

# **Exhibit 7**

May 20, 2008

~~Mr. Glenn Curtis  
Branch Chief  
Iowa/ Nebraska Remediation Branch  
Superfund Division  
USEPA Region VII  
901 North 5<sup>th</sup> Street  
Kansas City, Kansas 66101~~

RE: Des Moines TCE Site, Building Demolition  
DICO Response to USEPA Region 7 Letter of April 25, 2008

Dear Mr. Curtis

DICO Inc. refutes your allegations, stated in your letter dated April 25, 2008, of any hazardous release or threat of release of hazardous substances, pollutants or contaminants at the Des Moines TCE Site reflected in your "concerns" regarding the handling and disposal of insulation removed during the demolition of the buildings on DICO's property. The bases for the allegations are totally false, arbitrary in nature and not supported by any scientific evidence including but not limited to, EPA testing, EPA's own PCB regulations and previous reports exchanged between EPA and DICO.

DICO is stating these facts for the record in an attempt to stop the witch-hunt against DICO and attempts to settle old scores with a facility that was wrongly accused and subsequently shut down by bureaucracy resulting in the loss of over 250 jobs in Iowa. EPA's efforts should be dedicated to protecting the environment and our tax dollars must be used for such purposes and not for intentional, selective vindictive behavior by senior staff of your Region that still hold a "grudge" against DICO and its management.

**1) Chronological Order of Events:**

In March of 1994, USEPA issued a unilateral Administrative order for removal action under the authority granted by CERCLA section 106(a), 42 U.S.C. (9606A) to DICO Inc. (**attachment # 1**), a removal action plan was drawn and approved by your office during the same year costing DICO Inc. millions of dollars and 250 Iowa jobs.

Item 15 of this order (**Attachment #1**) states "Polychlorinated biphenyls (PCB's) have also been found in the buildings; PCB concentrations up to 29,000 mg/Kg have been detected in samples of the building insulation"; this data was based on a ONE TIME TEST in August 1992 by Eckenfelder Inc. (Des Moines South Pond Drainage Area Source Control Operable Unit 4) Building Sampling Analysis and Engineering

Evaluation Report (**Attachment #2**). This testing showed that the alleged high concentrations of PCB's referenced by USEPA were present in the Silver Foil Backing of insulation tiles in Buildings 4 (2700 PPM) and Building 5 (29,000PPM) respectively.

DICO raised many questions regarding the validity of the Eckenfelder tests and their findings to EPA. These concerns were based on a subsequent report issued by USEPA Region 7, in August of 1993 (Activity 3-KTX25) by Andrea Jirka, Chief, LLABO/ENSV, and (**Attachment 3**). The USEPA report neither reproduced any of the PCB results reported by Eckenfelder Inc. in August of 1992 (**Attachment2**), nor did it display any detectable PCB contamination (measured via wipe samples in micrograms which is a Unit 1000 times smaller than milligrams that was reported in the August 1992 report), in buildings 1,2,3,4 and 5 plus the maintenance building (see sampling location chart in the same USEPA report (**Attachment 3**). All the samples tested by the USEPA Laboratory were given the code "U", which is a term that can be interpreted as "Actual value of sample is < (less than) the measurement detection limit (definition extracted from the same USEPA LAB report **attachment #3**), or simply "Undetected". This definition of the term "U" should be well understood by USEPA senior staff to mean: PCB was NOT detected in the same areas where high PCB's were erroneously reported earlier in 1992 and therefore that report should not be used to crucify DICO and 14 years later to build more false and fabricated allegations in an attempt to settle old scores.

On October 19<sup>th</sup>, 1993, a final report was issued by USEPA for "in house analysis" for samples received from the DICO site on May 20<sup>th</sup>, 1993 signed by Mark Thomas, Project A42, (**Attachment #4**). Again, all the tested samples from all the buildings listed in the previous paragraph tested Negative for any component of PCB (AROCLORS) including those reported at 29,000,000 micrograms/Kg in the test conducted in 1992. At this stage, EPA should have investigated the reported values and even initiate more sampling to see why an area of an ALLEGED 29,000 mg/kg of PCB shows Non Detectable levels of the same PCB only less than a year later? This is evidence of the use of any errors in the system to justify the cause in persecuting DICO under false data to cause further harm as if the facility shutdown was not sufficient! Any junior chemistry student or even High school students can raise an eyebrow at such data especially when such data does not correlate with EPA in-house testing and in units that are ONE THOUSAND times less.

The EPA Laboratory report was also echoed in August of 1994 with further testing by ENSECO Corning Environmental Services (**Attachment#5**) where further wipe samples within the buildings were conducted sent under chain of custody associated with the Removal Action Plan OU#4 and found to have no PCB contamination. Furthermore, these results were also expressed in micrograms units which are 1000 times smaller than the milligram units used in the Eckenfelder report that EPA refers to as gospel, even though there are numerous data that prove the test was incorrect.

