



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

143553

AUG 2 1993

REPLY TO THE ATTENTION OF:

HSE-5J/RRRB

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Mr. Vernon C. Lundequam
General Manager
820 S. Pine Street
Grantsburg, Wisconsin 54840

Re: Penta Wood Products, Inc.

Dear Sir or Madam:

Enclosed please find a unilateral Administrative Order issued by the U.S. Environmental Protection Agency ("EPA") under Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), 42 U.S.C. Section 9601, et seq.

Please note that the Order allows an opportunity for a conference if requested within 3 business days after issuance of the Order, or if no conference is requested, an opportunity to submit comments within 7 business days of issuance of the Order.

If you have any questions regarding the Order, feel free to contact John J. Breslin, Assistant Regional Counsel, at (312) 886-7165 or Paul Steadman, On-Scene Coordinator, at (312) 353-7615.

Sincerely yours,

A handwritten signature in black ink, appearing to read "W. E. Muno".

William E. Muno, (Director
Waste Management Division

Enclosure

cc: State Agency Superfund Coordinator

bcc: Docket Analyst, ORC (CS-3T)
[ORC Attorney], ORC (CS-3T)
{OSC}, (HSE-5J or 5HSGI or 5SEDO)
Jose Cisneros, ESS (HSE-5J)
[Enforcement Specialist], ESS (HSE-5J)
Oliver Warnsley, CRS (HSM-5J)
Toni Lesser, Public Affairs (P-19J) w/out attachments
Sheila Huff, Department of Interior
Tony Audia (MF-10J)
EERB Site File
EERB Read File

State of Wisconsin of this action pursuant to § 106(a) of CERCLA, 42 U.S.C. § 9606(a).

II. FURTHER FINDINGS

This Order applies to and is binding upon Respondent and Respondent's receivers, trustees, successors and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this Order. Respondent is liable for carrying out all activities required by this Order.

Respondent shall ensure that its contractors, subcontractors, and representatives comply with this Order. Respondent shall be responsible for any noncompliance with this Order.

III. REMEDIATION OF HAZARDOUS WASTE

Based on available information, including the Administrative Record supporting these removal actions, EPA hereby finds that:

1. The Penta Wood Products Site is located on approximately 80 acres of a 120 acre parcel two miles west of the town of Siren, in Daniels, Burnett County, Wisconsin. Geologically, the site is located on the northeast edge of a glacially derived end moraine consisting of till and stratified sand and gravel. Drainage is generally to the northeast into a wetland and eventually into Doctor Lake, which is about a half-mile from the site.
2. The Penta Wood Products facility was a wood treating facility which operated from 1953 to 1992. Numerous structures

associated with wood treatment operations, including storage sheds, garages, sawmills, and pole peelers, are located on-site. There are two adjacent treatment areas where wood products are treated with either pentachlorophenol ("PCP") or Chemonite (ammoniacal copper arsenate, "arsenic", or "ACA"). Also located on the property is an oil/water separator facility used in the wood treating operation for the recovery and recycling of wood treating chemicals.

3. Penta Wood used PCP in its operations beginning in 1953. The wastes generated at the Site were generally disposed of on-site, particularly in a woodchip pile at the northwest edge of the Site, and along the northern edge of the Site at the treeline, and in a former lagoon area.

4. In 1986, there were two spills onto the ground. The first spill, in August 1986, involved approximately 50 gallons of the five-percent PCP solution spilled into a sump and onto the surrounding ground. The second spill, in October 1986, occurred when approximately 500 gallons of ACA solution leaked onto the soil surrounding the sump. An undetermined portion of the impacted soil was excavated and placed in drums. A third spill occurred on April 15, 1988, at the oil/water separator, when a valve was left open and the storage tank overflowed. Some PCP and oil-contaminated water flowed onto nearby soils and accumulated at lower areas of the Site. A fourth spill occurred on June 9, 1988, when material from the oil/water separator tank spilled onto the ground. The recovered liquid material was

pumped into drums and the impacted soils were excavated.

5. In 1988 the Wisconsin Department of Natural Resources ("WDNR") found Penta Wood wells to be contaminated with PCP. WDNR advised Penta Wood to stop using the wells for drinking water, but Penta Wood continued to use the water for production purposes. Penta Wood employed at least 30 people at this time.

6. On June 5, 1989 WDNR personnel found evidence of the discharge of wastes containing PCP onto the soils on-site, and also found PCP-contaminated soils in eroded channels leading from the oil/water separator to the old lagoon.

7. On June 30, 1992, WDNR discovered pronounced gully erosion leading from the old lagoon, which is contaminated with PCP and ACA, to the wetland adjoining the northeastern edge of the property. The gully consists of approximately 17,200 square feet.

8. On April 2, 1993, EPA personnel conducted a Site Assessment (SA) of the Penta Wood Site area and found ARSENIC in surface and subsurface soil samples in concentrations ranging from 1.6 parts per million (ppm) to 42,000 ppm, COPPER in the soils ranging from a low concentration of 5.1 to a high of 37,000 ppm, PENTACHLOROPHENOL as low as 0.67 ppm to a high concentration of 14,000 ppm, PHENANTHRENE ranging from 34 to 660 ppm, ACENAPHTHENE at 6.8 ppm, FLUORENE from a low of 9.1 to a high of 52 ppm, DI-N-BUTYL PHTHALATE ranging from 3.7 to 4.4 ppm, ISOPHORONE in a range from 130 to 740 ppm, NAPHTHALENE from 14 to 750 ppm, 2-METHYLNAPHTHALENE from a low concentration of 20 to a

high of 3,000 ppm, and BIS(2-ETHYLHEXYL) PHTHALATE at a concentration of 38 ppm.

