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March 30, 1998

GM SMI
CONSENT
JUDGMENT

Edward Peterson
Central Remediation Group - E&E Staff
General Motors Corporation
Argo "A" - 1004 H, 485 W. Milwaukee Avenue
Detroit, MI 48202

Re: Green Point Landfill; General Motors Corporation
Delphi Saginaw Malleable Iron Plant

Dear Mr. Peterson:

Please find enclosed copy of correspondence from Todd Adams dated March 27, 1998 which forwards the Complaint and Consent Judgment in the referenced matter. The Consent Judgment was entered and therefore became effective on March 16, 1998.

If you have any questions or comments, please do not hesitate to contact me.

Very truly yours,

DYKEMA GOSSETT PLLC

David L. Tripp

DLT/md

Enclosures

cc: Jeff Braun (w/o Encls.)
Cheryl Hiatt (w/Encls.)
Steve Tomaszewski (w/Encls.)
Scott Saroff (w/Encls.)

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ID\ DLTR

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL

Received DLT MAR 30 1998

JOE D. SUTTON
Deputy Attorney General

300 S. WASHINGTON SQ., SUITE 315
LANSING, MICHIGAN 48913

FRANK J. KELLEY
ATTORNEY GENERAL

March 27, 1998

Jeffrey N. Braun
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3031 West Grand Boulevard
P.O. Box 33122
Detroit, Michigan 48232

David L. Tripp
Dykema Gossett
400 Renaissance Center
Detroit, MI 48243-1668

Katie Moertl
Environmental Counsel
Waste Management, Inc.
3003 Butterfield Road
Oak Brook, IL 60521

Dear Counsel:

RE: Kelley, et al v General Motors Corporation, et al
Saginaw County Circuit Court
Docket No. 98 22686 CE 2

Enclosed herewith please find true copies of the Complaint and Consent Judgment recently filed in the above referenced matter.

Very truly yours,

Todd B. Adams (P36819)
Assistant Attorney General
Natural Resources Division
Telephone: 517/373-7540

TBA/sjb
Enc.
c: Alan Brouillet
Larry Elmleaf
6/cases/98ag/9852160/lt.counsel

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF SAGINAW

FRANK J. KELLEY, Attorney General of the State of Michigan, ex rel, MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY, and RUSSELL J. HARDING, Director of the Michigan Department of Environmental Quality,

Plaintiffs,

v

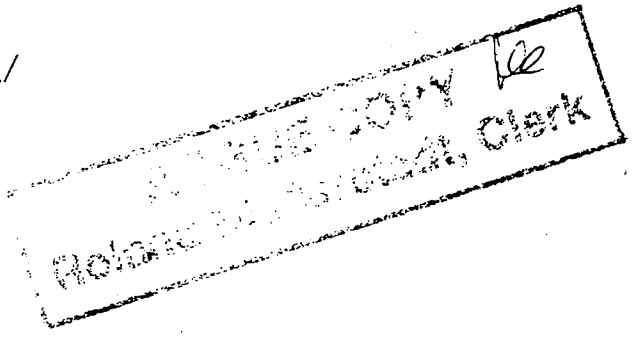
File No: 98-22686 CE-2
Hon. _____

GENERAL MOTORS CORPORATION, a Delaware Corporation, and WASTE MANAGEMENT, INC.

Robert L. Kaczmarek
(P15839)

Defendants.

Todd B. Adams (P36819)
Natural Resources Division
Assistant Attorney General
Attorney for Plaintiffs
8th Floor Mason Building
P.O. Box 30028
Lansing, MI 48909
Telephone: (517) 373-7540



A civil action between these parties and other parties arising out of some of the transactions or occurrences alleged in the complaint has been previously filed in the 30th Circuit Court, where it was given docket number 94-77853-CE and was assigned to the Honorable Lawrence M. Glazer.

COMPLAINT

Plaintiffs, Frank J. Kelley, Attorney General of the State of Michigan, ex rel, the Michigan Department of Environmental Quality (MDEQ), and Russell J.

Harding, Director of the MDEQ, by their attorneys, Frank J. Kelley, Attorney General of the State of Michigan, and Todd B. Adams, Assistant Attorney General, complain as follows:

STATEMENT OF THE CASE

1. This is a civil action for injunctive and monetary relief to abate and remedy past illegal releases of hazardous substances into the environment from the General Motors Saginaw Plant and associated property located at at 77 W. Center St. in Saginaw, Michigan.

2. Plaintiffs seek a permanent injunction requiring Defendants to undertake Interim Response actions, fully assessing the extent of soil and groundwater contamination at and emanating from this site through the complete performance of a Remedial Investigation/ Feasibility Study (RI/FS) and submit a Remedial Action Plan (RAP) to the MDEQ.

3. Plaintiffs seek recovery of past response activity costs incurred by the State.

4. Plaintiffs' claims are based on Part 201 of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended, MCL 324.20101 et seq.

JURISDICTION AND VENUE

5. This Court has jurisdiction in this matter pursuant to MCL 324.20137 and MCL 324.3115.

6. Venue is proper in this Court pursuant to MCL 324.20138(2).

PARTIES

PLAINTIFFS

7. Plaintiff Frank J. Kelley is the Attorney General of the State of Michigan. The Attorney General possesses both statutory and common law powers to bring this action on behalf of the people of the State of Michigan and its governmental agencies.

8. Plaintiff MDEQ is a principal department within the Executive Branch of the State of Michigan pursuant of Executive Order 1995-18. Statutory authority, powers, duties, functions and responsibilities previously vested in the Michigan Department of Natural Resources (MDNR) pursuant to Part 201 of the NREPA are now vested in the MDEQ pursuant to Executive Order 1995-18.

9. Plaintiff Russell J. Harding is the Director of the MDEQ, the state agency mandated to provide for the protection of the natural resources of the state from pollution, impairment, and destruction. 1929 PA 17, MCL 324.101, MCL 324.301, MCL 324.501; Executive Orders 1973-2, 1976-8, and 1995-18.8.

DEFENDANTS

10. Defendant General Motors Corporation (GM) is a Delaware Corporation with its principal offices at 3044 West Grand Boulevard, Detroit, Michigan.

11. Defendant Waste Management, Inc. (WMI) is a corporation with its principal offices at 3003 Butterfield Road, Oak Brook, Illinois. It includes but is not limited to: Hartley & Hartley, Inc., City Disposal Company, SCA Services, Inc., SCA Services of Michigan, Inc., Waste Management of Michigan, Inc., Michigan Landfill Holdings, Inc., and SC Holdings, Inc.,

GENERAL ALLEGATIONS

12. The GM Powertrain Division Saginaw Malleable Iron Facility (GM Saginaw Plant) is located at 77 W. Center St. in Saginaw, Michigan. The GM Saginaw Plant is just downstream of the confluence of the Tittabawassee and the Shiawassee Rivers, where they combine to form the Saginaw River. The Saginaw River borders the site to the east. The Tittabawassee River flows State owned property approximately 1/8 mile south of the GM Saginaw Plant. Immediately adjacent to the GM Saginaw Plant foundry building is the GM Saginaw Steering Gear Plant 2. The GM Saginaw Plant manuafacturing facility is approximately 1.1 million square feet in size and occupies the northwestern portion of the property.

13. The GM Saginaw Plant was built on 52 acres of lowland area in 1917. Expansion of manufacturing facilities and operations has continued until today. The manufacturing plant has produced automotive parts by casting and finishing malleable iron, a ferrous alloy. The plant has produced differential carriers, wheel hubs, mounting brackets, light duty gears, steering housings, and bearing caps.

14. The GM Saginaw Plant property also contains two settling ponds located near the middle and the east of the property, four landfills, and an illegal drum

disposal site. The four landfills are: 1) GM-Malleable Type III, consisting mostly of foundry sand, closed 1984; 2) GM-Malleable Type III, consisting mostly of foundry sand, closed 1990; 3) Green Point, Type II, closed; and 4) GM Green Point landfill, under construction in 1987. The State has never approved the operation of the last landfill.

15. The closed Green Point Type II was a sanitary landfill that illegally received liquid industrial waste and contains an illegal drum disposal area. On information and belief, GM was a generator, transporter, and disposer of hazardous waste in some of the illegal disposal practices at the landfill. GM now owns both the sanitary landfill and the illegal drum disposal area. An individual, Rubin Schultz, previously owned the area containing the landfill and the illegal drum disposal area.

16. SCA Corporation operated the Green Point Landfill from approximately 1976 to 1978. WMI acquired SCA Corporation.

17. The history of PCB usage at the GM Saginaw Plantt is extensive. In the early 1980s, the GM Saginaw Plant used Saginaw City water for most of its manufacturing. In 1981, the plant was the largest user of city water, averaging 2.91 million gallons per day (mgd). Saginaw River water was also used in some manufacturing processes, though to a much lesser extent. Saginaw River water was pumped into the settling ponds; water drawn from the secondary settling pond was used for cooling or aerial dust settling, returned to the primary settling, and thus recycled through the system.

18. In 1985, GM stated in an NPDES permit application that the GM Saginaw Plant contained 205,000 pounds of stored PCBs on-site, and that PCB discharges from the plant were as high as 0.20 µg/L and averaged 0.12 µg/L. GM also estimated a discharge of 50,000 gallons/day and that the PCB loading was 0.022 lbs/day. This daily discharge estimate was very low. Detectable levels of PCBs have consistently been found along the Saginaw River near the settling pond including in 1994 and 1995. Based on investigations conducted by GM in 1994 and 1995, PCB contaminated groundwater is venting to the Saginaw River in levels injurious to the environment and natural resources of the State of Michgan. GM has never received a permit for its groundwater discharge.

19. In 1982, all effluents from the GM Saginaw Plant were discharged to the Saginaw WWTP. GM discharged effluent from the GM Saginaw Plant through CFD-01 to the Saginaw WWTP. GM may also have discharged effluent from the GM Saginaw Plant through CFD-02 to the Saginaw WWTP, although the discharge through CFD-02 may have been partially or entirely from Saginaw Steering Gear Plant #2.

20. Since the GM Saginaw Plant effluent discharges to the Saginaw WWTP and not to the Saginaw River, relatively few samples have been analyzed for effluent PCBs at the plant. Some elevated PCB concentrations were contained in the effluent between 1984 and 1990. The two outfalls from the plant (CFD 01 and CFD 02) are most likely for city water used for cooling and cleaning purposes and for overflow from the settling ponds, respectively. PCBs have been detected in both outfalls, at concentrations ranging from 1.4 to 2.5 µg/L in CFD 01, and 0.21 to 0.94 µg/L at CFD 02. There was no NPDES or IPP permit for these discharges.

21. Contamination at the GM Saginaw Plant has not been adequately characterized. Including data from the most recent investigation efforts conducted by GM, hazardous substances have contaminated most of the facility. Heaviest contamination is around and underneath eht manufacturing facility, in the drum disposal area, and at or near the Green Point Landfill. In addition, GM verified that PCB contaminated groundwater is venting directly into the Saginaw River at levels injurious to the environment and natural resources of the State of Michigan.

22. Flooding in 1986 revealed the Green Point illegal drum disposal area. The illegal drum disposal area covers approximately 10 acres. Some 339 drums with non-hazardous waste have been removed from the area. Most of the testing at the drum site showed undetectable levels of PCBs. However, one drum was found to have 15 mg/kg PCB. In addition, several soil samples from a "Hill" area and from backhoed ditches contained PCBs, with concentrations as high as 11.9, 10.4, 7.7, and 7.2 mg/kg.

23. The flat terrain on the property south of the manufacturing area has resulted in several areas of pooled water. PCBs have been found in some of this standing water near the Green Point Landfill. Concentrations as high as 4.0 µg/L as A1242 and 4.7 µg/L as A1248 were detected.