In June of 1994, tests were conducted by the APTUS EPA recognized laboratory on the backing tape and panels that allegedly displayed 29,000 milligrams/kg of PCB and detected only 28 parts per million. Copy of this report is included in attachment 6.

In spite of DICO's arguments regarding the intentional false PCB result(s) interpretation by USEPA, and in a good faith gesture, and in a report titled "Removal Action Final Report, Operating Unit 4, Removal Action, Des Moines TCE Site, DICO, Inc., (Attachment # 6), stated to the USEPA in 2.3.3., under **Insulation removal:**

*"At various locations within the buildings, some panels were falling from the ceilings. Since such damage would not be acceptable for painting later, these sections were replaced and/or repaired where necessary. In some buildings the ceiling insulation backing had been identified as containing PCB's in past investigations, and in these cases the panels were removed for disposal. Repairs of existing insulation and installation of new material was secured with tape to prevent gaps in coverage".*

During these activities, drums of alleged PCB waste were sent for incineration at a TSCA/RCRA EPA permitted facility (About 1008 pounds) on June 30<sup>th</sup>, 1994. Ironically, the APTUS in house laboratory tested the insulation panels including the backing tape on 6/30/1994 and found a total PCB concentration of 28Microgram per Gram! (See last page of attachment#6). This was in confirmation of the objections raised by DICO's General Counsel that the reported values in Eckenfelder report were erroneous and in this case they were exaggerated by a factor of 1000 (28PPM compared to the reported 29,000PPM) or in simple math, the results that USEPA based its wrong accusations on were off base by:

29,000 minus 28 = 28972 Divided by 28 multiplied by 100= + **103471.42%**.

DICO, however, did not stop at the above removal and disposal, between May 21<sup>st</sup>, 1994 (Attachment 7) and October 21<sup>st</sup>, 1994 (Attachment8), DICO shipped 54 X 55gallon drums of insulation to Westinghouse Environmental Services under Purchase order numbers 46890, dated 8/25/94 and 49101, dated10/21/94 at an estimated disposal cost of \$16,200. The EPA site personnel and their supervisors one of whom was the writer of the current EPA letter threatening of criminal penalties! Mr. Curtis was notified on May 13<sup>th</sup> of the proposed May shipment in a confirmed fax receipt attached within the exhibit titled (Attachment 9).

On February 5<sup>th</sup>, 1997 Ms. Mary Peterson of your office sent an EPA notice of completion of the removal work plan in accordance with paragraph 22.1 of the Administrative order highlighted above. In that report (Attachment #10), Ms. Peterson stated that "The report documents the completion of the activities necessary to bring this removal action to conclusion, with the exception of ongoing maintenance activities".

In accordance with the site maintenance enforced by USEPA, DICO collected further proof regarding the erroneous results used by USEPA to unfairly harass DICO with 14 years later. In a certified letter # Z180 081 571, addressed to Mr. Glenn Curtis and received at EPA on August 14, 2000 (the actual writer of the EPA letter to DICO that is being responded to within), (Attachment # 11). In all 23 samples were taken from the various buildings that USEPA requested monitoring via wipe tests, ALL SAMPLES tested BELOW MINIMUM DETECTION LEVELS at a detection limit of ONE MICROGRAM or ONE PART PER BILLION. If a contaminant is NOT detectable by

the approved EPA method of testing, then it is simply not there. DICO will prove further, later in this report that EPA Erred in reporting high PCB concentrations and using false data to harass DICO.

## **2) Wipe Samples Interpretation by EPA**

RCRA and TSCA cleanups result in wastes being shipped to various TSD facilities. Buildings and structures contaminated with or containing the removed wastes can be evaluated for hazardous or toxic materials using the "wipe test" and PCB removal.

*[Code of Federal Regulations, Title 40, Volume 30, Revised as of January 1, 2007, 40CFR761.61; PCB remediation waste]*

### **A) NON POROUS STEEL STRUCTURES:**

All Steel Structures within all DICO buildings were cleaned in 1994 to meet the requirements of 40CFR 761.79 (c), Please refer to the numerous attachments for wipe testing results, and methods used in cleaning to include Non-Thermal High Pressure Spray Cleaning Of Metallic materials Subpart S - Double Wash/Rinse Method For Non-Porous Surfaces followed by Measurement-Based Decontamination Under 40 CFR 761.79 (b) Self-Implementing Decontamination Under 40 CFR 761.79 (c). Therefore, DICO sees no reason to discuss the steel structures since the cleanup parameters were obviously met. Non Porous surfaces in all buildings were thoroughly cleaned, between May 9<sup>th</sup> to July 9<sup>th</sup>, 1994 (Attachments 18A and 18B). A Tennant 465 machine was used for buildings 3, 4 and 5 whilst a hot water pressure sprayer system station was used in buildings 1 & 2. Reports found within the enclosed attachments indicated that no PCB was detected in any of the floors wipe samples which renders this portion CLEAN per EPA definitions below.