9. The minimum lethal dose (MLD) for arsenic is 1 - 3 milligrams/kilogram (mg/kg) of body weight. A child that ingests 1 gram/day of soil that contains arsenic at 42,000 ppm would receive an estimated exposure dose of arsenic that would exceed this MLD.

10. the acute Minimal Risk Level (MRL) for PCP is 0.005 mg/kg/d. The MRL is an estimate of daily exposure. A child that ingests 200 mg/d of this soil containing PCP at 10,000 ppm would receive an estimated exposure dose of PCP that would exceed the MRL.

IV. ~~CONCLUSIONS OF LAW AND RECOMMENDATIONS~~

Based on the Findings of Fact set forth above, and the Administrative Record supporting these removal actions, EPA determines that:

1. The Penta Wood Products Site is a "facility" as defined by section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

2. Arsenic, copper, pentachlorophenol, phenanthrene, acenaphthene, fluorene, di-n-butyl phthalate, isophorone, naphthalene, 2-methylnaphthalene, and bis(2-ethylhexyl)phthalate are "hazardous substances" as defined by section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

For purposes of this removal order, arsenic and pentachlorophenol are the hazardous substances of greatest concern. If conducted properly, the work required by this Order

should result in the removal of arsenic and PCP, as well as the other mentioned hazardous substances, each of which are associated with the products containing arsenic and PCP.

3. The Respondent is a "person" as defined by section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

4. The conditions described in the Findings of Fact above constitute an actual or threatened "release" of hazardous substances into the "environment," as those terms are defined at section 101 of CERCLA, 42 U.S.C. § 9601.

5. The Respondent is the present "owner" and "operator" of the Penta Wood Products Site, as defined by section 101(20) of CERCLA, 42 U.S.C. § 9601(20). The Respondent is therefore a liable person under section 107 of CERCLA, 42 U.S.C. § 9607.

6. The conditions present at the Site constitute a threat to public health, welfare, or the environment based upon the factors set forth in section 300.415(b)(2) of the National Oil and Hazardous Substances Pollution Contingency Plan, ("NCP"), 40 CFR 300.415(b)(2). These factors include, but are not limited to, the following:

a. Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances or pollutants or contaminants.

This factor is present at the Site due to the existence of pentachlorophenol, arsenic and copper contamination. Airborne transport of particulates from the Site may endanger persons who may pass the Site on Wisconsin Highway Route 70 which follows a parallel path adjacent to this Site. Access to this Site is

unrestricted. Exposure to humans--particularly children--to the levels of arsenic and PCP detected in the surface soil at this Site may cause adverse health effects.

b. Actual or potential contamination of drinking water supplies or sensitive ecosystems.

This factor is present at the Site due to the existence of high concentrations of pentachlorophenol and arsenic contamination detected in the soils, as well as toxic levels of copper, isophorone, phenanthrene, naphthalene and 2-methylnaphthalene, which present a contamination hazard to ground water supplies in the area of the Site.

c. Hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release.

This factor is present at the Site due to the existence of large quantities of liquids containing arsenic, pentachlorophenol, phenanthrene, isophorone, naphthalene, and 2-methylnaphthalene in the oil/water separator building and the Chamonite treatment building.

d. High levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface, that may migrate.

This factor is present at the Site due to the existence of toxic levels of copper, phenanthrene, isophorone, naphthalene, 2-methylnaphthalene, and extremely concentrated levels of arsenic and pentachlorophenol in surface and subsurface soils within the Site area.

e. Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released.

This factor is present at the Site due to the existence of steep embankments on the southeastern area of the Site which facilitate the rapid spread of PCP-contaminated soils and debris into adjacent off-site areas during periods of heavy precipitation and subsequent run-off.

f. Threat of fire or explosion.

This factor is present at the Site due to the existence of total petroleum hydrocarbons and the previously mentioned chemical compounds detected at the Site. These compounds present a potential fire hazard when combined with or exposed to other chemical compounds found on the Site.

g. The availability of other appropriate federal or state response mechanisms to respond to the release.

This factor supports the actions required by this Order at the Site because, based on the present conditions noted at this Site, a serious risk to public health, welfare and the environment is evident and further delays in stabilizing and removing the Site contaminants increase the likelihood of greater damage to the environment and subsequent public health hazards.

h. Other situations or factors that may pose threats to public health or welfare or the environment.

This factor is present at the Site due to the existence of possibly contaminated materials, equipment, supplies and associated assets on this Site which Respondent may seek to dispose of without proper decontamination.

7. The actual or threatened release of hazardous substances from the Site may present an imminent and substantial

endangerment to the public health, welfare, or the environment within the meaning of section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

8. The removal actions required by this Order are necessary to protect the public health, welfare, or the environment, and are not inconsistent with the NCP and CERCLA.

V. ORDER

Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the Administrative Record for this Site, EPA hereby orders that Respondents perform the following actions:

1. Notice of Intent to Comply

The Respondent shall notify EPA in writing within three (3) business days after the effective date of this Order of Respondent's irrevocable intent to comply with this Order. Failure of the Respondent to provide such notification within this time period shall be a violation of this Order.

2. Designation of Contractor, Project Coordinator, and On-Scene Coordinator

The Respondent shall perform the removal actions itself or shall retain a contractor to implement the removal actions. The Respondent shall notify EPA of Respondent's qualifications or the name and qualifications of any contractors, within five (5) business days of the effective date of this Order. The Respondent shall also notify EPA of the name and qualifications of any other contractors or subcontractors retained to perform work under this Order at least five (5) business days prior to commencement of such work. EPA retains the right to disapprove

of the Respondent or any of the contractors and/or subcontractors retained by the Respondent. If EPA disapproves a selected contractor, the Respondent shall retain a different contractor within two (2) business days following notification of EPA's disapproval and shall notify EPA of that contractor's name and qualifications within three (3) business days of EPA's disapproval.