24. The MDNR found detectable levels of PCBs in seven different wells in 1987; the 1988 sampling confirmed detectable PCB concentrations in three of those wells, plus three other wells. Most of the reported concentrations in 1988 were between 0.2 and 1.0 µg/L; one well analyzed by GM's contractor contained 2.1 µg/L

total PCBs (A1242 + A1254), and one sample analyzed by MDNR contained 4.0 µg/L A1248. Samples were as high as 8.6 and 5.0 µg/L in the 1987 sampling.

25. Data collected in 1988 confirm that PCBs have contaminated some of this standing water, though not consistently at concentrations as elevated as those measured in 1987. One of the sample points containing 4.0 µg/L A1242 and 1.5 µg/L A1254 in 1987 was found to have 2.8 µg/L as A1248 in 1988. Similarly, the MDNR found 2.2 µg/L A1242 and 0.85 µg/L A1254 at a standing water site in 1987; GM's contractor found 4.7 µg/L A1248 at the same site in 1988. Despite the inconsistencies in data collection and reported Aroclor mixtures, 2.8 µg/L and 4.7 µg/L are still highly elevated concentrations of PCBs.

26. In addition, investigations have found high levels of heavy metals, volatile organic compounds, and other contaminants at various places and at various times at the GM Saginaw Plant.

COUNT I
PART 201

27 Paragraphs 1 through 26 are realleged and incorporated by reference.

28. MCL 324.20126(1) provides that:

> (1) Notwithstanding any other provision or rule of law and except as provided in subsections (2), (3), (4) and (5) and section 20128, the following persons are liable under this part:
>
> * * *

(a) The owner or operator of the facility if the owner or operator is responsible for an activity causing a release or threat of release.

(b) The owner or operator of the facility at the time of disposal of a hazardous substance if the owner or operator is responsible for an activity causing a release or threat of release.

. . . .

(d) A person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of a hazardous substance owned or possessed by the person, by any other person, at a facility owned or operated by another person and containing the hazardous substance.

(e) A person who accepts or accepted any hazardous substance for transport to a facility selected by that person.

29. MCL 324.20126a provides that a responsible person is liable for:

(1)(a) All costs of response activity lawfully incurred by the state relating to the selection and implementation of response activity promulgated under this part.

. . . .

(2) The costs of response activity recoverable under subsection (1) shall also include all of the following:

(a) All costs of response activity reasonably incurred by the state prior to the promulgation of rules relating to the selection and implementation of response activity promulgated under this part . . . .

30. The GM Saginaw Plant is a "facility" as that term is defined in MCL 324.20101(l).

31. PCBs, volatile organic compounds, heavy metals, and other contaminants found in the soils and groundwater located at the at the GM Saginaw Plant are "hazardous substances" within the meaning of MCL 324.20101(q).

32. There were and are "releases" or "threatened releases" of hazardous substances from the GM Saginaw Plant within the meaning of MCL 324.20101(y) &(ff), respectively.

33. As a result of these releases or threatened releases, Plaintiffs have "lawfully" and "reasonably" incurred response activity costs within the meaning of MCL 324.20126a.

34. GM and WMI are "person[s]" within the meaning of Part 201 of NREPA. Defendant GM is the current owner and operator of the GM Saginaw Plant. SCA Corporation, now a part of WMI, was an operator of the Greenpoint Landfill at the time of disposal and releases of hazardous substances.

35. Defendants are strictly, jointly, and severally liable to Plaintiffs for all response costs incurred by the State and for injunctive relief necessary to protect the public health, safety, welfare and the environment, and all response activity costs incurred in the past by Plaintiffs.

36. The actual or threatened releases of hazardous substances at or from the Facility may pose an imminent and substantial endangerment to the public health, safety, welfare, or the environment within the meaning of MCL 324.20119 &

20126a(6).

COUNT II
DECLARATORY JUDGMENT UNDER MERA FOR FUTURE RESPONSE COSTS

37. Paragraphs 1 through 36 are realleged and incorporated by reference.

38. An actual, substantial, legal controversy now exists between Plaintiffs and Defendants, and Plaintiffs are entitled to a judicial declaration of their rights and legal relations with Defendants. Plaintiffs are entitled to a declaratory judgment pursuant to MCL 324.20137(1)(d) that Defendants are strictly, jointly, and severally liable to Plaintiffs under MCL 324.20219(2), for future response activity costs to oversee and undertake the design, construction, implementation, operation, maintenance, and monitoring of the response activities at the site.

39. A declaratory judgment for recovery of future response activity costs and damages is appropriate and in the public interest because it will prevent the need for multiple lawsuits as Plaintiffs incur future response costs and damages; will provide a final resolution of the issues of liability for these costs and damages; and will insure a prompt and effective response.

RELIEF REQUESTED

Plaintiffs respectfully request this Honorable Court to enter an Order requiring Defendants:

A. To investigate soil and groundwater contamination at and emanating

from the GM Saginaw Plant through the complete performance of a RI/FS and the submission and implementation of an MDEQ approved Remedial Action Plan.

B. To jointly and severally pay all response activity costs incurred by Plaintiffs, together with prejudgment interest.

C. Enter a declaratory judgment that the Defendants are jointly and severally liable to reimburse Plaintiffs for all response costs to be incurred by the State in the future.

D. Award Plaintiffs attorneys fees and all costs of this action.

E. Grant Plaintiffs any further relief as the Court finds appropriate and just.

Respectfully submitted,

FRANK J. KELLEY

Attorney General

Todd B. Adams

Todd B. Adams P36819
Natural Resources Division
Assistant Attorney General
Attorney for Plaintiffs

Dated: 9 March, 1998

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL

JOE D. SUTTON
Deputy Attorney General

300 S. WASHINGTON SQ., SUITE 315
LANSING, MICHIGAN 48913

FRANK J. KELLEY
ATTORNEY GENERAL

March 27, 1998

Clerk of the Court
Saginaw County Circuit Court
111 S. Michigan Avenue
Saginaw, MI 48602

Dear Clerk:

RE: Kelley, et al v General Motors, et al
Saginaw County Circuit Court
Docket No. 98 22686 CE-2

Enclosed for filing in the above referenced matter please find Proof of Service.

Very truly yours,

Todd B. Adams

Todd B. Adams
Assistant Attorney General
Natural Resources Division
300 South Washington Square
Knapps Office Centre #315
Lansing, MI 48913
Telephone: 517/373-7540

TBA/sjb
Enc.
6/cases/98ag/9852160/ltr.proof

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF SAGINAW

FRANK J. KELLEY, Attorney General of the State of Michigan, ex rel MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY, and RUSSELL J. HARDING, Director of the Michigan Department Environmental Quality,

Plaintiffs,

v

File No. 98 22686-CE-2
Hon. Robert L. Kaczmarek

GENERAL MOTORS CORPORATION, a Delaware Corporation and WASTE MANAGEMENT, INC.

Defendants.
_____/

STATE OF MICHIGAN }
}SS
COUNTY OF INGHAM }

PROOF OF SERVICE

SUSAN BERTRAM, being first duly sworn, deposes and says that on March 27, 1998, she did serve a copy of the **Complaint and Consent Judgment filed in this matter** upon the following:

Jeffrey N. Braun
Office of General Counsel
General Motors Corporation
3031 West Grand Boulevard
P.O. Box 33122
Detroit, Michigan 48232

David L. Tripp
Dykema Gossett
400 Renaissance Center
Detroit, MI 48243-1668

Katie Moertl
Environmental Counsel
Waste Management, Inc.
3003 Butterfield Road
Oak Brook, IL 60521

by enclosing same in a properly addressed and stamped envelope and depositing

same in the United States mail in Lansing, Michigan.

Susan Bertram

SUSAN BERTRAM

Subscribed and sworn to before me this
27th day of March, 1998.

Mary Sue Tegels

Mary Sue Tegels, Notary Public
Eaton County, Michigan, acting in
Ingham County, Michigan
My Commission Expires: August 29, 1999
6/cases/98ag/9852160/proof

STATE OF MICHIGAN
CIRCUIT COURT FOR SAGINAW COUNTY

FRANK J. KELLEY, Attorney General
of the State of Michigan, ex rel,
and MICHIGAN DEPARTMENT OF
ENVIRONMENTAL QUALITY,

Plaintiffs,

v.

GENERAL MOTORS CORPORATION,
a Delaware Corporation, and
WASTE MANAGEMENT, INC.
Defendants.

CASE NO. 98-22686-CE-2
Honorable Robert L. Kaczmarek
(P15339)

A. Michael Leffler (P24254)
Todd B. Adams (P36819)
Assistant Attorneys General
Attorneys for Plaintiffs
Natural Resources Division
8th Floor Mason Building
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Dykema Gossett PLLC
Attorneys for General Motors
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Detroit, MI 48243-1668
Telephone: (313) 568-6748

Katie Moerti
Environmental Counsel
Waste Management, Inc.
3003 Butterfield Road
Oak Brook, IL 60521
Telephone: (708) 572-2435

CONSENT JUDGMENT

The Plaintiffs are Frank J. Kelley, Attorney General of the State of Michigan, and Michigan Department of Environmental Quality ("MDEQ").

The Defendants are General Motors Corporation ("GM") and Waste Management, Inc. ("WMI"), including, but not limited to: Hartley & Hartley, Inc., City Disposal Company, SCA Services, Inc., SCA Services of Michigan, Inc., Waste Management of Michigan, Inc., Michigan Landfill Holdings, Inc., and SC Holdings, Inc. GM's principal offices are located at 3044 West Grand Boulevard, Detroit, Michigan. WMI's principal offices are located at 3003 Butterfield Road, Oak Brook, Illinois.

The Consent Judgment requires the completion of a remedial investigation/feasibility study (RI/FS) to determine the vertical and horizontal extent of contamination including any off-site migration, provides for the submission, approval and performance of a remedial action plan (RAP), creates an enforceable and workable process for the preparation and implementation of an approved RAP and the selected remedial action (RA) for the General Motors Corporation Saginaw Malleable Iron Facility in Saginaw, Michigan (hereafter "Facility"), under the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, MCL 324.101, et seq. ("NREPA"), including Part 201 (Environmental Response), MCL 324.20101, et seq.("NREPA Part 201"), and Part 111 (Hazardous Waste Management), MCL 324.11101 et seq.; ("NREPA Part

111") and Part 31 (Water Resources Protection), MCL 324.3101, et seq.("NREPA Part 31"). Defendants agree not to contest (a) the authority or jurisdiction of the Court to enter this Consent Judgment including, without limitation, the jurisdiction of all of the above-referenced bases for statutory authority over the matters addressed herein or, (b) the terms or conditions set forth herein. The Consent Judgment does not address any natural resource injuries which may have been caused by the alleged releases from the GMMI site.

The entry of this Judgment by Defendants is neither an admission of liability with respect to any issue dealt with in this Judgment nor is it an admission or denial of any factual allegations or legal conclusions stated or implied herein.

The Parties agree, and the Court by entering this Judgment finds, that the response activities set forth herein are necessary to abate actual or threatened releases of hazardous substances into the environment, to control potential future releases and to protect public health, welfare, safety and the environment.

Before the taking of any testimony, and without this Consent Judgment constituting an admission of any of the allegations in the Complaint or as evidence of the same, and upon the consent of the Parties, by their attorneys,

IT IS ORDERED:

I. JURISDICTION

1.1 This Court has jurisdiction over the subject matter of this action pursuant to MCL 324.20137 and MCL 324.3115. This Court also has personal jurisdiction over the Defendants. Defendants waive all objections and defenses that they may have to jurisdiction of the Court or to venue in this Circuit.