***[4 (ii) Non-porous surfaces: In high occupancy areas, the surface PCB cleanup standard is  $\leq 10$  [micro gram/100 cm<sup>2</sup>] of surface area. In low occupancy areas, the surface cleanup standard is  $<100$  [microgram/100 cm<sup>2</sup>] of surface area. Select sampling locations in accordance with subpart P of this part or a sampling plan approved under paragraph (c) of this section.***

***(1) Decontamination in accordance with this section does not require a disposal approval under subpart D of this part.***

***(2) Materials from which PCBs have been removed by decontamination in accordance with this section may be distributed in commerce in accordance with § 761.20(c) (5).***

***(3) Materials from which PCBs have been removed by decontamination in accordance with this section may be used or***

***(4) Materials from which PCBs have been removed by decontamination in accordance with this section, not including decontamination waste and residuals under paragraph (g) of this section, are unregulated for disposal under subpart D of this part.***

## **B) INSULATION and POROUS WASTES:**

As this section pertains to Porous surfaces for example, insulation, (that is central to USEPA letter of accusations dated April 25<sup>th</sup>, 2008).

- I) In spite of the fact that the waste has been representatively sampled by independent contractors with the notification approval and oversight by Ms. Mary Peterson of the Superfund Section and Region 7 TSCA supervisor Mr. James Dworak. Samples were sent under proper chain of custody to USEPA recognized laboratory. Results indicating concentrations of 1.18mg/Kg (PPM) and 0.57mg/Kg (PPM) are attached to this response as (**Attachment 12**) & (**Attachment 13**) respectively. These are well below the minimum regulatory TSCA limit of 50mg/Kg (PPM). Samples were retained by Greenleaf Environmental per the request of Ms. Mary Peterson of the Superfund Division USEPA Region7.
  
- II) Despite the above findings and to avoid any future conflict with EPA, DICO exercised a “good Citizen” approach when our Consultant was authorized and directed to dispose of the two Semi truck Loads a TSCA facility. Dr George worked closely with Ms. Peterson and Mr. Dworak of USEPA and hired the services of a PCB contractor to handle the transportation and disposal of these loads as TSCA waste at a cost of approximately \$32,000 excluding Dr George’s time and travel costs. We enclose copies of the two manifests that reflect 60 Cubic Yards of benign insulation profiled (**Attachment 14**) received at the Nevada TSCA site (**Attachments 15 and 16**)
  
- III) 40CFR 761.61 describes the requirements for decontamination and suitability for disposal: *(iii) Porous surfaces. In both high and low occupancy areas, any person disposing of porous surfaces must do so based on the levels in paragraph (a)(4)(i) of this section. “(i) Bulk PCB remediation waste. Bulk PCB remediation waste includes, but is not limited to, the following non-liquid PCB remediation waste: soil, sediments, dredged materials, muds, PCB sewage sludge, and industrial sludge.”* Section B is applicable since some waste was allegedly deposited at a subtitle D facility: *(b) Low occupancy areas. (i) The cleanup level for bulk PCB remediation waste in low occupancy areas is <=25 PPM unless otherwise specified in this paragraph. Porous surfaces may be cleaned up for use in accordance with Sec. 761.79 (b) (4) or Sec. 761.30 (p).*
  
- IV) DICO has exhausted all humanly possible efforts to work with the USEPA and in fact went beyond any scope of work to exercise compliance. In DICO’s letter following the DICO facility inspection, DICO apologized for the oversight of not notifying Ms. Peterson of the demolition of Building 5, which was genuinely due to the departure of and rehiring of 3 environmental managers since September 2003. We are disappointed to see certain individuals within the Region attempt to hurt via

harassment, a company that they played a major role in shutting down close to 15 years ago. These individuals are threatening DICO under the cover of environmental releases knowing full well that any PCB panels had already been removed and destroyed in September and November 1994 without reading their own reports, understanding their own regulations because of the abuse of bureaucracy and power vested in them.