Within five (5) business days after the effective date of this Order, the Respondent shall designate a Project Coordinator who shall be responsible for administration of all the Respondent's actions required by the Order and submit the designated coordinator's name, address, telephone number, and qualifications to EPA. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site work. EPA retains the right to disapprove of any Project Coordinator named by the Respondent. If EPA disapproves a selected Project Coordinator, the Respondent shall retain a different Project Coordinator within three (3) business days following notification of EPA's disapproval and shall notify EPA of that person's name and qualifications within four (4) business days of EPA's disapproval. Receipt by Respondent's Project Coordinator of any notice or communication from EPA relating to this Order shall constitute receipt by the Respondent.

The EPA has designated Paul Steadman of the Emergency and Enforcement Response Branch, Region V, as its On-Scene Coordinator (OSC). The Respondent shall direct all submissions

required by this Order to the OSC at the following address, by certified or express mail:

Paul Steadman
United States Environmental Protection Agency, HSE-5J
77 West Jackson Blvd.
Chicago, Illinois, 60604-3590

The Respondent shall also send a copy of all submissions, by regular U.S. mail, to the following persons:

John Breslin, Assistant Regional Counsel
United States Environmental Protection Agency, CS-3T
77 West Jackson Blvd.
Chicago, Illinois, 60604-3590

Kenneth Glatz, Remedial Project Manager
United States Environmental Protection Agency, HSRW-6J
77 West Jackson Blvd.
Chicago, Illinois, 60604-3590

David Kafura
Wisconsin Department of Natural Resources - Northwest District
Highway 70 West
Spooner, Wisconsin, 54801.

3. Work to Be Performed

The Respondent shall perform, within six (6) months of the effective date of this Order, the following response activities:

- a. Remove the contained product and waste liquids at the Site to eliminate the potential for future releases into the environment.
 - 1) Within ten (10) days of the effective date of this Order, prepare and submit a Phase 1 Work Plan, which provides for, at a minimum, the removal and disposal of product and waste liquids in the oil/water separator building and the Chemonite treatment building;
 - 2) Within thirty (30) days of EPA's approval of the Phase 1 Work Plan, implement the Work Plan for the removal and disposal of product and waste liquids in the oil/water separator building and the Chemonite treatment building;

- b. Remove and dispose of all highly contaminated soils as identified by EPA (see maps attached as Attachment C) which are associated with the oil/water separator building and the Chemonite treatment building. This area has been determined by the Agency for Toxic Substances and Disease Registry (ATSDR) to pose a significant health threat to potential trespassers on the Site.
- 1) Within thirty (30) days of the effective date of this Order, prepare and submit a Phase 2 Work Plan, which provides for, at a minimum, the removal and disposal of contaminated soils associated with the oil/water separator building and the Chemonite treatment building. The removal action shall achieve clean closure standards under the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6901 et seq. These standards consist of non-detect for arsenic and PCP.
 - 2) Within thirty (30) days of EPA's approval of the Phase 2 Work Plan, implement the Work Plan for the removal and disposal of contaminated soils associated with the oil/water separator building and the Chemonite treatment building.
- c. Perform a removal action to address, at a minimum, the following areas: the treated wood storage area on the south side of State Highway 70; the Chemonite wood treatment building and drip track; the oil/water separator building and adjacent stained soils; the lagoon area in the northeast portion of the Site; and the woodchip pile in the northwest portion of the Site.
- 1) Prepare and submit a Phase 3 Work Plan to address, at a minimum, the areas described above. The Phase 3 Work Plan shall contain an Extent of Contamination survey to determine the horizontal and vertical extent of contamination in the areas described above. The removal action shall achieve RCRA clean closure standards of non-detect for arsenic and PCP.
 - 2) Upon approval of the Phase 3 Work Plan by EPA, implement the Phase 3 Work Plan.

3.1 Work Plan and Implementation

The Respondent shall implement the Work Plans as finally approved in writing by EPA in accordance with the schedule approved by EPA. Once approved, or approved with modifications, the Work Plans, the schedules therein, and any subsequent

modifications of Work Plans or schedules shall be fully enforceable under this Order.

Except as otherwise provided herein, the Respondent shall notify EPA at least 48 hours prior to performing any on-site work pursuant to an EPA approved Work Plan. The Respondent shall not commence or undertake any removal actions at the Site without prior EPA approval.

3.2 Health and Safety Plan

Within ten (10) business days after the effective date of this Order, the Respondent shall submit a Health and Safety Plan to EPA that ensures the protection of the public health and safety during performance of on-site work under this Order. This Plan shall comply with applicable Occupational Safety and Health Administration (OSHA) regulations found at 29 CFR Part 1910. If EPA determines it is appropriate, the Plan shall also provide for contingency planning. The Respondent shall incorporate all changes to the Plan required by EPA, and shall implement the plan during the conduct of the removal action.

3.3 Quality Assurance and Sampling

All sampling and analyses performed pursuant to this Order shall conform to EPA direction, approval, and guidance regarding sampling, quality assurance/quality control (QA/QC), data validation, and chain of custody procedures. The Respondent shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with EPA guidance. Upon request by EPA, the Respondent shall have such a laboratory

analyze samples submitted by EPA for quality assurance monitoring. The Respondent shall provide to EPA the quality assurance/quality control procedures followed by all sampling teams and laboratories performing data collection and/or analysis.

Upon request by EPA, Respondent shall allow EPA or its authorized representatives to take split and/or duplicate samples of any samples collected by the Respondent or its contractors or agents while performing work under this Order. The Respondent shall notify EPA not less than three (3) business days in advance of any sample collection activity. EPA shall have the right to take any additional samples that it deems necessary.