1.2 The Court determines that the terms and conditions of this Consent Judgment are reasonable, adequately resolve the environmental issues raised and properly protect the interests of the people of the State of Michigan. The Court additionally determines that the covenant not to sue provided by the Plaintiffs to Defendants under section XXV of the Consent Judgment meets the requirements of Section 20132 of NREPA Part 201, MCL 324.20132, NREPA Part 111, NREPA Part 115 (Solid Waste Management), MCL 324.11501 et seq., NREPA Part 31 and NREPA Part 147 (PCB Compounds Act), MCL 324.14701 et seq.

1.3 The Court shall retain jurisdiction over the Parties and subject matter of this action to enforce this Consent Judgment and to resolve disputes arising under this Consent Judgment, including those that may be necessary for its construction, execution or implementation, subject to Section XXI.

II. PARTIES BOUND

2.1 This Consent Judgment shall apply to and be binding upon Plaintiffs and Defendants and their successors and assigns. No change or changes in the ownership or corporate status of General Motors or WMI shall in any way alter Defendants' responsibilities under this Consent Judgment. GM shall provide the MDEQ with written notice prior to the transfer of ownership of part or all of the GMMI Saginaw Plant, and shall also provide a copy of this Consent Judgment to any subsequent owners or successors prior to the transfer of any ownership rights. Defendants shall comply with the requirements of Section 20116 of NREPA Part 201, MCL 324.20116. Defendants shall provide a copy of this Consent Judgment to all contractors and consultants retained to conduct any portion of the Response Activities performed pursuant to this Consent Judgment, within fourteen (14) days after the effective date of this Consent Judgment or after the date of such retention. Defendants shall make available a copy of this Consent Judgment for inspection by all subcontractors and laboratories retained to conduct any portion of the Response Activities performed pursuant to this Consent Judgment. Notwithstanding the terms of any contract, Defendants are responsible for compliance with this Consent Judgment and for ensuring that their contractors, subcontractors, laboratories, and consultants perform all work in conformance with the terms and conditions of this Consent Judgment.

2.2 GM shall be jointly and severally liable for the performance of the activities specified in the Consent Judgment. WMI shall be jointly and severally liable along with GM for the performance of the activities required by this Consent Judgment for the Green Point Landfill and for any hazardous substances associated with or originating from the Green Point Landfill. Both GM and WMI shall be jointly and severally liable for penalties arising from violations of this Consent Judgment arising from releases attributable to them individually or from obligations placed on both of them mutually as set forth above by the Consent Judgment. The signatories to this Consent Judgment certify that they are authorized to execute and legally bind the parties they represent.

III. STATEMENT OF PURPOSE

3.1 In entering into the Consent Judgment, the mutual objectives of Plaintiffs and Defendants are, in accordance with NREPA Part 201: (a) to complete the performance of a Remedial Investigation (RI) to determine the nature and extent of contamination and any threat to the public health, safety, or welfare, or the environment caused by the release or threatened release of hazardous substances, pollutants, or contaminants from the Facility; (b) to conduct a Feasibility Study (FS) to determine and evaluate alternatives for Remedial Action to prevent, mitigate, abate, or otherwise respond to or remedy any release or threatened release of hazardous substances, pollutants, or contaminants or any discharge of injurious substances from the Facility; (c) to develop detailed plans for implementing the selected Remedial Action through the preparation

of an approved Remedial Action Plan (RAP); and (d) to remediate as required by law all releases or threatened releases of hazardous substances, pollutants, or contaminants or any discharge of injurious substances, through the implementation of the interim and final remedial actions.

3.2 The activities conducted under this Consent Judgment are subject to approval by the MDEQ and Defendants shall provide all appropriate necessary information for the RI/FS, for the selection of a Remedial Action, for the development of the RAP, and for the implementation of the interim or final remedial actions, that assure the protection of the public health, safety, welfare or environment and attain a degree of cleanup and control of hazardous substances that complies with all applicable or relevant and appropriate requirements, rules, criteria, limitations, and standards of state and federal environmental laws.

IV. DEFINITIONS

4.1 "Consent Judgment" means this Consent Judgment and any appendix hereto, including any future modifications, and any reports, plans, specifications and schedules required by the Consent Judgment which, upon approval of the MDEQ, shall be incorporated into and are enforceable under this Consent Judgment.

4.2 "Defendants" means GM and WMI.

4.3 "Plaintiffs" means Frank J. Kelley, Attorney General, of the State of Michigan, ex rel, and Michigan Department of Environmental Quality.

4.4 "Parties" means the Plaintiffs and Defendants.

4.5 "Days" shall mean calendar days.

4.6 "Costs incurred" shall mean costs that have been dispersed or paid out by the State of Michigan. It does not include costs which are due or owed by the State of Michigan.

4.7 All other terms used in this Consent Judgment which are defined in NREPA Part 201, MCL 324.20101 et seq., and the rules pursuant to NREPA Part 201, MAC R 299.5101 et seq., NREPA Part 111, the NREPA Part 111 rules, MAC R299.9101 and NREPA Part 31, the NREPA Part 31 rules, MAC R323.1001, shall have the same meaning in the Consent Judgment as in NREPA Part 201 and its rules, as is appropriate to the context in which they are used, as necessary to assure the protection of the public health, safety, welfare or environment and attain a degree of cleanup and control of hazardous substances that complies with all applicable or relevant and appropriate requirements, rules, criteria, limitations, and standards of state and federal environmental laws.

V. IMPLEMENTATION OF RIs, FSs, RAPs AND ACCELERATED ACTIONS

5.1 Consistent with the provisions of paragraph 2.2 herein, Defendants shall prepare and perform all response activities in accordance with the schedules set forth in this Section. The response activities conducted pursuant to this Consent Judgment are subject to approval by the MDEQ in accordance with Section XV, and shall be consistent with and in compliance with NREPA Part 201, the NREPA Part 201 Rules, NREPA Part 31, the NREPA Part 31 rules and NREPA Part 111 and the NREPA Part 111 Rules as necessary to assure the protection of the public health, safety, welfare or environment and attain a degree of cleanup and control of hazardous substances that complies with all applicable or relevant and appropriate requirements, rules, criteria, limitations, and standards of state and federal environmental law. The RI/FS Work Plan, the RI/FS Quality Assurance Project Plan, the Drum Remediation Area Geophysical Investigation Work Plan and the Drum Remediation Area Test Pit Investigation Work Plan, attached hereto as Exhibits 2, 4, 5, and 6 respectively, are hereby deemed approved under Section XV. A Health and Safety Plan (Exhibit 3) shall be developed in accordance with the standards promulgated pursuant to the National Contingency Plan, 40 CFR 300.150, the Occupational Safety and Health Act of 1970, 29 CFR 1910.120 and the Michigan Occupational Safety and Health Act, MCL 408.1001. The Health and Safety Plan is not subject to MDEQ approval as required in Section XV of this Consent Judgment.

5.2 Due to the size and complexity of the GMMI Saginaw Plant, GM and WMI recognize the following subdivisions of the GMMI Saginaw Plant (areas), and boundaries for those areas as shown on the map attached as Exhibit 1. However, Exhibit 1 is not determinative of any division of potential liability between GM and WMI. The areas are:

a) **Green Point Landfill**. The Green Point Landfill is located within the south-central portion of the GMMI Saginaw Plant property. The Green Point Landfill is approximately thirty (30) acres in size.

b) **Existing Water Recirculation System**. The Existing Water Recirculation System is located in the central portion of the GMMI Saginaw Plant property. The Existing Water Recirculation System is comprised of the primary settling pond, the secondary settling pond, the small pond (located immediately north of the secondary pond) and the north south channel. The Existing Water Recirculation System occupies an area approximately nineteen (19) acres in size.

c) **Type III Landfills**. There are two (2) Type III landfills located on the GMMI Saginaw Plant property. One landfill is located north of the secondary settling pond and is approximately eight (8) acres in size. The other landfill is located west of the secondary settling pond and south of the primary settling pond and is also approximately eight (8) acres in size.

d) **Drum Remediation Area**. The Drum Remediation Area is located in the southwest portion of the GMMI Saginaw Plant property. The Drum Remediation Area is approximately thirteen (13) acres in size.

e) **Plant Area**. The plant area consists of the manufacturing building, offices, storage buildings, parking and access areas, and includes the previous metal feedstock area, the railroad area and the unpaved area. The Plant area is shown on Exhibit 1. The Plant Area is approximately one hundred and fifty-six (156) acres in size and is bounded by the Green Point Landfill and the Secondary Settling Pond to the south, the Saginaw River to the east, the General Motors Saginaw Division Plant #2 property boundary to the west, and Center and Salt Streets to the north.

f) **Other areas**, if any, identified later.

The Defendants shall use these areas, and the boundaries for these areas, in all submissions to the Plaintiffs. In the event of any conflict between the map attached as Exhibit 1 and the written description of the areas, the map shall control.

5.3 The following conditions, consistent with the provisions of paragraph 2.2 herein, apply to the performance of work under this Consent Judgment. With respect to potential off site releases of hazardous substances, soil contamination identified at the property boundary of the GMMI Saginaw Plant which is determined to be above NREPA Part 201 criteria as set forth in NREPA Section 20120a(1)(a) (residential category), subject to NREPA Section 20120a(11), and which is determined to be the responsibility of the defendants, either jointly or individually, will be investigated across the property boundary. If groundwater analytical testing results from any groundwater monitoring event conducted under the RI/FS Work Plan show that NREPA Part 201

criteria as set forth in NREPA Section 20120a(1)(a), subject to NREPA Section 20120a(11), or groundwater surface water interface (GSI) values, respectively, are being exceeded at the property and river boundaries (respectively NREPA Part 201 residential and background at the non-river boundary, and GSI at the river boundary), GM and WMI will notify MDEQ in the monthly status report, and submit within 90 days of such notification, a supplemental RI Work Plan consistent with the specifications in the RI/FS Work Plan and accompanied by a schedule of implementation. The Work Plan will propose the installation of additional monitoring wells or clusters, or the completion of other investigative work (e.g., soil borings, geophysics, additional monitoring, etc.) in accordance with the standards contained in paragraph 5.1, as appropriate, along the downgradient perimeter of the site and off-site to determine the nature and extent of off-site contaminant migration. The criteria for investigation and cleanup set forth in paragraphs 5.3 and 5.11 do not apply to the areas of the property boundary which border the General Motors Delphi Saginaw Steering Systems Plant 2 property. For those areas, GM shall have the option of proposing the criteria set forth in NREPA Part 201 Sections 20120a(1)(b), 20120a(1)(d), 20120a(1)(f), 20120a(1)(g), 20120a(1)(i) or 20120a(2), which shall be subject to MDEQ approval in accordance with the requirements of NREPA Part 201, MCL 324.20101 et seq. Also, notwithstanding anything in paragraphs 5.3 and 5.11 to the contrary, GM is not assuming the responsibility in this Consent Judgment for conducting response activities on any property that was formerly owned by Ruben Schultz that is located to the west of the Drum Remediation Area, except to the extent GM is responsible under applicable law.

5.4 Notwithstanding any other paragraph of this Consent Judgment, and consistent with the provisions of paragraph 2.2 herein, Defendants shall only be obligated to perform investigation or monitoring in the Saginaw River if and to the extent such investigation or monitoring is specifically necessary to support any interim or final remedial action proposed by Defendants at the Facility. The parties recognize and agree that contamination in the Saginaw River is being addressed in another forum, and in no event shall Defendants be required to perform any remedial action in the Saginaw River under this Consent Judgment.