### C) Location of Insulation, Chronology of Events

Ms. Mary Peterson of your office sent DICO a letter dated November 8<sup>th</sup>, 2007, titled:

**Follow-up from September 2007 Site Inspection and Response to  
Recommendations in PER No. 21  
Des Moines TCE Site  
Des Moines, Iowa**

In this letter, Ms. Peterson requested further information regarding the whereabouts of the insulation and numerous issues related to the contractor, *Southern Iowa Mechanical (Jim Hughes,, 3043 Pawnee Drive, Ottumwa, IA 52501*. Immediately after this letter, DICO consulted with Dr George of George Technical Services to investigate the missing insulation and maintain contact with EPA and hence work accordingly. He contacted Ms. Peterson and exchanged all relevant information available at that time. It took over 2 weeks to establish a dialog with Mr. Hughes until Mr. Louis Barrentine of EME consultants managed to get some partial information. Brian Mills of Fehr Graham Consultants was also involved in an attempt to obtain information from Mr. Hughes. Finally, Dr George managed to reach Jim Hughes and discovered that he (Hughes) had "donated" the insulation to his employee, Ms. Sandy Beck of Malcolm, IA. The initial information was as follows :

- 1) The demolition activities at the site were conducted by Southern Iowa Mechanical (Mr. Jim Hughes- owner). The same company acquired the steel structures in an agreement with DICO. The following are facts based on Mr. Louis Barrentine's of EME (DICO site consultant) communications with Mr. Hughes.
  - a) Lighting fixtures, doors and miscellaneous materials were disposed of at the Metro Park East Landfill (Metro Park East Landfill, 12181 – 12<sup>th</sup> Avenue NE, Mitchellville, IA 50169).
  - b) Metal Siding (interior, exterior and roofing) was sent to Alter Metals Recycling (Alter Metal Recycling, 1801 E. Euclid Ave., Des Moines, IA 50313).
  - c) Mr. Hughes will send the relevant weight tickets provided by the Landfill and the Recycler. (never received)
  - d) Mr. Hughes referred to building insulation that remains without disposal in the Des Moines area.
  - e) The steel structures including the iron beams remain in the possession of Southern Iowa Mechanical (unassembled).

Dr George contacted Ms. Sandy Beck and discovered that she had the insulation at the Barn area. Mr. Brian Mills was dispatched immediately to get a representative sample and to quantify the insulation. It was reported that approximately one Semi load was there (approximately 30 cubic yards). Ms. Beck was advised to hold the insulation until we can remove it from her site. Although the insulation representative sample tested NON TSCA (less than 2PPM for PCB), DICO and consultants recommended removal due to age, to accommodate the fact that EPA asked to retrieve it.

DICO hired the services of a National Remediation Company, Greenleaf Environmental, 4943 Austin Park Avenue, Buford, GA 30518 ( Phone: 678.714.8420 • Fax: 678.714.8425) to conduct cleanup and disposal. Mr. Jeff Rothwell, President, contacted both Ms. Peterson (EPA Superfund) and copied the TSCA division on cleanup and disposal site(s) approval by the agency. He was given the green light to conduct the cleanup and use the services of the NV TSCA facility (See Manifests in attachments 15 and 16). Upon removing the insulation at Malcolm Iowa, it was discovered that another semi load exists at a Grinnell, IA location about 7 miles from the Malcolm site. The Greenleaf remediation team headed there and estimated an equivalent load to the Malcolm site. Again, Ms. Peterson was promptly notified and a second cleanup was scheduled. 30 more cubic yards were discovered which were loaded on a licensed truck and again hauled to NV. Testing indicated a mere 0.57PPM Total PCB was detected in insulation and backing paper adhesive. Copies of all manifests, Disposal Certificates, Profiles and testing was sent to Ms. Peterson at Region 7.

Meanwhile, Mr. Beck (Sandy's husband) notified the cleanup crew that his sons used some insulation in the barn attic. Dr George immediately contacted Ms. Beck and told her that to eliminate any concerns by EPA and to insure that removal was complete, the attic insulation must be removed. This was done while removing the Grinnell location and DICO replaced that portion for Ms. Beck with rolls of new insulation purchased locally.

In the interim, Ms. Peterson asked Dr George to have the weight tickets that Mr. Hughes obtained from the local WMI landfill to verify quantities. Dr George tried to no avail with Mr. Hughes exercising "radio silence" under the excuse that he was out of town". Finally, after Ms. Peterson contacted him, he called DICO and said he had one ticket only that has no waste description.

DICO has worked in good faith with EPA and went to extremes to do what EPA requested, knowing fully that the materials in questions displayed no PCB toxicity (25 times lower than USEPA TSCA characterization level of 50PPM). What followed of threats of criminal consequences and penalties was not what a totally cooperative Company deserves.

There is no question in reviewing the data and reports from 1992 through 2003, no test after the one in 1992, showed any PCB's over the regulatory limits of 50PPM. In fact, the report in March 1997, "Removal Action Final Report, Operational Unit 4 Removal Action, Des Moines TCE Site, DICO, INC., Page 6, Section 2.3.3. Insulation Repair/Removal" clearly states "In some of the buildings the ceiling insulation backing had been identified as containing PCB's in past investigation and in these cases the panels were removed for disposal." The tests for the disposed panels of insulation did not show PCB's but were destroyed in September and November 1994. Since, any insulation that showed any PCB level was destroyed which included the insulation that tested 29,000 PPM by Eckenfelder, Inc. DICO questioned these concentrations but still paid to have them destroyed as if they were PCB's.

