

B.W.G. SPOONER - N.W.



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Tommy G. Thompson, Governor
George E. Meyer, Secretary

Tom G. Thompson

PO Box 7921
101 South Webster Street
Madison, Wisconsin 53707-7921
TELEPHONE 608-266-2621
FAX 608-267-3579
TDD 608-267-6897

April 10, 1996

IN REPLY REFER TO:

Mr. Valdas V. Adamkus
Regional Administrator
United States Environmental Protection Agency
Region 5
77 West Jackson Boulevard
Chicago, IL 60604-3590

SUBJECT: Murphy Oil USA, Inc.
Superior, Wisconsin

Dear *Val* Mr. Adamkus:

In response to your letter, received March 11, 1996, requesting a status report on negotiations between Wisconsin DNR and Murphy Oil, I am pleased to submit the enclosed Memorandum of Understanding regarding the remediation of Newton Creek system sediments.

This Memorandum of Understanding is the result of several months' effort on the part of Murphy Oil and my staff to reach an acceptable compromise. We are satisfied that the completion of the tasks set forth in this Memorandum of Understanding will meet the environmental objectives our two agencies share for the Newton Creek system, while building upon the cooperative relationship we have established with Murphy Oil.

We appreciate your assistance in resolving the environmental issues related to the Newton Creek system. If you have any questions or wish to discuss the Memorandum of Understanding further, please contact me or my Executive Assistant, Maryann Sumi, at (608) 266-2243.

Sincerely,

George E. Meyer
George E. Meyer
Secretary

RECEIVED

APR 16 1996

DNR - SPOONER

cc: Herbert Fox

cc: TED SMITH, GARY LE ROY, JIM ROSS, BOB GOTTLAD

Quality Natural Resources Management
Through Excellent Customer Service

SUPERIOR OFFICE (STEVE LAVALLEY)



**MEMORANDUM OF UNDERSTANDING BETWEEN
WISCONSIN DEPARTMENT OF NATURAL RESOURCES AND
MURPHY OIL, USA REGARDING
REMEDICATION OF NEWTON CREEK SYSTEM SEDIMENTS**

This Memorandum of Understanding memorializes the agreement reached between the Wisconsin Department of Natural Resources ("WDNR") representatives and Murphy Oil USA, Inc.'s ("Murphy Oil") representatives regarding Murphy Oil's participation in the remediation of the sediments of the Newton Creek system.

Newton Creek Impoundment and Ponds 1 & 6

Murphy Oil and the Department of Natural Resources agree that a mutually acceptable method of removing and treating and/or disposing potentially contaminated sediments lying above the base of the Newton Creek Impoundment and in Newton Creek from 21st Street downstream to the first crossing of the creek under the railroad at 25th Avenue, will entail the excavation of sediments and movement thereof to a portion of the lagoons known as ponds 1 and 6 for disposal in conjunction with a pending in-place solidification and closure of ponds 1 and 6 sludges.

Murphy Oil agrees to develop and submit engineering designs for the impoundment remedy and for the solidification and in-place capping of the impoundment sediment and pond sludges to request a low hazard exemption pursuant to the provisions of Wis. Stat. § 144.44(7)(g). WDNR agrees in concept that the in-place solidification and capping of ponds 1 and 6 do not constitute the treatment of hazardous waste or the active management of the sludges in those ponds. Upon submittal by Murphy Oil of a final detailed engineering plan to accomplish solidification and in-place closure, WDNR will review and determine whether Murphy's proposal constitutes treatment or active management. If the proposal does not constitute treatment or active management, then a hazardous waste treatment license or variance would not be needed.

In addition, WDNR will assist Murphy Oil in obtaining all necessary approvals and permits for the activities described in this Memorandum. Murphy Oil agrees to begin implementation of the approved actions for these locations on a timeframe agreed upon by Murphy and WDNR.

Newton Creek and Hog Island Inlet

Murphy Oil and WDNR will voluntarily participate in a mutually agreeable monitoring program for Newton Creek which focuses on and is limited to those media and chemical parameters which have been jointly identified by Murphy and WDNR as meriting additional monitoring efforts and which have the potential to cause environmental concerns. It is anticipated that the monitoring program will be structured as follows:

1. The program will undertake annual sediment testing in Newton Creek for the next 5 years which encompasses the sampling and analysis of the following: (1) benthic macrofaunal invertebrates; (2) suspended sediment; and (3) bed sediment. Sediment chemistry will be limited to DRO, lead, chromium, oil & grease and ammonia (*i.e.*, those constituents which have been identified by the WDNR as potentially requiring SQOC's).
2. The program will establish and perform the tests described above at or near a reference station in the headwaters of Newton Creek in an area which has had the sediment removed (approximately NC-11). In addition, these tests will be performed at or near NC-2, NC-5 and up to two more locations in Newton Creek, to be identified jointly by Murphy and WDNR.
3. All analyses shall be performed by one or more commercial laboratories which are mutually acceptable to Murphy and WDNR.

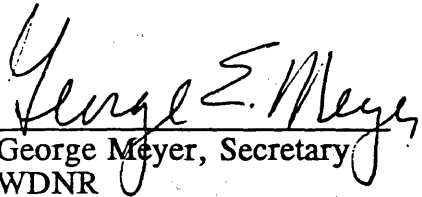
WDNR has determined to pursue a remediation of a portion of Hog Island Inlet by a scientifically proven method. Murphy Oil agrees to make a voluntary payment of \$200,000 in support of WDNR's sediment remediation efforts in Hog Island Inlet. WDNR regards this as a private source contribution under Wis. Stat. § 144.10(3) and not as a "responsible person" payment under that section. Further, as provided in Wis. Stat. § 144.10(4)(a), provision of funding by Murphy Oil is neither evidence or an admission of liability for any environmental contamination. In any event, and in consideration for this voluntary payment, WDNR agrees that it will:

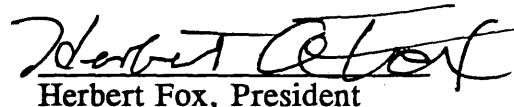

- (a) not seek recovery of remediation costs in excess of \$200,000 unless new scientific evidence establishes the need for additional remediation

activity to protect human health or the environment, and that Murphy's past operations are the source of the subject contamination to be addressed by the additional remedial activity; and

- (b) not initiate cost recovery or enforcement actions against Murphy regarding Newton Creek and Hog Island Inlet unless the conditions in subpar. (a), above, are triggered.

Notwithstanding this Memorandum of Understanding, WDNR may seek financial resources for remediation of Newton Creek from sources other than Murphy Oil.


George Meyer, Secretary
WDNR

 
Herbert Fox, President
Murphy Oil, USA

April 8, 1996
Date