5.5 Consistent with the provisions of paragraph 2.2 herein, Defendants shall implement the terms and conditions of the RI/FS Work Plan, Exhibit 2, in accordance with the schedules contained in paragraphs 5.6 - 5.11. Consistent with the provisions of paragraph 2.2 herein, Defendants shall comply with the terms, schedules and conditions of the MDEQ approved RI/FS Quality Assurance Project Plan, Drum Remediation Area Geophysical Investigation Work Plan and Drum Remediation Area Test Pit Investigation Work Plan, attached as Exhibits 4, 5 and 6 respectively, and incorporated as part of this Consent Judgment.

5.6 Consistent with the provisions of paragraph 2.2 herein, Defendants are in the process of performing the following elements of the RI/FS Work Plan: the Drum Remediation Area surface geophysics and test pit programs, the Green Point Landfill leachate assessment, the perimeter geophysics, the hydrogeological investigation,

assessment of Type III Landfill leachate characterization, the soil boring program, the sewer study and POTW sampling program, the surface water and sediment sampling program, the surface water/ groundwater interaction study, and surveying program.

5.7 Consistent with the provisions of paragraph 2.2 herein, Defendants shall complete all RI and FS activities in accordance with the schedule in the approved RI/FS Work Plan.

5.8 Within twelve (12) months of the entry of the Consent Judgment, and consistent with the provisions of paragraph 2.2 herein, the Defendants shall submit a remedial investigation report (RI Report) detailing and setting forth the results of the RI portion of the RI/FS Work Plan. The MDEQ shall provide comments to the RI Report within one hundred and twenty (120) days after receiving the RI Report. Within one hundred and twenty (120) days after receiving comments from the MDEQ, consistent with the provisions of paragraph 2.2 herein, the Defendants shall submit a final RI Report. After completing implementation of the FS in the approved RI/FS Work Plan, consistent with the provisions of paragraph 2.2 herein, the Defendants shall submit a draft FS study report (FS Report) detailing and setting forth the results of the FS portion of the approved RI/FS Work Plan. The MDEQ shall provide comments to the FS Report within one hundred and twenty (120) days after receiving the FS Report. Consistent with the provisions of paragraph 2.2 herein, the Defendants shall submit a final FS Report within ninety (90) days after receiving comments from the MDEQ.

5.9 Within seven (7) months after MDEQ approval of the final FS Report, consistent with the provisions of paragraph 2.2 herein, Defendants shall submit a draft RAP to the MDEQ. The MDEQ shall review the draft RAP in accordance with NREPA Part 201, MCL 324.20101, et seq. and NREPA Part 201 Rules, R299.5101, et seq. Defendants shall have all of the rights provided under sections 20120a-20120d of NREPA Part 201. Consistent with the provisions of paragraph 2.2 herein, Defendants shall also submit a final RAP within one hundred and twenty (120) days of receiving MDEQ comments.

5.10 Unless the Plaintiffs and Defendants agree to amend this Consent Judgment to allow the incorporation of additional persons pursuant to paragraph 20.3, and consistent with the provisions of paragraph 2.2 herein, Defendants shall begin implementation of the approved RAP within forty five (45) days after the MDEQ approves the RAP.

5.11 If NREPA Sections 20120a(1)(a),(11) or (12) requirements as applicable (residential category, background, applicable federal regulations and policies for polychlorinated biphenyls) are exceeded at the non-river property boundary or if NREPA Sections 20120(a)(15) and 3109(a) (groundwater venting requirements) are exceeded at the river property boundary, then the Defendants in accordance with paragraph 2.2 shall address such exceedances in the RAP provided that no response actions shall be required in the Saginaw River or its sediments under this Consent Judgment.

5.12 Consistent with the provisions of paragraph 2.2 herein, Defendants shall construct and adequately maintain a cap over the Green Point Landfill in a manner that complies with the closure requirements of the NREPA Part 115 in accordance with the schedule set forth in Table 10-1 of the RI/FS Work Plan.

5.13 Unless a change in future plant operations eliminates the need for the Existing Water Recirculation System for process water, GM shall by February 28, 1997 construct and have in operation a new system for managing process water consistent with the design shown in Exhibit 7 that will not utilize the Existing Water Recirculation System's ponds and channels.

5.14 The parties acknowledge and agree that this Consent Judgment does not constitute a warranty or representation of any kind by the MDEQ that the work performed in accordance by Defendants herein will result in the achievement of the remedial criteria as established by law.

5.15 Any report or plan submitted pursuant to this Section shall include, but not be limited to, an overview of the work conducted, a description of the methodologies employed, and documentation and analysis of data collected pursuant to this Consent Judgment and the subject submission, report, plan, or other document.

5.16 The MDEQ recognizes that there is an ongoing business operation currently at the Facility. The MDEQ will take into consideration in reviewing a RAP that there is an ongoing business operation at the Facility, if there is, as far as the law and the rules permit.

VI. ADDITIONAL RESPONSE ACTIVITY

6.1 As used in this Section, "Additional Response Activity" shall mean all activities not specifically set forth in the approved remedial action plan, Scope of Work ("SOW"), or Work Plan, the RI/FS Work Plan, the Drum Remediation Area Geophysical Investigation Work Plan, the Drum Remediation Area Test Pit Investigation Work Plan, the RAP and any other approved response activities necessary to meet performance and cleanup standards described in the administrative rules pursuant to NREPA Part 201, MAC R 299.5101 et seq. that do not fundamentally change the overall remedial approach outlined in such aforementioned approved documents. These activities may include modifications to the components of the remedial action and to the type and cost of materials, equipment, facilities, services and supplies used to implement the remedial action.

6.2 In the event that the MDEQ determines that Additional Response Activity is necessary, notification of such Additional Response Activity will be provided to the Defendants' project coordinator. Defendants may also propose Additional Response

Activities which shall be subject to approval by the MDEQ. Any Additional Response Activities determined to be necessary by the MDEQ, or otherwise agreed to by the parties, shall be completed by Defendants, consistent with the provisions of paragraph 2.2 herein, in accordance with the standards, specifications, and schedules approved by the MDEQ.

6.3 Unless the MDEQ agrees in writing to extend the time period, within ninety (90) days of receipt of notice from the MDEQ that Additional Response Activities are necessary, or from the date on which the parties otherwise agree that additional response action is necessary, consistent with the provisions of paragraph 2.2 herein, Defendants shall submit a plan for the Additional Response Activities to the MDEQ for approval. The plan shall be developed in conformance with the requirements of this Consent Judgment. If not otherwise submitted, the plan shall also include an estimate of the additional costs for the additional response activity in accordance with Paragraph 6.1. Upon approval, the plan shall be incorporated herein and made an enforceable part of this Consent Judgment. Consistent with the provisions of paragraph 2.2 herein, Defendants shall implement the plan for Additional Response Activities in accordance with the schedule contained therein.

6.4 Nothing in this Section shall limit the power and authority of the MDEQ, the State of Michigan, or this Court, to take, direct, or order all appropriate action to protect public health, welfare, and safety, or the environment or to prevent, abate, or minimize an

actual or threatened release of hazardous substances, pollutants or contaminants on, at, or from the Facility.

VII. ENGAGEMENT OF A CONTRACTOR

7.1 Within fourteen (14) days of the entry of this Consent Judgment, consistent with the provisions of paragraph 2.2 herein, Defendants shall retain a qualified and experienced contractor for the purpose of performing the work required by this Consent Judgment. All work performed by said contractor pursuant to this Consent Judgment shall be under the general direction and supervision of a qualified individual. Defendants' contractor shall also employ project personnel who shall have direct experience in the investigation and cleanup of sites of environmental contamination. A statement of qualifications and identification of personnel designated for the project, shall be provided to MDEQ within fourteen (14) days of the entry of this Consent Judgment. Defendants shall notify MDEQ regarding the identity and qualifications of all subcontractors as soon as each subcontractor designated for the project is engaged or at least one (1) week prior to the subcontractor's commencement of facility work, whichever occurs first. MDEQ shall have the right to disapprove, within seven (7) days of notification of a contractor, subcontractor, or project personnel, based on professional qualifications, conflicts of interest, and/or deficiencies in previous similar work, any such contractor, subcontractor, or project personnel. If MDEQ disapproves any such person(s), MDEQ will provide Defendants written notice therefore, and Defendants shall have thirty (30) days to identify any replacement(s).

VIII. QUALITY ASSURANCE/SAMPLING

8.1 Consistent with the provisions of paragraph 2.2 herein, Defendants shall assure that MDEQ and its authorized representatives are allowed access to any laboratory utilized by Defendants in implementing this Consent Judgment for quality assurance monitoring.

8.2 In accordance with Paragraph 7.12 of the Work Plan, and consistent with the provisions of paragraph 2.2 herein, Defendants shall submit to the MDEQ by the 15th day of each month the results of all sampling or tests and all other data received by Defendants or their contractor(s), or on Defendants' behalf during the previous month in the course of implementing this Consent Judgment following completion of applicable quality assurance and quality control procedures. Sampling data generated under this Consent Judgment shall be admissible in evidence without waiving any objection as to weight or relevance.

8.3 At the request of MDEQ, and consistent with the provisions of paragraph 2.2 herein, Defendants shall allow MDEQ or its authorized representatives to take split and/or duplicate samples of any samples collected by Defendants pursuant to the implementation of this Consent Judgment. Except as may be necessary for sampling required pursuant to Section XI, Defendants shall notify MDEQ not less than seven (7) days in advance of any sample collection activity. In addition, MDEQ shall have the

right to take any additional samples that it deems necessary. MDEQ shall allow Defendants to take split and/or duplicate samples of any such additional samples taken by MDEQ and MDEQ shall provide Defendants with results of such testing as soon as practical following completion of applicable quality assurance and quality control procedures.

8.4 Notwithstanding any provision of this Consent Judgment, MDEQ shall retain all of its information gathering, inspection, and enforcement authorities under NREPA Part 201 and any other applicable statute or regulation.

IX. PROJECT COORDINATORS

9.1 Defendants' project coordinator shall be:

Edward Peterson
Remediation Team - Worldwide Facilities Group
General Motors Corporation
Argo "A" - 1004H
485 W. Milwaukee Avenue
Detroit, MI 48202
Telephone (313) 556-0889

Defendants' project coordinator shall have primary responsibility for implementation of the Response Activities at the Facility.

Plaintiffs' project coordinator shall be:

Allan C. Brouillet
Michigan Department of Environmental Quality
Saginaw Bay District Headquarters
Environmental Response Division
503 N. Euclid Ave.
Bay City, MI 48706
Telephone (517) 684-9141 Ext. 8305

The MDEQ's project coordinator will be the primary designated representative for the MDEQ at the Facility. All communication between the parties and all documents, reports, approvals, and other submissions and correspondence concerning the activities performed pursuant to the terms and conditions of this Consent Judgment shall be directed through the project coordinators. If any party decides to change its designated project coordinator, the name, address, and telephone number of the successor shall be provided, in writing, to the other party seven (7) days prior to the date on which the change is to be effective. This subsection does not relieve Defendants from other reporting obligations under the law.

9.2 The MDEQ may designate other authorized representatives, employees, contractors, and consultants to observe and monitor the progress of any activity undertaken under this Consent Judgment.

X. ACCESS

10.1 To the extent access to the Facility is owned, controlled by, or available to Defendants from the effective date of this Consent Judgment, the MDEQ, its authorized employees and representatives, upon presentation of proper credentials, shall have access at all reasonable times to the Facility for the purpose of implementing the response activities under the Consent Judgment, including, but not limited to:

(a) Monitoring the response activities or any other activities taking place under this Consent Judgment on the Facility;

(b) Verifying any data or information submitted to MDEQ;

(c) Conducting investigations relating to contamination at the Facility, subject to business confidentiality under Paragraph 13.3, and attorney-work-product and attorney-client privileges;

(d) Obtaining samples;

(e) Assessing the need for or planning and implementing response actions at the Facility; and

(f) Inspecting and copying non-privileged records, operating logs, contracts, or other documents upon reasonable notice required to assess compliance with this Consent Judgment.