The following responds to the questions you submitted to Dico in your April 25, 2008 letter.

- 1) What buildings or portions of buildings have now been demolished at the Dico Property and over what time period was each building demolished? Refer to the Site Map enclosed with this letter as Attachment B for building nomenclature.

Please see attached aerial photograph of the DICO site (attached) supplied by EME Environmental Solutions dated 12/11/07 shows the removed buildings during Fall 2007.

## **SELF EXPLANATORY AERIAL PHOTOGRAPH ATTACHED**

- 2) Identify each contractor used for these demolition activities and indicate which buildings each contractor worked on and the nature of the work performed, e.g., ABC Co was the general demolition contractor for all buildings, XYZ Co transported materials off-site for disposal of materials from Building 4/5.

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***Southern Iowa Mechanical (Jim Hughes, owner), 3043 Pawnee Drive, Ottumwa, IA 5250, General Contractor. We are unaware of any subcontractors that he hired. Mr. Curtis you are already aware of this as is Ms. Peterson since she has contacted him. The question is on what authority, since your own regulations state that if the test data show that at no time the regulatory levels were exceeded and in fact all EPA testing has non detected values. After the destruction of the alleged PCB insulation in 1994, we do not have to notify the EPA. Excuse DICO it is irrelevant what the law and regulations say, it is only what Mr. Curtis and Ms. Peterson decide is necessary to harass DICO.***

- 3) Provide the following information about the insulation removed from each building. If the information is different for various areas of the buildings, provide the information for each portion of a building.
- The name of the manufacturer, the brand name and commercial product name of the insulation.
  - The chemical composition and physical properties of the insulation.
  - The date the insulation was installed in each building and who did the installation.
  - Provide copies of all documents used to answer this question, including such things as product brochures, correspondence with the manufacturer or sales representative, purchase invoices and similar documents.
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*a) Because the DICO site predated the acquiring Company, we have no information on the glass wool insulation, or its manufacturer. The insulation that was either in poor condition or the insulations that EPA alleges displayed TSCA PCB readings was disposed off via incineration at APTUS and or Land-filled at the Westinghouse TSCA Landfill. See Attachment 6 enclosed within that was sent to Mr. Curtis during the 1994 remediation phase:*

*“Removal Action Final Report, Operating Unit 4, Removal Action, Des Moines TCE Site, DICO, Inc., (Attachment # 6), stated to the USEPA in 2.3.3., under Insulation removal:*

*“At various locations within the buildings, some panels were falling from the ceilings. Since such damage would not be acceptable for painting later, these sections were replaced and/or repaired where necessary. In some buildings the ceiling insulation backing had been identified as containing PCB’s in past investigations, and in these cases the panels were removed for disposal. Repairs of existing insulation and installation of new material was secured with tape to prevent gaps in coverage”.*

- The only information that we managed to assert from experience and previous site reports that it was Fiberglass material with paper and foil backing. Chemical composition is unknown but then you have all this information in your own reports and know the answer because you thought we would not go back and dig out the information ourselves, shame on you Mr. Curtis.*
- We have no information on neither the date of installation nor who installed it But according to your own records, you have this information, so there is no point in my researching it.*
- Due to the age of these buildings, and the 1993 flood, we have no available brochures for this material. But according to former DICO employees, you already had been given this information.*

