

RELEASE AGREEMENT

This Release Agreement is made this 25 day of August, 1993, effective upon execution of all signatories, by and between Sta-Rite Industries, Inc., 293 Wright Street, Delavan, Wisconsin 53115, the City of Delavan, Wisconsin, a municipal corporation organized and existing under the laws of the State of Wisconsin, and the Delavan Water and Sewer Commission, a public utility organized and existing under the laws of the State of Wisconsin.

WHEREAS, Sta-Rite Industries, Inc. manufactures well pump equipment at its facilities located at 293 Wright Street, Delavan, Wisconsin;

WHEREAS, the Delavan Water and Sewer Commission owns and operates a public water system which serves the residents of the City of Delavan and which includes a series of municipal wells, including Wells #3, #4 and #6;

WHEREAS, the City of Delavan by its personnel assists the staff of the Delavan Water and Sewer Commission in the day to day operations of the public water system which serves the residents of the City of Delavan;

WHEREAS, Delavan Municipal Well #4 was listed on the National Priority List of Superfund Sites in 1984;

WHEREAS, effective September 28, 1990, Sta-Rite Industries, Inc. and the Wisconsin Department of Natural Resources entered into a contract pursuant to Sec. 144.442, Wis. Stats., and the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), whereby Sta-Rite Industries, Inc. agrees, in part, to (i) complete a remedial investigation, (ii) complete a feasibility study, including as may be appropriate a focused feasibility study, (iii) prepare a remedial design and (iv) implement, if necessary, new or additional remedies at the Delavan Municipal Well #4 Superfund Site;

WHEREAS, the City of Delavan and the Delavan Water and Sewer Commission have asserted claims against Sta-Rite Industries, Inc. seeking payment of certain response costs incurred or to be incurred in connection with the Delavan public water system, including but not limited to Municipal Well #4 and the central storage and treatment plant, as a result of alleged releases of hazardous substances from the Sta-Rite Industries, Inc. facilities located at 293 Wright Street, Delavan, Wisconsin 53115; Sta-Rite Industries, Inc. denies any liability under federal, state or local law, whether statutory or common law, for such alleged response costs;

WHEREAS, the City of Delavan and the Delavan Water and Sewer Commission have installed an air stripper tower as a part of their new central storage and treatment plant, in part, to treat water from Delavan Municipal Well #4, and Sta-Rite Industries, Inc. has no ownership interest in either the central storage and treatment plant or the air stripper tower;

WHEREAS, Sta-Rite Industries, Inc., the City of Delavan and the Delavan Water and Sewer Commission desire to settle the claims of the City of Delavan and the Delavan Water and Sewer Commission in order to compromise disputed claims and to avoid further costs;

THEREFORE, Sta-Rite Industries, Inc., on the one hand, and the City of Delavan and the Delavan Water and Sewer Commission, on the other hand, for and in consideration of the sum of \$310,000.00 payable by Sta-Rite Industries, Inc. to the Delavan Water and Sewer Commission and other good and valuable consideration set forth in this Release Agreement, the sufficiency of which is hereby acknowledged, do hereby agree as follows:

A. For the purposes of this Release Agreement:

1. The term "Hazardous Substance" shall mean any substance or combination of substances which at any time shall be determined to be hazardous, toxic or a present or potential

hazard to human health or the environment in accordance with any Applicable Law and which has been detected in investigations that have been reported in documents submitted on behalf of Sta-Rite Industries, Inc. to the Wisconsin Department of Natural Resources or U.S. Environmental Protection Agency. The term "Hazardous Substance" shall also include, without limitation, petroleum by-products and by-products of "Hazardous Substances" occurring because of natural processes (breakdown chemicals), where such by-products meet the other criteria of Hazardous Substances set forth above.