10.2 To the extent that the Facility or any other area where the Response Activities are to be performed by Defendants under this Consent Judgment is owned or controlled by persons other than Defendants, consistent with the provisions of paragraph 2.2 herein, Defendants shall use their best efforts to secure from such persons access for the parties and their authorized employees and representatives. Each access agreement shall be embodied in a written document and Defendants shall provide the MDEQ with a copy of each access agreement secured pursuant to this subsection. For purposes of this subsection, "best effort" includes, but is not limited to, reasonable compensation to the owner to secure such access, except that Defendants shall have no obligation to

pay any compensation for access to land currently or formerly owned by Ruben Schultz or take judicial action to secure such access. If, after using best efforts, Defendants are unable to obtain access within forty-five (45) days of the entry of this Consent Judgment, Defendants shall promptly notify the MDEQ. Plaintiffs may thereafter assist Defendants in obtaining access. Consistent with the provisions of paragraph 2.2 herein, Defendants shall, within thirty (30) days of a receipt of a written request from Plaintiffs, reimburse the Plaintiffs for all actual, lawful costs incurred by the Plaintiffs in obtaining access in the manner provided in Paragraph 23.3. Nothing in this paragraph shall constitute a taking of property without just compensation.

10.3 All parties granted access to the Facility pursuant to this Consent Judgment shall comply with all applicable health and safety laws and regulations.

10.4 Notwithstanding any provision of this Consent Judgment, the MDEQ shall retain all of its inspection and access authorities under any applicable statute or regulation.

XI. CREATION OF DANGER

11.1 Upon obtaining information concerning the occurrence of any event during performance of Response Activities conducted pursuant to this Consent Judgment that causes or threatens a release of a hazardous substance from the facility or that may present an imminent and substantial endangerment to on-site personnel or to the public

health, safety, welfare, or the environment, Defendants shall, consistent with the provisions of paragraph 2.2 herein, immediately undertake all appropriate action to prevent, abate, or minimize such release or endangerment and shall immediately notify the MDEQ's project coordinator or, in the event of his or her unavailability, shall notify the Pollution Emergency Alerting System (PEAS, 1-800-292-4706). In such an event, any action undertaken by Defendants shall be in accordance with all applicable health and safety laws and regulations, and with the provisions of the Health and Safety Plan. Defendants, consistent with the provisions of paragraph 2.2 herein, shall submit a written report setting forth the events that occurred and the measures taken and to be taken to mitigate any release or endangerment caused or threatened by the incident and to prevent recurrence of such an incident. Regardless of whether Defendants notify the MDEQ under this subsection, if Response Activities undertaken under this Consent Judgment cause or threaten a release or may present an imminent and substantial endangerment to on-site personnel or to public health, safety, welfare, or to the environment, MDEQ may, consistent with the provisions of paragraph 2.2 herein: (a) require Defendants to stop Response Activities at the Facility for such period of time as may be needed to prevent or abate any such release, threat, or endangerment; (b) require Defendants to undertake necessary and appropriate activities to prevent or abate any such release, threat, or endangerment; and/or (c) take necessary and appropriate actions to prevent or abate such release, threat, or endangerment. In the event that the MDEQ undertakes any action to abate such a release, threat, or endangerment, Defendants shall, consistent with the provisions of paragraph 2.2

herein, reimburse the MDEQ for all costs incurred by the MDEQ that are not inconsistent with law. Payment of such costs shall be made in the manner provided in Paragraph 23.3.

11.2 Nothing in the preceding subsection shall limit the power and authority of the MDEQ, the State of Michigan, or this Court to take, direct, or order all appropriate action to protect the public health, welfare, and safety, or the environment, or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants, or contaminants on, at, or from the Facility.

XII. COMPLIANCE WITH OTHER LAWS

12.1 All actions required to be taken pursuant to this Consent Judgment shall be undertaken in accordance with the requirements of all applicable or relevant and appropriate state and federal laws and regulations, including NREPA Part 201, the NREPA Part 201 Rules, laws relating to occupational safety and health, and other state environmental laws. Other agencies may also be called upon to review the conduct of Response Activities under this Consent Judgment. Further, Defendants shall designate, in a report to the MDEQ, any facilities that Defendants propose to use for such off-site transfer, storage, treatment, or disposal of materials.

XIII. RECORD RETENTION/ACCESS TO INFORMATION

13.1 Defendants and their representatives, consultants, and contractors shall preserve and retain, during the pendency of this Consent Judgment and for a period of three (3) years after its termination, at least one (1) copy of all records, sampling or test results, charts, and other documents that are maintained or generated pursuant to any requirement of this Consent Judgment. For the purpose of this provision a document containing notes shall be considered a separate document. After the three (3) year period of document retention, Defendants and their successors shall obtain the written permission of the MDEQ, which shall not be unreasonably denied, prior to the destruction of such documents and, upon request, Defendants and/or their successors shall relinquish custody of all documents to the MDEQ. The MDEQ shall have 180 days from date of receipt to respond to the aforementioned notification of intention to destroy documents. Defendants' request shall be accompanied by a copy of this Consent Judgment and sent to the following address:

Chief
Environmental Response Division
Michigan Department of Environmental Quality
P.O. Box 30028
Lansing, MI 48909

13.2 Defendants shall, upon request, provide to the MDEQ all documents and information within its possession or control or that of its employees or authorized representatives relating to the Response Activities at the Facility or to the implementation of this Consent Judgment, including, but not limited to, sampling,

analysis, chain of custody records, manifests, trucking logs, receipts, reports, correspondence, or other documents or information related to the Response Activities. Defendants shall also, upon request, make available to the MDEQ, upon reasonable notice, Defendants' employees, contractors, agents, or representatives with knowledge of relevant facts concerning the performance of the Response Activities.

13.3 Defendants may assert a confidentiality or privilege claim, if appropriate, covering all or part of the information requested under this Consent Judgment. Such an assertion shall be adequately substantiated when it is made. If no such claim accompanies the information when it is submitted to the MDEQ, it may be made available to the public by the MDEQ without further notice to Defendants. Analytical data generated pursuant to this Consent Judgment shall not be claimed as confidential or privileged by Defendants.

XIV. NOTICES

14.1 Whenever, under the terms of this Consent Judgment, notice is required to be given or a report, sampling data, analysis, or other document is required to be forwarded by one party to the other, such correspondence shall be directed to the following individuals at the specified addresses or at such other address as may subsequently be designated in writing:

As to Plaintiffs:

Allan Brouillet
Michigan Department of
Environmental Quality
Saginaw Bay Dist. Headquarters
Environmental Response Division
503 N. Euclid Ave.
Bay City, MI 48706
Telephone (517) 684-9141

Todd B. Adams
Assistant Attorney General
Natural Resources Division
8th Floor Mason Building
P.O. Box 30028
Lansing, MI 48909

As to Defendants:

Jeffrey Braun
Mail Code: 482 112 149
General Motors Corporation
3044 West Grand Boulevard
Detroit, MI 48202

Joseph Toth
Environmental Activities
General Motors Corporation
Saginaw Malleable Iron Plant
77 W. Center Street
Saginaw, MI 48605

Katie Moertl
Environmental Counsel
Waste Management, Inc.
3003 Butterfield Road
Oak Brook, IL 60521

Thomas Kern
Remedial Project Manager
Waste Management of Michigan
17250 Newburgh Road, Suite 100
Livonia, MI 48152

XV. SUBMISSIONS AND APPROVALS

15.1 All plans, reports or other submissions ("submissions") shall be delivered to the MDEQ in accordance with the schedule set forth in this Consent Judgment. Prior to receipt of the approval, any report submitted to the MDEQ for approval shall be marked "Draft" and shall include, in a prominent location in the document, the following disclaimer: "Disclaimer: This document is a DRAFT document prepared by Defendants

pursuant to a Court Order, which has not received final acceptance from the Michigan Department of Environmental Quality. The opinions, findings, and conclusions expressed are those of the authors and not those of MDEQ."

15.2 Within sixty (60) days of receipt of any submission relating to the Response Activities that is required to be submitted for approval under this Consent Judgment, the MDEQ project coordinator will in writing: (a) approve the submission; (b) disapprove the submission, notifying Defendants of deficiencies; or (c) approve the submission with modifications. Upon receipt of a notice of approval or modification from the MDEQ, and consistent with the provisions of paragraph 2.2 herein, Defendants shall proceed to take any action required by the plan, report, or other submission as approved or as modified, and shall submit a new cover page marked "Final".

15.3 Notice of any disapproval or approval with modifications will specify in writing all reason(s) for the disapproval or modification. Unless a notice of disapproval or modification specifies a longer time period, upon receipt of a notice of disapproval from the MDEQ, and consistent with the provisions of paragraph 2.2 herein, Defendants shall, within thirty (30) days thereafter, correct the deficiencies and resubmit the submission for approval. Notwithstanding a notice of disapproval, and consistent with the provisions of paragraph 2.2 herein, Defendants shall proceed to take any response action not directly related to the deficient portion of the submission. If, upon resubmission, the submission is not approved, the MDEQ shall so advise Defendants

and will consider Defendants to have failed to complete the submittal in a timely manner or failed to have provided a submission of acceptable quality.

15.4 A finding of approval or an approval with modifications shall not be construed to mean that the MDEQ concurs with all conclusions, methods, or statements in the submissions or warrants that the submission comports with law.

15.5 No informal advice, guidance, suggestions, or comments by the MDEQ regarding any submissions by Defendants shall be construed as relieving Defendants of their obligation to obtain such formal approval as may be required by this Consent Judgment.

XVI. PROGRESS REPORTS

16.1 Consistent with the provisions of paragraph 2.2 herein, Defendants shall provide to the MDEQ written annual progress reports relating to response action that shall: (a) describe the actions that have been taken toward achieving compliance with this Consent Judgment during the previous year; (b) describe data collection and activities scheduled for the next year; and (c) include all results of sampling and tests and other data received by Defendants, their employees or authorized representatives during the previous year relating to the Response Activities performed pursuant to this Consent Judgment. The first annual report shall be submitted to the MDEQ for the 425 days

following the entry date of this Consent Judgment by the Court and annually thereafter until issuance of the Certificate of Completion as provided in Section XXVIII.

XVII. INDEMNIFICATION AND INSURANCE

17.1 Consistent with the provisions of paragraph 2.2 herein, Defendants shall indemnify and save and hold harmless the State of Michigan and its departments, agencies, officials, agents, employees, contractors, and representatives for any and all claims or causes of action arising from or on account of acts or omissions of Defendants, their officers, employees, agents, and any persons acting on its behalf or under its control in carrying out response activities pursuant to this Consent Judgment, provided that the extent of the indemnification and hold harmless shall be in proportion to the relative responsibility of the aforementioned parties for causing the circumstances giving rise to the claim or claims. Neither the State of Michigan nor its departments, agencies, officials, agents, employees, contractors, and representatives shall be held out as a party to any contract entered into by or on behalf of Defendants in carrying out actions pursuant to this Consent Judgment. Neither Defendants nor any contractor shall be considered an agent of the State.

17.2 Defendants waive any and all claims or causes of action against the State of Michigan and its departments, agencies, officials, agents, employees, and representatives for damages, reimbursement, or set-off of any payments made or to be

made to the State that arise from or on account of any contract, agreement, or arrangement between Defendants and any person for performance of Response Activities at the Facility or any other property where Response Activities are performed under this Consent Judgment, including claims on account of construction delays.