- 4) Describe the actions taken to prepare for the building demolition, including:
- a. Whether any samples of the insulation or structural components in contact with or close proximity to the insulation were collected for chemical analysis.
  - b. Whether certain materials or portions of the buildings were identified for special handling and disposal.
  - c. Whether a health and safety plan was prepared for the demolition work.
  - d. Whether an asbestos inspection was completed prior to demolition of the buildings.
  - e. Provide copies of all inspection reports, reports of analysis, recommendations for special handling of any materials to be removed, and health and safety plans for the demolition.
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- a) *Most recent samples were collected from both Insulation batches removed from the buildings demolished. Results were forwarded & discussed with Ms. Peterson and the TSCA division of region 7, both insulation/ backing combos were less than 2PPM of total PCB. Chains of custody, QA/QC. Old questionable & biased analytical dated March, 1992 showed that up to 29,000 PPM of total AROCLOR was present in Building 5! DICO General Counsel contested these results based on the evidence presented, again, in this text. The above answer to question 4a should be sufficient to address your concern that all TSCA insulation was removed during the above cleanup in 1994. See Attachment 6. But, Mr. Curtis and Ms. Peterson, both of you already knew that there were no more PCB insulation left since you both oversaw the remediation and knew of the 1997 and 2003 letters, yet you still have proceeded with this harassment.*
- b) *Ms. Mary Peterson released the buildings for demolition and/or disposal in her letter to DICO notifying of the approval of the work plan dated September 3<sup>rd</sup>, 2003. But, DICO forgot it isn't relevant what EPA or its own regulations state, it is only what Mr. Curtis and Ms. Peterson decide, you are antonymous.*
- c) *DICO cannot be responsible for contractor misrepresentation. Contractor apparently omitted preparing a H&S Plan. However, the buildings were tested and wipe tests of non porous surfaces were proven non detectable for PCB's per EPA and Titan Analytical reports exhibited in the various attachments herein But, Mr. Curtis and Ms. Peterson, the EPA has numerous reports and testing data that show there were no levels of PCB found after the destruction of the alleged PCB contamination in 1994 So. There was no H&S Plan required under your own regulations, especially after Ms. Peterson's 1997 and 2003 letters.*
- d) *Asbestos was not listed as a contaminant of the above buildings in the available EPA reports and hence neither EPA nor IDNR requested any follow-up on this issue whether in the EPA orders or in the approval of the revised work plan received from Ms. Peterson in September of 2003. But, DICO forgot, it is only what Mr. Curtis and Ms. Peterson decide not the reports or test data.*

e) *Please refer to EPA regulations listed below and discussed in “details” in the text of this response. EPA should be aware of its own regulations:*

All Steel Structures within all DICO buildings were cleaned in 1994 to meet the requirements of 40CFR 761.79 (c), Please refer to the numerous attachments for wipe testing results, and methods used in cleaning to include Non-Thermal High Pressure Spray Cleaning Of Metallic materials Subpart S - Double Wash/Rinse Method For Non-Porous Surfaces followed by Measurement-Based Decontamination Under 40 CFR 761.79 (b) Self-Implementing Decontamination Under 40 CFR 761.79 (c):

Therefore, DICO sees no reason to discuss the steel structures since the cleanup parameters were obviously met. [4 (ii) *Non-porous surfaces: In high occupancy areas, the surface PCB cleanup standard is  $\leq 10$  [micro]g/100 cm<sup>2</sup> of surface area. In low occupancy areas, the surface cleanup standard is  $<100$  [micro]g/100 cm<sup>2</sup> of surface area. Select sampling locations in accordance with subpart P of this part or a sampling plan approved under paragraph (c) of this section. Oh, DICO should not cite your own regulations!!*

(i) *Decontamination in accordance with this section does not require a disposal approval under subpart D of this part.*

(ii) *Materials from which PCBs have been removed by decontamination in accordance with this section may be distributed in commerce in accordance with § 761.20(c)(5).*

(iii) *Materials from which PCBs have been removed by decontamination in accordance with this section may be used or”*

(iv) *Materials from which PCBs have been removed by decontamination in accordance with this section, not including decontamination waste and residuals under paragraph*

(v) *of this section, are unregulated for disposal under subpart D of this part.”]*

Insulation (Porous) was sampled by independent contractors with the notification approval and oversight by Ms. Mary Peterson of the Superfund Section and Region 7 TSCA supervisor Mr. James Dworak. Samples were sent under proper chain of custody to USEPA recognized laboratory. Results indicating concentrations of 1.18mg/Kg (PPM) and 0.57mg/Kg (PPM) are attached to this response as (Attachment 12) & (Attachment 13) respectively. These are well below the minimum regulatory TSCA limit of 50mg/Kg (PPM). Samples were retained by Greenleaf Environmental per the request of Ms. Mary Peterson of the Superfund Division USEPA Region7.

5) Provide copies of all notices of the planned demolition activities submitted to any local, state, or federal agency and of all responses received from any such agency.

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No notification was made nor was it required but DICO promptly apologized, it was genuinely due to the departure of and rehiring of 3 environmental managers since September 2003. No notice was required to be made to the EPA under their own regulations since all PCB insulation was removed in 1994, which both you and Ms. Peterson were and are aware of since you have had all the information from 1994 and

1997 reports test data.. You finally have a co-conspiracy now that you have Ms. Peterson involved in your harassment of DICO.