2. The term "Applicable Law" shall include, but shall not be limited to, Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9601 et seq., the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6901 et seq., the Clean Water Act, 33 U.S.C. 1251 et seq., the Clean Air Act, 42 U.S.C. 7401 et seq., the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. 11001 et seq., any other federal, state or local law or

regulation, or any federal, state or local common law as applied by any federal, state or local court, agency or tribunal, whether currently in existence or hereafter enacted, that governs (i) the existence, investigation, cleanup and/or remediation of Hazardous Substances; (ii) the protection of the environment from spilled, released, discharged, deposited or otherwise emplaced Hazardous Substances; and/or (iii) contribution for the costs of responding to and/or removal of Hazardous Substances.

B. The City of Delavan and the Delavan Water and Sewer Commission, individually and jointly, hereby waive, release and discharge forever Sta-Rite Industries, Inc., its predecessor, Sta-Rite Products, Inc., its parent, WICOR, its successors and assigns and their officers, directors, shareholders, employees and agents, from:

1. All past, present and future response costs (except for the costs provided for in paragraph D of this Release Agreement), removal costs, enforcement costs, damages, losses, expenses, notices, demands, claims, liabilities or other costs, including but not

limited to attorney's fees and technical consulting fees, arising under any Applicable Law and from the contamination of the groundwater aquifers, from which the municipal water supply is drawn, including but not limited to Municipal Wells #3, 4, and 6, for the City of Delavan, Wisconsin, by Hazardous Substances released or threatened to be released prior to the date of this Release Agreement from the facilities or real property of Sta-Rite Industries, Inc., 293 Wright Street, Delavan, Wisconsin 53115; and

2. All past, present and future response costs, (except for the costs provided for in paragraph D of this Release Agreement), removal costs, enforcement costs, damages, losses, expenses, notices, demands, claims, liabilities or other costs, including but not limited to attorney's fees and technical consulting fees, which may arise in connection with the contamination of the groundwater aquifers, from which the municipal water supply is drawn, including Municipal Wells #3, 4 and 6, for the City of Delavan, Wisconsin, by Hazardous Substances released or

threatened to be released prior to the date of this Release Agreement from the facilities or real property of Sta-Rite Industries, Inc., 293 Wright Street, Delavan, Wisconsin 53115, and which may be asserted by the City of Delavan and/or the Delavan Water and Sewer Commission, individually or jointly, or commenced against the City of Delavan and/or the Delavan Water and Sewer Commission by any third party public or private entity or person, including, but not limited to, the United States, the State of Wisconsin, its Department of Natural Resources, or natural persons or businesses in or surrounding the City of Delavan.

- C. 1. The City of Delavan and the Delavan Water and Sewer Commission, individually and jointly, shall hold harmless Sta-Rite Industries, Inc., its predecessor, Sta-Rite Products, Inc., its parent, WICOR, its successors and assigns, and their officers, directors, shareholders, employees and agents in any action or proceeding brought against Sta-Rite Industries, Inc., its predecessor, Sta-Rite Products, Inc., its parent, WICOR, its

successors and assigns, or their officers, directors, shareholders, employees or agents by any public or private entity or person, for any past, present or future response costs, removal costs, enforcement costs, damages, losses, expenses, notices, demands, claims, liabilities or other costs, including but not limited to attorney's fees and technical consulting fees, incurred or to be incurred by the City of Delavan, the Delavan Water and Sewer Commission or any third party public or private entity or person, arising from or in connection with the contamination of the groundwater aquifers, from which the municipal water supply is drawn, including but not limited to Municipal Wells #3, 4 and 6, for the City of Delavan, Wisconsin, by Hazardous Substances released or threatened to be released prior to the date of this Release Agreement from the facilities or real property of Sta-Rite Industries, Inc., 293 Wright Street, Delavan, Wisconsin 53115; and

2. The City of Delavan and the Delavan Water and Sewer Commission, individually and jointly, shall indemnify and hold harmless Sta-Rite