3.4 Reporting

Respondent shall submit a monthly written progress report to EPA concerning activities undertaken pursuant to this Order, beginning thirty (30) calendar days after the date of EPA's approval of the Phase 1 Work Plan, until termination of this Order, unless otherwise directed by the OSC. These reports shall describe all significant developments during the preceding period, including the work performed and any problems encountered, analytical data received during the reporting period, and developments anticipated during the next reporting period, including a schedule of work to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

Respondent and any successor in title shall, at least thirty

(30) days prior to the conveyance of any interest in real property at the Site, give written notice of this Order to the transferee and written notice of the proposed conveyance to EPA and the State. The notice to EPA and the State shall include the name and address of the transferee. The party conveying such an interest shall require that the transferee will provide access as described in Section V.4 (Access to Property and Information).

3.5 Final Report

Within sixty (60) calendar days after completion of all removal actions required by this Order, the Respondent shall submit for EPA review a Final Report summarizing the actions taken to comply with this Order. The Final Report shall conform to the requirements set forth in section 300.165 of the NCP, 40 CFR 300.165. The Final Report shall also include a good faith estimate of total costs incurred in complying with the Order, a listing of quantities and types of materials removed, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destinations of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (e.g., manifests, invoices, bills, contracts, and permits).

The Final Report shall also include the following certification signed by a person who supervised or directed the preparation of that report:

Under penalty of law, I certify that, to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of this report, the information submitted is true, accurate, and complete.

3.6 EPA Review of Submittals

A. After review of any of the three Work Plans, and any other plan, report or other item which is required to be submitted pursuant to this Order, EPA may: (a) approve the submittal; (b) approve the submittal with modifications; (c) disapprove the submittal and direct Respondent to re-submit the document after incorporating EPA's comments; or (d) disapprove the submittal and assume responsibility for performing all or any part of the removal action.

B. If EPA requires revisions to a Work Plan, or any other plan, report or other item which is required to be submitted pursuant to this Order, the Respondent shall submit a revised document within seven (7) business days of receipt of notification from EPA. In the event of approval or approval with modifications by EPA, the Respondent shall proceed to take any action required by the Work Plan, plan, report, or other item, as approved or modified by EPA.

C. Notwithstanding a notice of disapproval, or approval with modifications, the Respondent shall proceed, at the direction of EPA, to take any action required by any non-deficient portion of the submittal.

D. If any re-submittal is not approved by EPA, the Respondents shall be deemed to be in violation of this Order.

E. Any document which is submitted and approved pursuant to

this Order is considered incorporated into this Order and becomes fully enforceable under this Order.

4. Access to Property and Information

Respondent shall provide or obtain access as necessary to the Site and all appropriate off-site areas, and shall provide access to all records and documentation related to the conditions at the Site and the activities conducted pursuant to this Order. Such access shall be provided to EPA employees, contractors, agents, consultants, designees, representatives, and State of Wisconsin representatives. These individuals shall be permitted to move freely at the Site and appropriate off-site areas in order to conduct activities which EPA determines to be necessary. Respondent shall submit to EPA, upon request, the results of all sampling or tests and all other data generated by Respondent or its contractors, or on the Respondent's behalf during implementation of this Order.

Where work under this Order is to be performed in areas owned by or in possession of someone other than Respondent, Respondent shall obtain all necessary access agreements within fourteen (14) calendar days after the effective date of this Order, or as otherwise specified in writing by the OSC. Respondent shall immediately notify EPA if, after using its best efforts, it is unable to obtain such agreements. Respondent shall describe in writing its efforts to obtain access. EPA may then assist Respondent in gaining access, to the extent necessary to effectuate the response activities described herein, using

such means as EPA deems appropriate.

5. Record Retention, Documentation, Availability of Information

Respondent shall preserve all documents and information relating to work performed under this Order, or relating to the hazardous substances found on or released from the Site, for six (6) years following completion of the removal actions required by this Order. At the end of this six year period and at least sixty (60) days before any document or information is destroyed, Respondent shall notify EPA that such documents and information are available to EPA for inspection, and upon request, shall provide the originals or copies of such documents and information to EPA. In addition, Respondent shall provide documents and information retained under this Section at any time before expiration of the six year period at the written request of EPA.

6. Off-Site Shipments

All hazardous substances, pollutants or contaminants removed off-site pursuant to this Order for treatment, storage or disposal shall be treated, stored, or disposed of at a facility in compliance, as determined by EPA, with the EPA Revised Off-Site Policy, OSWER Directive Number 9834.11, November 13, 1987, promulgated pursuant to 42 U.S.C. § 9621(d)(3).

7. Compliance With Other Laws

All actions required pursuant to this Order shall be performed in accordance with all applicable local, state, and federal laws and regulations except as provided in CERCLA section 121(e), 42 U.S.C 9621(e), and 40 CFR 300.415(i). In accordance

with 40 CFR 300.415(i), all on-site actions required pursuant to this Order shall, to the extent practicable, as determined by EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements under federal environmental or state environmental or facility siting laws.

8. Emergency Response and Notification of Releases

If any incident, or change in Site conditions, during the activities conducted pursuant to this Order causes or threatens to cause an additional release of hazardous substances from the Site or an endangerment to the public health, welfare, or the environment, the Respondent shall immediately take all appropriate action to prevent, abate or minimize such release or endangerment. Respondent shall also immediately notify the OSC or, in the event of his/her unavailability, shall notify the Regional Duty Officer, Emergency and Enforcement Response Branch, Region V at (312) 353-2318, and Kim Mc Cutcheon, Wisconsin Department of Natural Resources, Emergency Response Coordinator (608) 266-2857 of the incident or Site conditions.

Respondent shall submit a written report to EPA within seven (7) business days after each such incident or change in Site conditions, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. Respondent shall also comply with any other notification requirements, including those in CERCLA section 103, 42 U.S.C. § 9603, and section 304 of the

Emergency Planning and Community Right-To-Know Act,
42 U.S.C. § 11004.