- 6) Provide copies of all permit applications filed with any local, state or federal agency in connection with the demolition activities and of all permits that were issued for the demolition.
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No permits were necessary per EPA TSCA rules. Permits are NOT required when Site cleanup parameters are obviously met; your staff has to be aware of applicable rules. In this instance all rules were adhered to by DICO; Copies of EPA in House Testing plus that of DICO consultants are included within the text. I refer to your own rules:

*. [4 (ii) Non-porous surfaces: In high occupancy areas, the surface PCB cleanup standard is  $\leq 10$  [micro]g/100 cm<sup>2</sup> of surface area. In low occupancy areas, the surface cleanup standard is  $<100$  [micro]g/100 cm<sup>2</sup> of surface area. Select sampling locations in accordance with subpart P of this part or a sampling plan approved under paragraph (c) of this section.*

*(1) Decontamination in accordance with this section does not require a disposal approval under subpart D of this part.*

*(2) Materials from which PCBs have been removed by decontamination in accordance with this section may be distributed in commerce in accordance with § 761.20(c)(5).*

*(3) Materials from which PCBs have been removed by decontamination in accordance with this section may be used or”*

*(4) Materials from which PCBs have been removed by decontamination in accordance with this section, not including decontamination waste and residuals under paragraph (g) of this section, are unregulated for disposal under subpart D of this part.”]*

40CFR 761.61 describes the requirements for decontamination and suitability for disposal: *(iii) Porous surfaces. In both high and low occupancy areas, any person disposing of porous surfaces must do so based on the levels in paragraph (a)(4)(i) of this section. “(i) Bulk PCB remediation waste. Bulk PCB remediation waste includes, but is not limited to, the following non-liquid PCB remediation waste: soil, sediments, dredged materials, muds, PCB sewage sludge, and industrial sludge.”*

Section B is applicable since some waste was allegedly deposited at a subtitle D facility:

*(b) Low occupancy areas. (i) The cleanup level for bulk PCB remediation waste in low occupancy areas is  $\leq 25$  PPM unless otherwise specified in this paragraph. Porous surfaces may be cleaned up for use in accordance with Sec. 761.79 (b)(4) or Sec. 761.30 (p).*

- 7) Provide copies of all documents relating to actions taken to verify that the disposal facility to which the building insulation was to be sent complied with the acceptability requirements of 40 CFR 300.440.
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Please refer to the response to your question 6 and the attachments referenced. Also in spite of the clean status achieved by DICO and acknowledged by EPA testing and

communications with the writer of this letter, plus Ms. Peterson's notice of completion dated February 5<sup>th</sup>, 1997, of the removal work plan in accordance with paragraph 22.1 of the Administrative Order highlighted above. In that report (**Attachment #10**), Ms. Peterson stated that "**The report documents the completion of the activities necessary to bring this removal action to conclusion**, with the exception of ongoing maintenance activities".

Even with the above findings and to avoid any future conflict with EPA, DICO exercised a "good Citizen" approach when our Consultant was authorized and directed to dispose of the two Semi truck Loads a TSCA facility. Dr George worked closely with Ms. Peterson and Mr. Dworak of USEPA and hired the services of a PCB contractor to handle the transportation and disposal of these loads as TSCA waste at a cost close to \$32,000 excluding Dr George's time and travel costs. We enclose copies of the two manifests that reflect 60 Cubic Yards of benign insulation profiled (**Attachment 14**) received at the Nevada TSCA site (**Attachments 15 and 16**) All of our reports and testing after this continued to show PCB concentrations at a worst case scenario, that are 42 times lower than EPA regulatory limit, which would be correct since all suspected PCB insulation had been disposed of in 1994. If that had not been so, we would not have been given the letter on February 5<sup>th</sup>, 1997 by Ms. Peterson. Your threats Mr. Curtis are proven to show that your April 25, 2008 letter to be completely false and just another one of your harassment tactics aimed at DICO.

- 8) Describe in detail how each of the buildings was demolished, including for each building:
    - a. The dates the demolition activities began and ended.
    - b. How the metal structures were taken down.
    - c. Whether the insulation was removed prior to the building structures being taken down.
    - d. How the insulation was separated from the metal building structures.
    - e. Where on the Dico property the insulation was handled and stored.
    - f. What steps were taken to separate the insulation from other demolition debris.
    - g. How much insulation was removed.
    - h. Whether post-demolition sampling was conducted of the insulation or other materials.
    - i. What health and safety measures taken during demolition to protect workers from exposure to potentially hazardous materials.
- 

Post demolition sampling was conducted on both loads of insulation and results of the testing indicated a non-TSCA status. See attachments 12 & 13 by USEPA accredited laboratories and sampled by an independent contractor.

- 9) Provide copies of all results of all analyses of samples taken of the insulation or other building materials after demolition
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This response contains ample attachments of old and new testing including but not limited to EPA in house lab reports, TSD testing data and the annual maintenance wipe testing conducted until Ms. Peterson's approval of DICO plan in 2003.