Industries, Inc., its predecessor, Sta-Rite Products, Inc., its parent, WICOR, its successors and assigns, and their officers, directors, shareholders, employees and agents, in any action or proceeding pursuant to Applicable Law brought against Sta-Rite Industries, Inc., its predecessor, Sta-Rite Products, Inc., its parent WICOR, its successors and assigns, or their officers, directors, shareholders, employees or agents by any public or private entity or person for any past, present or future response costs arising from or arising in connection with the contamination of the groundwater aquifers, from which the municipal water supply is drawn, including Municipal Wells #3, 4 and 6, for the City of Delavan, Wisconsin, by Hazardous Substances released or threatened to be released prior to the date of this Release Agreement from the facilities or real property of Sta-Rite Industries, Inc., 293 Wright Street, Delavan, Wisconsin 53115. The indemnity and hold harmless provisions of this subparagraph do not cover toxic tort claims.

D. 1. The City of Delavan and the Delavan Water and Sewer Commission, individually and jointly, and Sta-Rite Industries, Inc., its successors and assigns agree that certain future cost obligations, described in this subparagraph and limited by subparagraphs D.2., D.4. and D.5., are specifically excluded from as provided herein, and are subsequently included in as provided by subparagraph D.3., the release and indemnity provisions of this Release Agreement:

- a. (i) The electrical costs for operating the approximately 2 Hp motor that drives the blower which directs a countercurrent flow of air into the water that flows down the air stripper tower; the blower motor electrical costs shall be calculated using the actual charge per kilowatt hour from the electrical utility for a 2 Hp motor times the hours of usage based on the readings on the meter in the electrical control panel dedicated to Municipal Well #4; (ii) the labor and material

costs, if any, of repairing, reconstructing or replacing said blower motor;

- b. (i) The electrical costs for repumping water from Municipal Well #4 from the base of the air stripper to its top; the charge for the repumping shall be calculated on the basis that a pump of nominal horsepower of 4.9, operates at 80% efficiency and will run for the same number of hours per month that pumpage from Municipal Well #4 occurs; pumpage will be determined from hours of usage readings on the meter in the electrical control panel dedicated to Municipal Well #4; such costs shall be calculated using the actual charge per kilowatt hour from the electrical utility times such hours of usage that pumpage occurs (ii) a one time charge for labor and material costs for reducing the horsepower and

making other modifications to the pump on Municipal Well #4 so that it pumps against a head sufficient to lift water from the level of the pump to the top of the air stripper; such costs shall not exceed a total of \$5,000 or the documented costs, whichever is less;

- c. The analytical costs for monitoring the Municipal Well #4 influent and effluent concentration of TCE in the water that enters and exits the air stripper tower; for the first twelve months beginning on June 1, 1993, such analytical costs shall be limited to not more than ten (10) influent samples and ten (10) effluent samples; thereafter, such analytical costs shall be limited to not more than one (1) influent sample per quarter and one (1) effluent sample per quarter;

- d. The labor and material costs of maintaining and/or replacing the air stripper tower media, if such costs are incurred; such costs shall not exceed a total of \$9,000.00.
2. Sta-Rite Industries, Inc. or its successors and assigns shall pay the future costs which are the subject of this paragraph D of the Release Agreement on an annual basis. The Delavan Water and Sewer Commission shall prepare and submit an invoice to Sta-Rite Industries, Inc. for such costs, and such invoice shall specify each of the costs described in sub-paragraph D.1. above, all calculations used in determining such costs, and supporting documentation, e.g., charges and invoices from vendors and contractors. The annual invoice shall be submitted by the Delavan Water and Sewer Commission to Sta-Rite Industries, Inc. on the anniversary date of this Release Agreement or such other date as may be agreed to between Sta-Rite Industries, Inc. and the Delavan Water and Sewer Commission. Upon receipt of the annual invoice, Sta-Rite Industries, Inc. or its

successors and assigns shall have twenty (20) days to review the invoice and either pay the invoiced amount or submit any questions or objections regarding such invoice to the Delavan Water and Sewer Commission. If any dispute arises in connection with any such invoice, Sta-Rite Industries, Inc. or its successors and assigns and the Delavan Water and Sewer Commission shall use all reasonable efforts to resolve the dispute expeditiously and in a cost effective manner. Upon resolution of any objection to such invoice, Sta-Rite Industries, Inc. or its successors and assigns shall have an additional ten (10) days in which to pay the disputed amount due on such invoice. The existence of a dispute shall not excuse payment within twenty (20) days of the undisputed costs on the invoice.