VI. AUTHORITY OF THE EPA ON-SITE COORDINATOR

The OSC shall be responsible for overseeing the implementation of this Order. The OSC shall have the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any work required by this Order, or to direct any other response action undertaken by EPA or Respondent at the Site. Absence of the OSC from the Site shall not be cause for stoppage of work unless specifically directed by the OSC.

EPA and Respondent shall have the right to change their designated OSC or Project Coordinator. EPA shall notify the Respondent, and Respondent shall notify EPA, as early as possible before such a change is made, but in no case less than 24 hours before such a change. Notification may initially be made orally, but shall be followed promptly by written notice.

VII. PENALTIES FOR NONCOMPLIANCE

Violation of any provision of this Order may subject Respondent to civil penalties of up to \$25,000 per violation per day, as provided in section 106(b)(1) of CERCLA, 42 U.S.C. § 9606(b)(1). Respondent may also be subject to punitive damages in an amount up to three times the amount of any cost incurred by the United States as a result of such violation, as provided in section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Should Respondent violate this Order or any portion hereof, EPA may carry out the required actions

unilaterally, pursuant to section 104 of CERCLA, 42 U.S.C. § 9604, and/or may seek judicial enforcement of this Order pursuant to section 106 of CERCLA, 42 U.S.C. § 9606.

VIII. ~~REIMBURSEMENT OF COSTS~~

Respondent shall reimburse EPA, upon written demand, for all response costs incurred by the United States in overseeing Respondent's implementation of the requirements of this Order. EPA may submit to Respondent on a periodic basis a bill for all response costs incurred by the United States with respect to this Order. EPA's Itemized Cost Summary, or such other summary as certified by EPA, shall serve as the basis for payment. Respondent shall, within thirty (30) days of receipt of the bill, remit a cashier's or certified check for the amount of those costs made payable to the "Hazardous Substance Superfund," to the following address:

U.S. Environmental Protection Agency
Superfund Accounting
P.O. Box 70753
Chicago, Illinois 60673

Respondent shall simultaneously transmit a copy of the check to the Director, Waste Management Division, U.S. EPA Region V, 77 West Jackson Blvd., Chicago, Illinois, 60604-3590. Payments shall be designated as "Response Costs - Penta Wood Products Site" and shall reference the payor's name and address, the EPA site identification number "WE", and the docket number of this Order.

Interest at a rate established by the Department of the Treasury pursuant to 31 U.S.C. § 3717 and 4 CFR § 102.13 shall

begin to accrue on the unpaid balance on the date of the Respondent's receipt of the bill, notwithstanding any dispute or an objection to any portion of the costs.

IX. OTHER CLAIMS

Nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order. EPA also reserves the right to take any other legal or equitable action as it deems appropriate and necessary, or to require the Respondent in the future to perform additional activities pursuant to CERCLA or any other applicable law.

By issuance of this Order, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondent. The United States or EPA shall not be a party or be held out as a party to any contract entered into by the Respondent or its directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out activities pursuant to this Order.

This Order does not constitute a pre-authorization of funds under section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2).

Nothing in this Order constitutes a satisfaction of or release from any claim or cause of action against the Respondent or any person not a party to this Order, for any liability such person may have under CERCLA, other statutes, or the common law, including but not limited to any claims of the United States for costs, damages and interest under sections 106(a) or 107(a) of CERCLA, 42 U.S.C. §§ 9606(a), 9607(a).

K. MODIFICATIONS

Modifications to any plan or schedule may be made in writing by the OSC or at the OSC's oral direction. The OSC will be in contact with David Kafura, Wisconsin Department of Natural Resources to discuss and report modifications to any plan or schedule. If the OSC makes an oral modification, it will be memorialized in writing within seven (7) business days; however, the effective date of the modification shall be the date of the OSC's oral direction. The rest of the Order, or any other portion of the Order, may only be modified in writing by signature of the Director, Waste Management Division, Region V.

If Respondent seeks permission to deviate from any approved plan or schedule, Respondent's Project Coordinator shall submit a written request to EPA for approval outlining the proposed modification and its basis.

No informal advice, guidance, suggestion, or comment by EPA regarding reports, plans, specifications, schedules, or any other writing submitted by the Respondent shall relieve Respondent of its obligations to obtain such formal approval as may be required

by this Order, and to comply with all requirements of this Order unless it is formally modified.

II. NOTICE OF COMPLETION

When EPA determines, after EPA's review of the Final Report, that all work has been fully performed in accordance with this Order, except for certain continuing obligations required by this Order (e.g., record retention), EPA will provide notice to the Respondent. If EPA determines that any removal activities have not been completed in accordance with this Order, EPA will notify the Respondent, provide a list of the deficiencies, and require that Respondent modify the appropriate Work Plan to correct such deficiencies. The Respondent shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the EPA notice. Failure to implement the approved modified Work Plan shall be a violation of this Order.

III. ACCESS TO ADMINISTRATIVE RECORD

The Administrative Record supporting these removal actions is available for review during normal business hours in the EPA Office of Regional Counsel, Region V, 111 W. Jackson Blvd., Third Floor, Chicago, Illinois. Respondent may contact John Breslin, Assistant Regional Counsel, at (312) 886-7165 to review the Administrative Record. An index of the Administrative Record is attached to this Order.

XIII. OPPORTUNITY TO CONFER

Within three (3) business days after issuance of this Order, Respondent may request a conference with EPA. Any such conference shall be held within five (5) business days of the date of the request, unless extended by agreement of the parties. At any conference held pursuant to the request, Respondent may appear in person or be represented by an attorney or other representative.

If a conference is held, Respondent may present any information, arguments or comments regarding this Order. Regardless of whether a conference is held, Respondents may submit any information, arguments or comments in writing to EPA within two (2) business days following the conference, or within seven (7) business days of issuance of the Order if no conference is requested. This conference is not an evidentiary hearing, does not constitute a proceeding to challenge this Order, and does not give Respondent a right to seek review of this Order. Requests for a conference shall be directed to John Breslin, Assistant Regional Counsel, at (312) 886-7165. Written submissions shall be directed as specified in Section V.2 of this Order.