17.3 Consistent with the provisions of paragraph 2.2 herein, Defendants shall indemnify and hold harmless the State of Michigan and its departments, agencies, officials, agents, employees, contractors, and representatives for any and all claims or causes of action for damages or reimbursement from the State arising from or on account of any contract, agreement, or arrangement between Defendants and any person for performance of Response Activities at the Facility or any other property where Response Activities are performed under this Consent Judgment, including claims on account of construction delays.

17.4 Prior to commencing Response Activities, and consistent with the provisions of paragraph 2.2 herein, Defendants shall secure, and shall maintain for the duration of this Consent Judgment, comprehensive general liability insurance with limits of one million dollars ($1,000,000.00), combined single limit, naming the MDEQ and the State of Michigan as additional insureds. If Defendants demonstrate by evidence satisfactory to the MDEQ that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering the same risks but in a lesser amount, then with respect to that contractor or subcontractor, Defendants need to provide only that

portion, if any, of the insurance described above that is not maintained by the contractor or subcontractor. Regardless of the method used to insure, Defendants, consistent with the provisions of paragraph 2.2 herein, shall provide the MDEQ with certificates evidencing said insurance and the MDEQ's and the State of Michigan's status as additional insureds. In addition, for the duration of this Consent Judgment, and consistent with the provisions of paragraph 2.2 herein, Defendants shall satisfy, or shall ensure that its contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of Workers' Disability Compensation Insurance for all persons performing response action on behalf of Defendants in furtherance of this Consent Judgment. Prior to commencement of the Response Activity under this Consent Judgment, Defendants shall provide to the MDEQ satisfactory proof of such insurance.

17.5 For any claim or threatened claim that Plaintiffs receive for which Plaintiffs believe Defendants shall provide indemnification or insurance pursuant to paragraphs 17.1 through 17.4, the Plaintiffs shall provide Defendants with timely notice of such claim, including, but not limited to, a copy of the claim if it is made in writing, within fifteen (15) days after receipt of the claim. Notwithstanding the foregoing, the failure of Plaintiffs to comply with the timely notice requirement shall not relieve Defendants of their obligations to indemnify and insure Plaintiffs as set forth above except to the extent that the failure to notify causes actual prejudice to the ability of Defendants to defend Plaintiffs from such claims.

XVIII. MODIFICATIONS/INCORPORATION BY REFERENCE

18.1 This Consent Judgment, with the exception of submissions hereunder, may only be modified upon the written agreement of the Plaintiffs, by the signatures of the Attorney General of Michigan and the Director of the MDEQ, and of the Defendants by the signatures of Defendants' authorized representatives and upon approval of the Court.

18.2 Any submission and attachments to submissions required by this Consent Judgment which have been approved by the MDEQ and which are consistent with the provisions of paragraph 2.2 herein are incorporated into this Consent Judgment. Any delay or noncompliance with such submissions or attachments to a submission shall be considered delay or noncompliance with the requirements of this Consent Judgment and shall subject Defendants to penalties pursuant to Section XXIV.

XIX. DELAYS IN PERFORMANCE

19.1 Any delay attributable to a Force Majeure shall not be deemed a violation of Defendants' obligations under this Consent Judgment in accordance with this Section.

19.2 Consistent with the provisions of paragraph 2.2 herein, Defendants shall perform the requirements of this Consent Judgment within the time limits established herein, unless performance is prevented or delayed by events which constitute a "Force

Majeure". "Force Majeure" is defined as an occurrence or nonoccurrence arising from causes beyond the control of Defendants, which could not be avoided or overcome by due diligence. "Force Majeure" does not include unanticipated or increased costs, changed financial circumstances, commencement of a proceeding in bankruptcy, contractual disputes (except labor disruptions), or failure to obtain a permit or license as a result of Defendants' actions or omissions. If the MDEQ fails to review and either approve or disapprove a complete permit application by Defendants within a reasonable period of time, then the unreasonable delay shall be considered an excusable delay. The MDEQ is not responsible for the acts or omissions of any third party.

19.3 When circumstances occur that Defendants believe constitute a Force Majeure, Defendants shall notify the MDEQ by telephone or telefax of the circumstances within forty-eight (48) hours after it first becomes aware of those circumstances. Within five (5) working days after Defendants first become aware of such circumstances, Defendants shall supply the MDEQ, in writing, an explanation of the cause(s) of any actual or expected delay, the anticipated duration of the delay, the measures taken, and to be taken, by Defendants to avoid, minimize, or overcome the delay, and the timetable for implementation of such measures. Failure of Defendants to comply with the written notice provision of this subsection shall constitute a waiver of Defendants' right to assert a claim of Force Majeure with respect to the circumstances in question.

The MDEQ shall review the Defendants' written report and respond within fourteen (14) days after receipt that it agrees or disagrees that the proposed delay was caused by Force Majeure.

19.4 If the MDEQ agrees that a delay is or was caused by Force Majeure, Defendants' delay shall be excused and the MDEQ shall provide Defendants such additional time as may be necessary to compensate for the Force Majeure event. Defendants shall have the burden of demonstrating (i) that the delay is or was caused by a Force Majeure event; and (ii) that the amount of additional time requested is necessary to compensate for that event.

19.5 An extension of one compliance date based upon a particular Force Majeure incident does not necessarily mean that Defendants qualify for an extension of a subsequent compliance date without meeting their burden of proof for each incremental step or other requirement for which an extension is sought.

XX. RIGHT TO ALLOCATION

20.1 The Parties recognize that there are other persons which may be liable under Section 20126 of NREPA Part 201 for response costs at the facility. In the event Defendants identify additional persons who may be liable under Section 20126 of NREPA Part 201 for releases at the facility, Defendants shall provide MDEQ with such

information and supporting documentation at any time but no later than ten (10) days after the MDEQ's approval of a RAP. Within ninety (90) days of Defendants' submission to MDEQ, the MDEQ shall notify in writing each person identified by MDEQ who may be liable under Section 20126 for releases at the facility to the extent not already done. The failure of MDEQ to provide timely notification shall not relieve Defendants of their obligations under this Consent Judgment.

20.2 Subject to the terms and conditions of this Consent Judgment, Defendants shall retain their rights under NREPA Part 201, including any applicable provisions of the NREPA Part 201 Rules and any laws enacted or rules promulgated to further effectuate the purposes of NREPA Part 201, and any other state or federal law, to assert the liability of, assert contribution claims against, seek allocation of liability under NREPA Part 201, and otherwise seek reimbursement pursuant to any law that may be enacted to reimburse persons for monies spent by them as a result of the failure or inability of other persons who may be liable under NREPA Section 20126 to pay their shares of costs expended by the Defendants for the work and costs of the work associated with the performance of this Consent Judgment, either prior to the approval of a final RAP, or upon approval of the final RAP. However, such assertion of claims or request for allocation shall not relieve Defendants of their obligations to complete the work, consistent with the provisions of paragraph 2.2 herein, under this Consent Judgment or otherwise suspend or delay the performance of work under this Consent Judgment.

20.3 MDEQ shall provide opportunity for the amendment or replacement of this Consent Judgment to allow Defendants to incorporate other persons who have agreed to assume the obligations established under this Consent Judgment.

XXI. DISPUTE RESOLUTION

21.1 The dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under this Consent Judgment and shall apply to all provisions of this Consent Judgment, excluding Section XI, Creation of Danger, paragraph 5.9, and Section XX, Right To Allocation, pertaining to the incorporation of additional persons into this Consent Judgment. In the event Defendants incur response costs in connection with actions required pursuant to Section XI, Creation of Danger, Defendants retain their rights to seek reimbursement of such response costs under Section 20119(5) of NREPA Part 201, MCL 324.20119(5). Any dispute that arises under this Consent Judgment shall in the first instance be the subject of informal negotiations between the parties. The period of negotiations shall not exceed ten (l0) days from the date of written notice by any party that a dispute has arisen, but it may be extended by agreement between the parties. The period for informal negotiations shall end when MDEQ provides a written statement setting forth its proposed resolution of the dispute to Defendants.

21.2 If Defendants and the MDEQ cannot informally resolve a dispute under the Consent Judgment, then any party may initiate formal dispute resolution by sending

written notice to the others within ten (10) days after the end of informal negotiations. The notice shall state the issues in dispute; the relevant facts upon which the dispute is based; any factual data, analysis, or opinion supporting its position; and all supporting documentation on which the party relies. The other party shall serve a written reply on the party who initiated dispute resolution within ten (10) days after receiving the written notice of dispute. The written reply shall state the replying party's understanding of the issues in dispute; the relevant facts upon which the dispute is based; any factual data, analysis, or opinion supporting its position; and all supporting documentation on which the party relies.

21.3 If the parties fail to resolve a dispute within ten (10) days after the exchange of statements, then the dispute shall be resolved in accordance with the resolution proposed by the MDEQ unless the Defendants file a motion for resolution of the dispute with the court within twenty (20) days after receipt of MDEQ's proposed resolution. The motion shall set forth the matter in dispute, the efforts made by the parties to resolve it, the relief requested, and the schedule, if any, within which the dispute must be resolved to insure orderly implementation of this Consent Judgment.

21.4 The filing of a motion asking the Court to resolve a dispute shall not of itself extend or postpone any obligation of Defendants under this Consent Judgment, provided that payment of a demand from MDEQ for reimbursement of costs or stipulated penalties with respect to the disputed matter, with any applicable interest,

shall occur after resolution of the dispute by the court. Notwithstanding the invocation of the dispute resolution, stipulated penalties, consistent with the provisions of paragraph 2.2 herein, shall accrue from the first day of any failure or refusal to comply with any term or condition of this Consent Judgment. Except as provided herein, in the event, and to the extent that Defendants do not prevail on the disputed issue, stipulated penalties, consistent with the provisions of paragraph 2.2 herein, and any applicable interest shall be paid within ten (10) days in the manner provided in paragraph 23.3. If the Court expressly finds by clear and convincing evidence that Defendants, in good faith and with a reasonable basis, exercised its right to invoke dispute resolution under this Section and such dispute is not resolved in Defendants' favor, then stipulated penalties shall accrue only from the date such dispute is finally resolved as set forth herein, until compliance is achieved. Otherwise, stipulated penalties shall begin to accrue as provided in paragraph 24.1. In any event, the exercise of the dispute resolution procedures of this Section will stay the assessment of stipulated penalties pending resolution of the dispute.

21.5 Notwithstanding this section, and consistent with the provisions of paragraph 2.2 herein, Defendants shall pay that portion of a demand for reimbursement of costs or payment of stipulated penalties that is not subject to a good faith resolution in accordance with and in the manner provided in Sections XXII and XXIII, as appropriate.

21.6 In proceedings under this Consent Judgment on any dispute relating to NREPA Part 201, the burden of proof and standard of review shall be as set forth in NREPA Part 201 Section 20137(5), MCL 324.20137(5). In other proceedings under this Consent Judgment, nothing herein shall prevent the Plaintiffs or Defendants from arguing that the Court should apply some other burden of proof or standard of review.

XXII. SETTLEMENT AMOUNT

22.1 GM shall pay to the State of Michigan the sum of $200,000 in settlement of this matter in the same manner as provided for reimbursement of costs in paragraph 23.3. This sum shall be paid within ninety (90) days of the entry of this Consent Judgment. GM shall pay within one hundred eighty (180) days of the entry of this Consent Judgment an additional $200,000 for a project benefiting the environment in the Bay City or Saginaw areas as recommended by the MDEQ and with legislative approval. GM may propose such environmental projects within one hundred eighty (180) days of entry of the Consent Judgment, and the MDEQ will give any GM proposal full consideration in accordance with MDEQ procedures and policies.