3. Upon payment of any costs by Sta-Rite Industries, Inc. or its successors and assigns in accordance with this paragraph D, such costs and the underlying obligation incurred by the Delavan Water and Sewer Commission or the City of Delavan shall become subject to

the release and indemnity provisions of this Release Agreement.

4. The obligation of Sta-Rite Industries, Inc. and its successors and assigns to pay the future costs set forth in sub-paragraph D.1. a., b. and d. above shall terminate three (3) years after the effective date of this Release Agreement.

5. The obligation of Sta-Rite Industries, Inc. and its successors and assigns to pay the future costs set forth in sub-paragraph D.1. c. shall terminate upon the earlier of the following events:
 - a. Issuance by the Wisconsin Department of Natural Resources of a written notice of completion to Sta-Rite Industries, Inc. or its successors and assigns in accordance with Contract #SF-90-02 between Sta-Rite Industries, Inc. and the Wisconsin Department of Natural Resources, effective September 28, 1990;

- b. Municipal Well #4 influent TCE concentration to the air stripper tower is less than 1 part per billion during the three (3) year period after the effective date of this Release Agreement or less than 3 parts per billion thereafter, in each instance to be determined based on the results of a running annual average of the most recent four (4) quarterly samples; or
- c. Authorization by the Wisconsin Department of Natural Resources to discontinue the operation of the air stripper tower; the Delavan Water and Sewer Commission agrees to seek, at least annually, the authorization of the Wisconsin Department of Natural Resources to discontinue operation of the air stripper tower and to revert to a three year cycle for analytical testing for TCE, so long as Sta-Rite Industries, Inc. continues to pay the future costs

described in subparagraph D.1.c. of
the Release Agreement.

E. The City of Delavan and the Delavan Water and Sewer Commission, individually and jointly, acknowledge and agree that Sta-Rite Industries, Inc., and its parent, WICOR, have denied liability in whole or in part, and that any payment by Sta-Rite Industries, Inc. is made without admission of liability and is the compromise of disputed claims. Any payment to the City of Delavan and/or the Delavan Water and Sewer Commission shall not be construed as an admission of any liability whatsoever by Sta-Rite Industries, Inc., its predecessor, Sta-Rite Products, Inc., its parent, WICOR, or their officers, directors, shareholders, employees or agents.

F. Upon execution of this Release Agreement, Sta-Rite Industries, Inc. shall pay to the Delavan Water and Sewer Commission the sum of \$310,000.00.

G. This Release Agreement constitutes the complete and entire understanding and agreement between the undersigned parties with respect to the subject matter of this Release Agreement. No person or party has the right to modify the terms of this Release Agreement orally. No other promises, amendments, or agreements shall be binding unless such a promise, amendment or agreement is in writing and signed by the parties.

IN WITNESS WHEREOF, the parties hereto enter this Release Agreement. Each person signing this Release Agreement on behalf of a party represents and warrants that he or she has been duly authorized to enter into this Release Agreement by the party on whose behalf it is indicated that the person is signing.

City of Delavan:

By: Peter F. Dantone MAYOR AUG 25 1993
(Title) (Date)

Delavan Water and Sewer Commission:

By: [Signature] President August 16, 1993
(Title) (Date)

Sta-Rite Industries, Inc.:

By: [Signature] vice president August 20 1993
(Title) (Date)