XIV. ~~REVIEW~~

If a court issues an order that invalidates any provision of this Order or finds that Respondent has sufficient cause not to comply with one or more provisions of this Order, Respondent shall remain bound to comply with all provisions of this Order

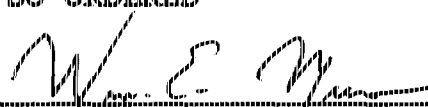
not invalidated by the court's order.

IV. REPEALER

This Order shall be effective ten (10) business days following issuance unless a conference is requested as provided herein. If a conference is requested, this Order shall be effective five (5) business days after the day of the conference.

IT IS SO ORDERED

BY:


William E. Muno, Director
Waste Management Division
United States Environmental Protection Agency
Region V

DATE:

8/12/97

ATTACHMENT A

U.S. ENVIRONMENTAL PROTECTION AGENCY
REMOVAL ACTIONADMINISTRATIVE RECORD
FOR
PENTA WOOD PRODUCTS INC.

DANIELS, WISCONSIN

May 11, 1993

DATE	AUTHOR	RECIPIENT TITLE/DESCRIPTION	PAGES
04/01/86	Vulcan Chemicals	Material Safety Data Sheet, Pentachlorophenol	3
08/00/90	Aqua-Tech, Inc.	WDNR Environmental Assessment Report, Phase III	88
01/22/91	Mockenhaupt, S., CRA	Kafura, D., WDNR Groundwater Analytical Results	12
02/13/91	Kafura, D., WDNR	Mockenhaupt, S., CRA, Correspondence re: 1/22/91 Analytical Results	2
01/16/92	Mockenhaupt, S., CRA	Kafura, D., WDNR, Analytical Summary of Groundwater Data	6
03/00/92	Conestoga- Rovers & Associates	WDNR Remedial Investi- gation and Corrective Action Plan	259
08/19/92	Hanson, R., Inter-County Leader	Public Newspaper Article, "Alleged Pollution Shuts Down Penta Wood Products"	2
09/28/92	Ramsey, W., WDNR	U.S. EPA Preliminary Assess- ment	122
04/12/93	Pastor, S., U.S. EPA	Lesser, T., U.S. EPA SACM Team Trip Report	1
00/00/00	E & E	U.S. EPA Site Assessment	
00/00/00	Steadman, P., U.S. EPA	Muno, W., U.S. EPA Action Memorandum (Pending)	

ATTACHMENT B

LIABILITY FILE INDEX

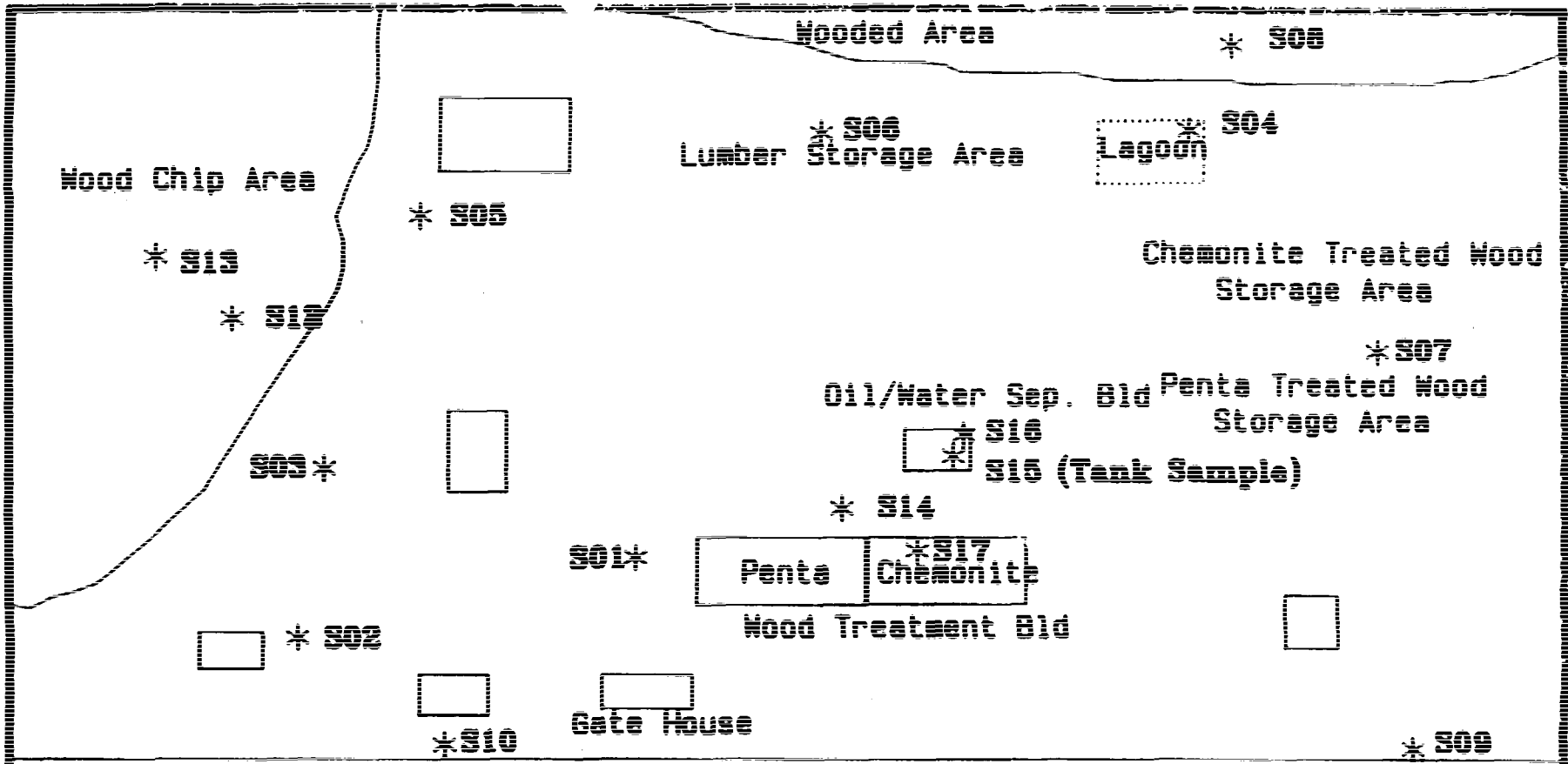
DATE	AUTHOR	RECIPIENT/TITLE/DESCRIPTION
02/18/93	PRC Environmental Management,	Messersmith, M., Title Search

