remedial response, as applicable, shall be made a part of the deed for all future conveyances or transfers of each of the three parcels comprising the site.

Any person aggrieved by this action may appeal, pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. § 7514, and the Administrative Agency Law, 2 Pa.C.S. Chapter 5A, to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, Pennsylvania 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

FOR THE COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF ENVIRONMENTAL PROTECTION:

Susan K. Frey
NOTARIAL SEAL
SUSAN K. FREY, NOTARY PUBLIC
MEADVILLE, CRAWFORD COUNTY, PA
MY COMMISSION EXPIRES DECEMBER 7, 2000

S. Craig Lobins
S. Craig Lobins
Program Manager
Environmental Cleanup Program
Northwest Region



Shaler-ord



Pennsylvania Department of Environmental Protection

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230 Chestnut Street
Meadville, PA 16335-3481
September 28, 2000

Northwest Regional Office

814-332-6648
Fax: 814-332-6121

Sent via First Class and Certified Mail

Sanford Lampl, CEO
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404 Thornblade Boulevard
Greer, SC 29650
CERTIFIED MAIL NO. P 427 455 996

Robert Snyder, President
AH-RS Coal Corporation
P.O. Box 5
Eau Claire, PA 16030
CERTIFIED MAIL NO. P 427 455 997

Sanford M. Lampl, CEO
J.T.C. Industries, Inc.
710 Fifth Avenue
Pittsburgh, PA 15219
CERTIFIED MAIL NO. P 427 455 998

Michael J. Remerowski, CEO
Shaler Contracting & Development Corporation
67 Grant Avenue
Pittsburgh, PA 15223
CERTIFIED MAIL NO. P 427 455 999

Re: Shaler/JTC Site
Bruin Borough, Butler County, Pennsylvania

Gentlemen:

Enclosed you will find an Administrative Order of the Commonwealth of Pennsylvania, Department of Environmental Protection, concerning the Shaler/J.T.C. Site.

If you have any questions regarding the above, please contact me at this office or the Site Attorney, Mr. Edward Stokan, who can be reached at the Department's Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, Pennsylvania 15222-4745, telephone 412-442-4262.

Sincerely,

James W. Weaver
Environmental Protection Specialist
Environmental Cleanup



I hereby CERTIFY
that this document is
recorded in the
Recorder's Office
of Butler County,
Pennsylvania

Michele M. Mustello
Michele M. Mustello - Recorder of Deeds

Enclosure

- cc: Mr. Nye (File)
Ms. Dougherty
Mr. Gorman
Mr. Weaver
Mr. Stokan (SWRO-OCC)

JWW:lsl

Mail to: James W. Weaver
Dept Environmental Protection
230 Chestnut St.
Meadville, PA 16335