XXIII. REIMBURSEMENT OF COSTS

23.1 Within sixty (60) days of the entry date of this Consent Judgment, and consistent with the provisions of paragraph 2.2 herein, Defendants shall pay MDEQ $164,599.70 in reimbursement of response costs incurred by MDEQ through January 13, 1995 for

response activities relating to the Facility. For the purposes of this Judgment, the term "costs incurred" is defined as costs that have been dispersed or paid out by the State. It does not include costs that are due or owed by the State.

23.2 As soon as possible after each anniversary of the entry date of this Consent Judgment, MDEQ will provide Defendants with a written demand of actual response costs lawfully incurred by the State in overseeing or verifying the conduct of the Response Activities concerning the Facility, including, but not limited to, reviewing, developing, or modifying submissions; split sampling; undertaking an action to prevent or abate a release, threat, or endangerment; overseeing field work; entering into a contract with a contractor to oversee or verify any or all portions of the Response Activities at the Facility; and enforcing, monitoring and documenting compliance with this Consent Judgment. Any such demand will set forth with reasonable specificity the nature of the costs incurred.

23.3 All costs recovered pursuant to this Section shall be deposited in the Environmental Response Fund in accordance with the provisions of Section 20108(3) of NREPA Part 201, MCL 324.20108(3). Defendants shall have the right to request a full and complete accounting of all demands hereunder, including but not limited to time sheets, travel vouchers, contracts, invoices, and payment vouchers to the extent available to MDEQ. Said request must be made within thirty (30) days after receipt of MDEQ's demand. Except as provided in Sections XIX and XXI, Defendants, consistent

with the provisions of paragraph 2.2 herein, shall reimburse MDEQ for such costs within sixty (60) days of receipt of a written demand from MDEQ or within thirty (30) days of receipt of the additional cost accounting, whichever is later. In any challenge by Defendants to a demand for recovery of costs by MDEQ, Defendants shall have the burden of establishing that the costs were not lawfully incurred, in accordance with Section 20126a(1)(a) of NREPA Part 201, MCL 324.20126a(1)(a). All payments made pursuant to this Consent Judgment shall be by check payable to the "State of Michigan Environmental Response Fund," and shall be sent by first-class mail to the following address:

Cashier's Office
Michigan Department of Environmental Quality
P.O. Box 30657
Lansing, MI 48909-8157

The Facility name, MDEQ account number and Court Docket number shall be identified on each check. A copy of the transmittal letter and the check shall be provided simultaneously to the MDEQ Project Coordinator and the Assistant Attorney General In Charge, Department of Attorney General, Natural Resources Division, Stevens T. Mason Building - 8th Floor, P.O. Box 30028, Lansing, MI 48909.

XXIV. STIPULATED PENALTIES

24.1 Except as provided by Sections XIX and XXI, and consistent with the provisions of paragraph 2.2 herein, if Defendants fail or refuse to comply with any term or condition in Sections V, VI, XI, XVI, and XXII, Defendants, consistent with the provisions of

paragraph 2.2 herein, shall pay the MDEQ stipulated penalties in the following amounts for each day for every failure or refusal to comply or conform:

Period of Delay	Penalty Per Violation Per Day
1st through 15th Day	$ 500
16th through 30th Day	$ 1,500
Beyond 30 Days	$ 5,000

24.2 Except as provided in Section XX and XXI, if Defendants fail or refuse to comply with any other term or condition of this Consent Judgment, Defendants, consistent with the provisions of paragraph 2.2 herein, shall pay the MDEQ stipulated penalties of $500 a day for each and every failure or refusal to comply.

24.3 Defendants shall notify the MDEQ, in writing, of any violation of this Consent Judgment no later than seven (7) days after becoming aware of such violation and shall describe the violation. Failure to notify the MDEQ as required by this Paragraph is not subject to stipulated penalties.

24.4 Stipulated penalties shall begin to accrue on the day performance was due, or other failure or refusal to comply occurred, and shall continue to accrue until the final day of correction of the noncompliance but shall not include the day on which noncompliance was corrected unless it was corrected on the day it occurred. Separate

penalties may accrue for each separate failure or refusal to comply with the terms and conditions of this Consent Judgment. Nothing in this Consent Judgment shall prevent Plaintiffs from seeking separate penalties. The Defendants may contest that a separate failure or refusal has occurred.

24.5 Except as provided in Section XXI, stipulated penalties owed to the MDEQ shall be paid no later than forty-five (45) days after receiving a written demand from the MDEQ. Payment shall be made in the manner provided in Paragraph 23.3. Interest shall accrue on the unpaid balance at the end of the sixty (60) day period at the rate provided for in Section 20126a(3) of NREPA Part 201, MCL 324.20126a(3). Stipulated penalties shall not apply to the failure to pay stipulated penalties.

24.6 Except as follows and consistent with the provisions of paragraph 2.2 herein, liability for or payment of stipulated penalties are not MDEQ's exclusive remedy in the event Defendants violate this Consent Judgment. MDEQ reserves the right to pursue any other remedy or remedies that it is entitled to under this Consent Judgment or any applicable law for any failure or refusal of Defendants to comply with the requirements of this Consent Judgment provided that the stipulated penalties set forth above shall be credited against any civil penalties.

XXV. COVENANT NOT TO SUE BY PLAINTIFFS AND RESERVATION OF RIGHTS

25.1 Except as otherwise explicitly provided in this Consent Judgment, neither the Plaintiffs nor Defendants waive any claims or rights they may have against any person or entity not a party to this Consent Judgment, and expressly reserve their rights to assert any and all claims either may have against any party who is not a party to this Consent Judgment. The Plaintiffs specifically retain the right and authority to enforce the terms of this Consent Judgment.

25.2 In consideration of the actions that will be performed and the payments that will be made by Defendants under the terms of the Consent Judgment, and except as specifically provided in this Section, Plaintiffs covenant not to sue or to take administrative action against Defendants for Covered Matters.

25.3 The term "Covered Matters" means, except as provided in paragraph 25.4, the following: all claims of the Plaintiffs based upon the transactions or occurrences alleged in the Complaint, whether or not asserted in the Complaint and whether or not assertable against the Defendants or their officers, directors, or employees, including, but not limited to, any and all claims for remediation for the Site or otherwise under the Clean Water Act, 33 USC 1251 et seq.; the Comprehensive Environmental Response, Compensation and Liability Act, 42 USC 9601 et seq. ("CERCLA"); the Toxic

Substances Control Act, 15 USC 2601 et seq.; the Resource Conservation and Recovery Act, 42 USC 6901 et seq.; NREPA Part 147 (PCB Compounds), MCL 324.14701 et seq.; NREPA Part 111 (Hazardous Waste Management), MCL 324.11101 et seq.; NREPA Part 115 (Solid Waste Management), MCL 324.11501 et seq.; NREPA Part 213 (Leaking Underground Storage Tanks) MCL 324.21301 et seq.; NREPA Part 303 (Wetlands Protection) (not recodified at the time of entry of this Consent Judgment); NREPA Part 301 (Inland Lakes and Streams) (not recodified at the time of entry of this Consent Judgment); NREPA Part 31; NREPA Part 201, as amended; and any other statute, regulation or rule of the United States of America, the State of Michigan, or any local government body or agency and federal and state common law ("Covered Matters").

25.4 The covenant not to sue set forth in this Section does not pertain to any matters other than those expressly specified in "Covered Matters" in Paragraph 25.3. Consistent with the provisions of paragraph 2.2 herein, Plaintiffs reserve, and this Consent Judgment is without prejudice to, all rights against Defendants with respect to all other matters, including but not limited to, the following:

(a) Liability arising from a violation by Defendants of a requirement of this Consent Judgment, including conditions of approved submissions required herein;

(b) Liability for response actions which are not completed in accordance with an approved RAP under the Consent Judgment, including, but not limited to, any

liability for response activities beyond the border of the GM Saginaw Malleable Iron Facility for corrective actions required under NREPA Part 111 or the federal Resource Conservation and Recovery Act for any off-site migration of hazardous substances from the GM Saginaw Malleable Iron facility except to the extent addressed under the approved RAP;

(c) Liability arising from the past, present, or future treatment, handling, disposal, release, or threat of release of hazardous substance(s) outside of the Facility and not attributable to Facility except as covered and implemented by an approved RAP;

(d) Liability arising from the past, present, or future treatment, handling, disposal, release, or threat of release of hazardous substance(s) taken from the Facility;

(e) Liability for damages for injury to, destruction of, or loss of natural resources;

(f) Liability for criminal acts;

(g) Any matters for which the State is owed indemnification under Section XVII of this Consent Judgment;

(h) Liability for violations of federal or state law which occur during or after implementation of the Remedial Action; and

(i) Liability to any person that is not a party to this Consent Judgment.

25.5 With respect to liability for Facility response costs incurred prior to January 13, 1995, this covenant not to sue shall take effect upon receipt by the MDEQ of the

payments required by Paragraph 23.1. With respect to liability for performance of response activities required to be performed under this Consent Judgment, and response activity costs incurred by the State after January 13, 1995 and reimbursement of those costs by Defendants pursuant to paragraph 23.2 of this Judgment, the covenant not to sue shall take effect upon issuance by MDEQ of the Certification of Completion in accordance with Section XXVIII. The covenant not to sue is conditioned upon the complete and satisfactory performance by Defendants, consistent with the provisions of paragraph 2.2 herein, of their obligations under this Consent Judgment. The covenant not to sue extends only to the Defendants and does not extend to any other person.

25.6 **Plaintiffs' Pre-Certification of Completion Reservations:** Notwithstanding any other provision of this Consent Judgment, and consistent with the provisions of paragraph 2.2 herein, the Plaintiffs reserve, and this Consent Judgment is without prejudice to, the right to institute proceedings in this action or in a new action, or to issue an administrative order seeking to compel Defendants (1) to perform further response activities relating to the Facility or (2) to reimburse the State of Michigan for additional costs of response if, prior to Certification of Completion of the Remedial Action:

(a) Conditions at the Facility, previously unknown to the MDEQ, and outside the scope of Section V Implementation of RIs, FSs, RAPs, and accelerated actions, are discovered after the entry of this Consent Judgment; or

(b) Information is received, in whole or in part, after the entry of this Consent Judgment;

and these previously unknown conditions or this information together with any other relevant and material information indicates that the Remedial Action is not protective of the public health, safety, or welfare, or the environment.

25.7 **Plaintiffs' Post-Certification of Completion Reservations**: Notwithstanding any other provision of this Consent Judgment, and consistent with the provisions of paragraph 2.2 herein, the Plaintiffs reserve, and this Consent Judgment is without prejudice to, the right to institute proceedings in this action or in a new action, or to issue an administrative order seeking to compel Defendants (1) to perform further response activities relating to the Facility or (2) to reimburse the State of Michigan for additional costs of response if, subsequent to Certification of Completion of the Remedial Action:

(a) Conditions at the Facility, previously unknown to the MDEQ, are discovered after the Certification of Completion; or

(b) Information is received, in whole or in part, after the Certification of Completion;

and these previously unknown conditions or this information together with any other relevant and material information indicates that the Remedial Action is not protective of the public health, safety, or welfare, or the environment.

25.8 In the event MDEQ determines that Defendants have failed to implement any provisions of the Consent Judgment in an adequate or timely manner, MDEQ may perform, or contract to have performed, any and all portions of the response activities as MDEQ determines necessary.

25.9 Notwithstanding any other provision of this Consent Judgment, MDEQ retains all authority and reserves all rights to take any and all response activities authorized by law.