ATTACHMENT C

MARS

Number	Title	Date
C-1	"Sample Locations (S01-S17)"	5/12/93
C-2	"Site Sketch"	5/12/93
C-3	"Boundary of Highly Contaminated Soils---Phase II Work Plan"	

ATTACHMENT
C-7

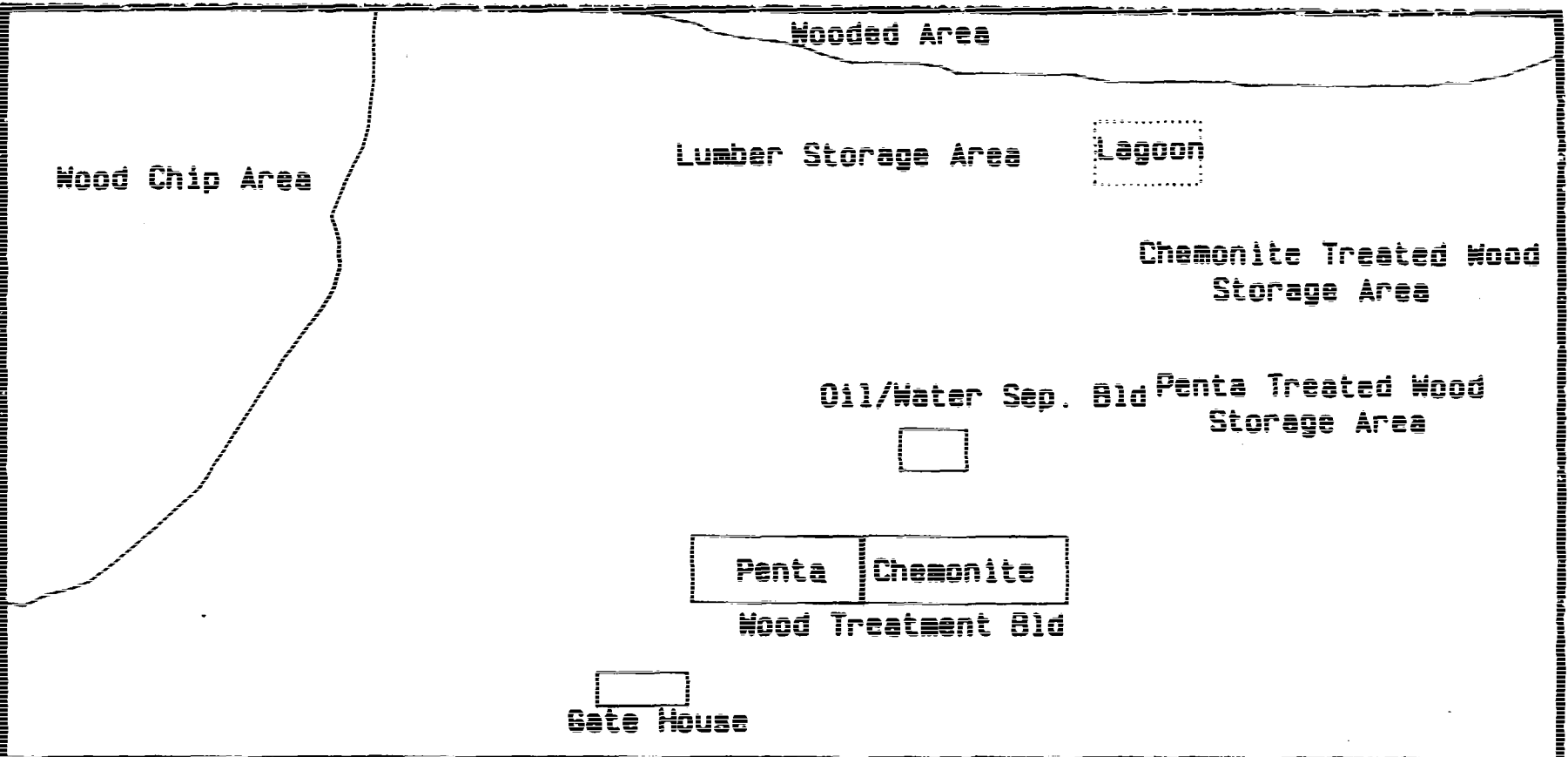


State Road 70

Treated Wood Storage Area *S11

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY - REGION V EMERGENCY AND ENFORCEMENT RESPONSE BRANCH		SITE PENTA WOOD PRODUCTS	SCALE NONE
		CITY SIREN	STATE WISCONSIN
TITLE SAMPLE LOCATIONS (S01-S17)	FIGURE # 4	DRAWN BY	DATE 5/12/93

APACALABAY
Co., Inc.

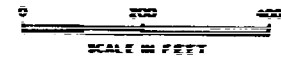


State Road 70

Treated Wood Storage Area

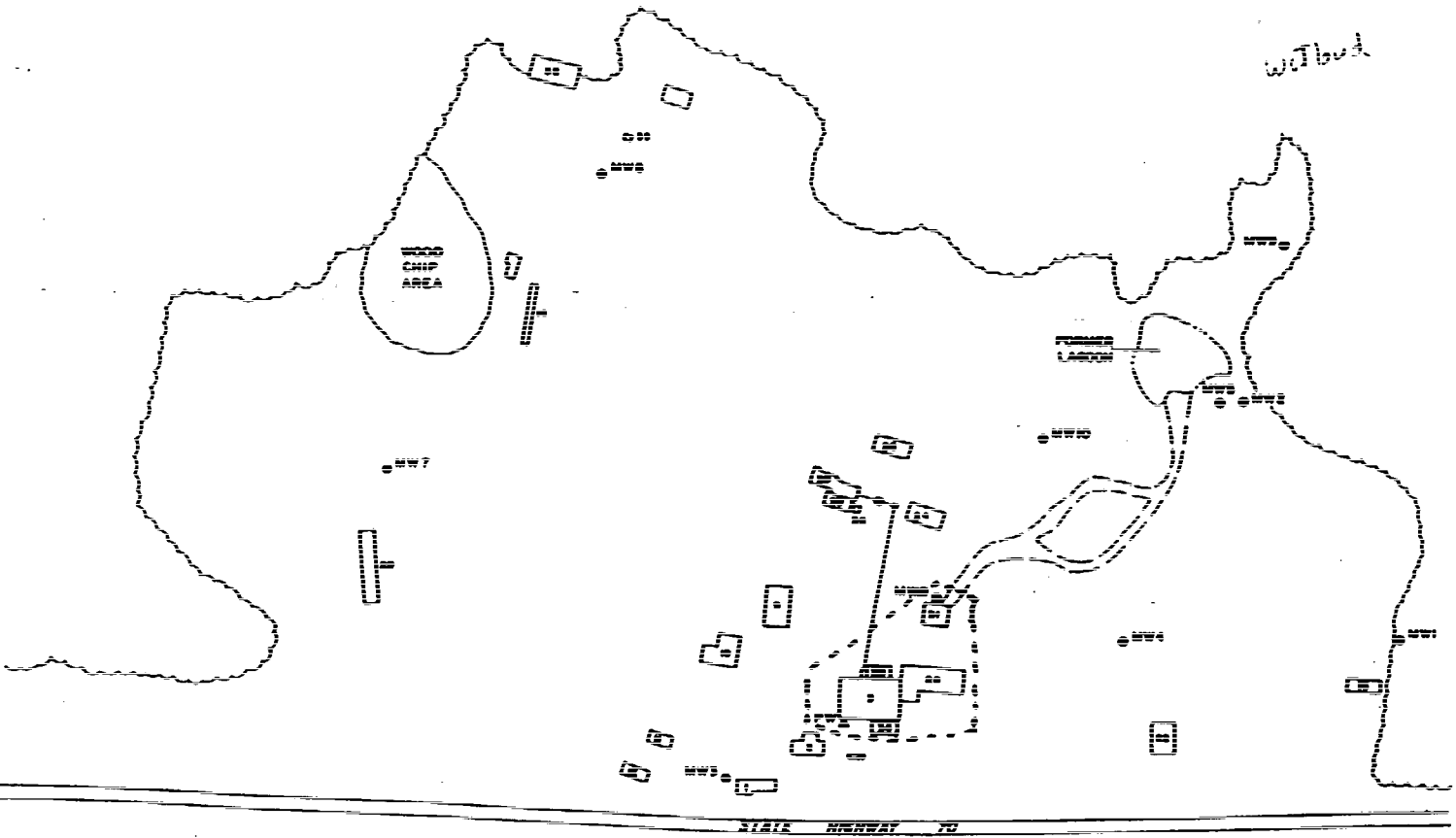
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY - REGION V EMERGENCY AND ENFORCEMENT RESPONSE BRANCH		SITE PENTA WOOD PRODUCTS	SCALE NONE
		CITY SIREN	STATE WISCONSIN
TITLE SITE SKETCH	FIGURE # 3	DRAWN BY:	DATE 5/12/93

Fig. 1



LEGEND

- 1 OFFICE
- 2 GARAGE
- 3 TREATMENT AREA
- 4 TRUCK SHOP
- 5 GARAGE
- 6 LUMBER STORAGE
- 7 STORAGE SHED
- 8 POLE PEELER
- 9 SAWMILL
- 10 LUMBER SHED
- 11 NEW BOILER HOUSE
- 12 STORAGE AND LOADING
- 13 SHAVING VAULT
- 14 PEELER SHED
- 15 PLANER MILL
- 16 TREATMENT AREA
- 17 SAWMILL
- 18 PEELER SHED (7' POLES)
- 19 SEPARATING BUILDING
- 20 NEW SAWMILL BUILDING
- 21 SLASHED CONTROL HOUSE
- 22 PENTA MIXING BUILDING
- 23 ELECTRICAL CONTROL BUILDING
- 24 MONITORING WELL LOCATION
- 25 PRODUCTION WELL LOCATION



APPENDIX C
C-III
APPENDIX C-III

--- BOUNDARY OF HIGHLY CONTAMINATED SOILS - PHASE II WORK PLAN

Figure 2.4
MONITORING WELL LOCATIONS
Penta Wood Products, Inc.

bcc: Docket Analyst, ORC (CS-3T)
[ORC Attorney], ORC (CS-3T)
[OSC], (HSE-5J or 5HSGI or 5SEDO)
Jose Cisneros, ESS (HSE-5J)
[Enforcement Specialist], ESS (HSE-5J)
Oliver Warnsley, CRS (HSM-5J)
Toni Lesser, Public Affairs (P-19J) w/out attachments
Sheila Huff, Department of Interior
Tony Audia (MF-10J)
EERB Site File
EERB Read File