XXVI. COVENANT NOT TO SUE BY DEFENDANTS

26.1 Except as provided in Section XXI of this Consent Judgment, and for claims by Defendants pursuant to laws which may be enacted to provide for the reimbursement of persons who pay costs of response actions as a result of the failure or inability of other persons who may be liable under NREPA Section 20126 to pay their shares, or claims pursuant to NREPA Part 215 (Underground Storage Tank Financial Assurance), MCL 324.21501 et seq., Defendants hereby covenant not to sue and agree not to assert any claim or cause of action against the State of Michigan with respect to the Facility or response activities relating to the Facility arising from this Consent Judgment, including, but not limited to, any direct or indirect claim for reimbursement from the Environmental Response Fund pursuant to Section 20119(5) of NREPA Part 201, MCL 324.20119(5) or any other provision of law.

26.2 In any subsequent administrative or judicial proceeding initiated by the Attorney General for injunctive relief, recovery of response activity costs, or other appropriate relief relating to the Facility, Defendants agree not to assert, and may not and shall not maintain any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the MDEQ or the Attorney General in the subsequent proceeding were or should have been brought in this case; provided, however, that nothing in this Paragraph affects the enforceability of the covenants not to sue set forth in Section XXV (Covenants Not to Sue by the State).

XXVII. CONTRIBUTION PROTECTION

27.1 Pursuant to Section 20129(5) of NREPA Part 201, MCL 324.20129(5) and to the extent provided in Section XXV, Defendants shall not be liable for claims for contribution regarding matters addressed in this Consent Judgment. Entry of the Consent Judgment does not discharge the liability of any other person(s) liable under Section 20126 of NREPA Part 201, MCL 324.20126. In any action by Defendants for contribution from any person not a party to this Consent Judgment, Defendants' cause of action shall be subordinate to the rights of the State of Michigan if the State files an action pursuant to NREPA Part 201 or other applicable federal or state law, in accordance with Section 20129(9) of NREPA Part 201, MCL 324.20129(9).

XXVIII. CERTIFICATION

28.1 When Defendants determine that they have completed all the Response Activities required by this Consent Judgment, they shall submit to the MDEQ a Notification of Completion and a draft final report. The draft final report shall summarize all response activities performed under this Consent Judgment. The draft final report shall include or reference any supporting documentation.

28.2 Upon receipt of the Notification of Completion, the MDEQ will review the Notification of Completion, the draft final report, any supporting documentation, and the actual response activities performed pursuant to this Consent Judgment. Within ninety (90) days of receipt of the Notification of Completion, the MDEQ will determine whether Defendants, consistent with the provisions of paragraph 2.2 herein, have satisfactorily completed all requirements of this Consent Judgment, including, but not limited to, completing the Response Activities required by this Consent Judgment, complying with all terms and conditions of this Consent Judgment, and paying any and all cost reimbursement and stipulated penalties owed to the MDEQ. If the MDEQ determines that all requirements have been satisfied, the MDEQ will so notify Defendants, and upon receipt of a "Final" final report in accordance with Section XVI, shall issue a Certificate of Completion.

XXIX. FINANCIAL CAPABILITY

29.1 Within ninety (90) days after the MDEQ approval of the RAP, Defendants shall, consistent with the provisions of paragraph 2.2 herein, submit a cost estimate for the performance of the RAP and shall indicate which of the financial assurance mechanisms set forth in this paragraph they will be using for the performance of those requirements for which they are individually responsible. GM and WMI shall establish and maintain financial assurance for the RAP required by this Consent Judgment, MAC Rule 299.5719 under NREPA Part 201 and MAC Rule 299.9713 under NREPA Part 111 for which they are individually responsible until the RAP is completed and the Defendants are released from the RAP's requirements pursuant to this Consent Judgment. Such financial assurance shall be provided with a trust fund, letter of credit, certificate of deposit, surety bond, financial test, or corporate guarantee, or any combination of trust funds, letters of credit, certificates of deposit and surety bonds or another mechanism acceptable to MDEQ. The form of the financial mechanism(s) which can be used by GM and WMI shall be those specified in MAC Rule 299.9704-9709 or another mechanism acceptable to MDEQ; provided, however, in the event that GM relies on the financial test as its financial assurance mechanism, it shall be entitled to use any permissible method of applying Statement of Financial Accounting Standard 106, without further certified audit, for purposes of determining its tangible net worth as set forth in Exhibit 8.

29.2 Thirty (30) days prior to the beginning of the Operation and Maintenance phase as required by this Consent Judgment, and consistent with the provisions of paragraph 2.2 herein, one or more of the Defendants shall provide a cost estimate acceptable to the MDEQ for the present value of the estimated cost of Operation and Maintenance, oversight, monitoring, and other costs necessary to assure the effectiveness and integrity of the containment measure for thirty (30) years, together with such fees and expenses necessary for the creation and administration of the financial assurance mechanism.

29.3 Thirty (30) days prior to the beginning of the Operation and Maintenance phase as required by this Consent Judgment, Defendants shall, consistent with the provisions of paragraph 2.2 herein, demonstrate that one or more of the Defendants satisfies the financial assurance requirements for the amount estimated in paragraph 29.2 in accordance with the requirements of paragraph 29.1, or at the option of the Defendants, in accordance with such other requirements as may be determined by the MDEQ.

29.4 At any time after the beginning of the Operation and Maintenance phase as required by this Consent Judgment, one or more of the Defendants may establish a financial assurance mechanism which is different than the mechanism specified in paragraph 29.1 and which is acceptable to the MDEQ. Any different financial assurance mechanism established under this paragraph shall be in an amount that

reflects the then present value of the estimated costs of Operation and Maintenance, oversight, monitoring and other costs necessary to assure effectiveness and integrity of the containment measure set forth in the RAP for the thirty (30) years as demonstrated in the cost estimate provided under either paragraph 29.2 or 29.5.

29.5 Consistent with the provisions of paragraph 2.2 herein, Defendants shall provide a revised Operation and Maintenance plan, including a revised cost estimate for the next thirty (30) years to the MDEQ, every five (5) years unless the MDEQ no longer requires such a revised cost estimate. The revised cost estimate shall include supporting documentation from the prior five (5) year period. The revised cost estimate shall be signed by the Defendant's project coordinator and shall require approval of the MDEQ.

29.6 Within sixty (60) days after receipt by the MDEQ of the revised Operation and Maintenance plan, the MDEQ will determine whether the value of the financial assurance mechanism provides sufficient financial assurance for the performance of the activities listed in paragraph 29.2, for the next thirty (30) year period. If MDEQ determines in writing that the financial assurance mechanism does not provide sufficient financial assurance for the performance of the activities listed in paragraph 29.2 for the next thirty (30) year period, Defendants shall, consistent with the provisions of paragraph 2.2 herein, revise and/or establish a new financial mechanism acceptable to the MDEQ. Any new financial assurance mechanism established under this paragraph shall be in an amount that reflects the then present value of the estimated

costs of Operation and Maintenance, oversight, monitoring and other costs necessary to assure effectiveness and integrity of the containment measure set forth in the RAP for the next thirty (30) year period. Any new financial assurance mechanism shall be in place within thirty (30) days after receipt by Defendants of the written determination by the MDEQ that the proposed financial assurance mechanism is acceptable.

29.7 GM or WMI shall notify the Director, by certified mail, of the commencement of a voluntary or involuntary proceeding under the bankruptcy provisions of Public Law 95-594, 11 U.S.C. §§101-1330, naming GM or WMI respectively as debtor, within ten (10) days after commencement of the proceeding.

29.8 In the event of bankruptcy of the guarantor, trustee, or issuing institution, or a suspension or revocation of the authority of the trustee institution to act as trustee, or of the institution issuing a surety bond or letter of credit to issue such mechanisms, GM and WMI shall establish other financial assurance as specified in this section within sixty (60) days after such an event.

29.9 In the event that the MDEQ issues a written notice of violation or noncompliance alleging that GM or WMI has failed to properly perform the RAP in accordance with the Consent Judgment, the Director may access the appropriate funds to correct violations and complete the RAP for which GM or WMI is responsible, provided, however, that the MDEQ shall give GM or WMI, as appropriate, at least seven (7) days written prior notice

alleging a violation(s) of this Consent Judgment with the reasons therefore and the opportunity for hearing before the Director can access the funds. If GM or WMI has failed to renew or replace financial mechanisms as necessary to maintain the level of financial assurance required under this Section through a trust fund, letter of credit, certificate of deposit, surety bond or corporate guarantee maintained pursuant to the applicable mechanism, the Director may secure any funds provided under the financial mechanism(s) and deposit the funds in a State account. The Director shall release such funds to GM or WMI as appropriate at such time as GM or WMI provides acceptable replacement financial assurance.

XXX. SEPARATE DOCUMENTS

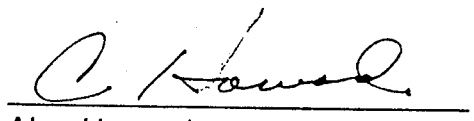
30.1 This Consent Judgment may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

XXXI. EFFECTIVE DATE

31.1 This Consent Judgment shall be effective upon the date that the Court enters this Consent. All times for performance of activities under this Order shall be calculated from that date.

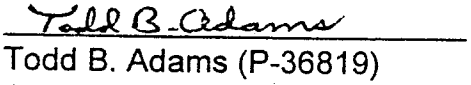
AGREED AS TO FORM AND SUBSTANCE BY:

FOR PLAINTIFFS:

By: 

Alan Howard
Chief, Environmental Response Division

Frank J. Kelley
Attorney General of Michigan

By: 

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IT IS SO ORDERED THIS 16th day of March, 199[8].

Robert L. Kaczmarek
(P15639)
Circuit Court Judge

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TABLE 10-1

SCHEDULE FOR GREEN POINT LANDFILL CLOSURE
AND SUBMITTAL OF MAJOR DELIVERABLES TO THE MDEQ

GENERAL MOTORS CORPORATION
SAGINAW MALLEABLE IRON PLANT PROPERTY,
GREEN POINT LANDFILL, AND DRUM REMEDIATION AREA
SAGINAW, MICHIGAN

Deliverable		Submittal and Completion Schedule
1.	Monthly Reports	Within 15 days of end of month for which report has been prepared; starting from the end of first month following entry of Consent Judgment.
2.	Work Plan to Complete Supplemental Phase II Investigation at Former Tank #7	Work Plan was transmitted on February 9, 1996.
3.	Draft RI Report	Within 12 months of entry of Consent Judgment.
4.	Final RI Report	Within 120 days of receiving comments from MDEQ on Draft RI Report.
5.	Draft FS Report	Within 6 months of MDEQ approval of Final RI Report.
6.	Final FS Report	Within 90 days of receiving comments from MDEQ on Draft FS Report.
7.	Green Point Landfill Combined Conceptual Engineering and 35% Design Report (including Subgrade Plan)	Design report was transmitted on February 5, 1996.
8.	Green Point Landfill 90% Design Report	Report was submitted to the MDEQ on October 28, 1997.
9.	Green Point Landfill Final Design Report	Within 60 days of receiving approval from MDEQ on the Green Point Landfill 90% Design Report.
10.	Green Point Landfill Subgrade Construction	Subgrade construction was initiated during October 1996.
11.	Green Point Landfill Cap Construction**	Cap construction (following subgrade completion) will be completed within two construction seasons (pending approval of Final Design Report within 90 days prior to the beginning of the first construction season* and pending approval for all necessary access to adjoining properties).
12.	Green Point Landfill "As-Built" Drawings	Within 120 days of final completion of Green Point Landfill cap construction.
13.	Draft RAP	Within 7 months of MDEQ approval of Final FS Report.
14.	Final RAP	Within 120 days of receiving comments from MDEQ on Draft RAP.

Notes:

* A construction season day is a week day between April 15 and October 15 during which earthwork operations can be reasonably performed.

** Landfill cap construction consists of all remedial activities required in the final design for the landfill.