See attachments 12 & 13 for new testing, regarding your issue of "concern" and your in house testing for the non porous surfaces (Attachments 4&5). A detailed report issued by Greenleaf Environmental (attachment 17). Mr. Curtis you are well aware that all the PCB insulation was removed, land filled or destroyed in 1994, because you over saw the remediation. Again, you have tried to bully and threaten DICO into spending money that you knew was not required. Mr. Curtis you seem to forget that I was at DICO during this time and knew that the testing of the PCB's were faulty and the testing after 1992 showed that they were faulty but we appeased you at that time and destroyed the insulation even though EPA's own testing showed no detectable PCB level. Then and now you have caused DICO to spend money that your regulations state are not necessary, but again we forgot, it is not relevant what the regulations say, only what you and Ms. Peterson say.

10) Provide copies of all photographs or video recordings taken of the demolition activities.

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No photographs or video recordings were made by DICO. The General Contractor could be asked if he possesses any of the above. His name, address and telephone is listed above in this response. But again, this is not required, since test data from 1993 shows no PCB's above EPA limits. Again, DICO forgot, only the test data you and Ms. Peterson choose is relevant.

11) Identify each individual who participated in the decision to have the buildings demolished and provide a description of the role each individual played in the decision-making process.

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As we stated earlier, DICO Management made the decision to initiate demolition based on the understanding that the buildings were released by Ms. Peterson in September of 2003 Approval of Plans. In fact, DICO has on numerous occasions stated to Ms. Peterson that the buildings would be sold and demolished.

- 12) Describe in detail how the insulation was transported off-site, including:
- a. Identifying each transporter.
  - b. Providing the PCB Activity Database identification number for each transporter
  - c. Describing the types and load capacity of the vehicles used to transport the insulation.
  - d. Describing how the insulation was stored prior to being loaded for transport off-site.
  - e. Describing how the insulation was loaded onto the vehicles.
  - f. Indicating the number of loads of insulation, including insulation comingled with other materials transported off-site; and
  - g. Indicating the total volume of insulation transported off-site.
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DICO refutes your allegations that the demolition debris was a TSCA waste. Please refer to your in-house testing in attachments 4 & 5 plus all the testing attachments included in this response. The latest being the sampling of the insulation in question by an

independent contractor and analyzed by two EPA recognized National Laboratories. These Demolitions did NOT include any TSCA wastes. OH, we forgot, it doesn't matter what the regulations say, it is only what Mr. Curtis and Ms. Peterson state regardless what the regulations have to say.

- 13) Your January 22, 2008, letter to Mary Peterson, EPA's Remedial Project Manager ("RPM"), states that insulation, lighting fixtures, doors and miscellaneous materials were taken to the Metro Park East Landfill. Were these materials commingled in shipment or were they segregated for shipment? What information was provided to the Metro Park East Landfill about the presence of PCBs in the insulation removed from the Dico Buildings? Were any demolition materials taken to a disposal location other than the Metro Park East Landfill?
- 

We have requested detailed information from Mr. Hughes (General contractor) to no avail. Attempts to contact him via Mr. Louis Barrentine, Mr. Brian Mills and Dr. Gazi George did not result in any progress and in fact only confusion. All details available was relayed by Dr George to Ms. Peterson. Mr. Hughes did not produce any weight tickets or any detailed documents of contents. He answered that "he was not there and that he'll ask his workers". Please refer to the Codes of Federal Regulations listed above to clarify to your staff that although we are not aware of any insulation going to the WMI landfill because of confusing statements by the General Contractor, the demolition debris including insulation was proven to be NON TSCA waste per EPA testing, Insulation sampling in attachments 12 & 13 and subsequent testing by DICO after the removal and remediation was completed. But, Mr. Curtis and Ms. Peterson already know that all the alleged PCB insulation was destroyed in 1994 since they over saw the site cleanup but DICO forgot the test results and reports are meaningless, only what Mr. Curtis and Ms. Peterson have to say is relevant. Harassment by EPA officials is part of the regulations of Mr. Curtis and Ms. Peterson.

- 14) In paragraph 6.f. of your January 22, 2008, letter you mention two loads of insulation that had not been disposed of at the Metro Park East Landfill at the time your letter was written. In communications with Mary Peterson, Dr. Gazi George described this material as two semi truck loads of insulation. He further indicated that at least one of the two truck loads of insulation went to a farm to insulate a barn. The other truck load had not been located. Information obtained from other sources indicates that at least portions of the insulation from the two truck loads were used to insulate one or more private residences. Describe in detail the steps taken to locate these two loads of insulation, including providing the addresses of all locations to which insulation from the demolition of buildings on the Dico property was taken, the property owner's name and telephone number, and, whether the insulation has now been removed from each location. If the insulation has now been removed, provide the date of removal and identify each individual who participated in the removal. This request includes but is not limited to information about the efforts made by Greenleaf Environmental to locate and retrieve insulation.
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The first load was found at the Beck farm located at 1278 Old Six Road, Malcolm, IA 51057. This was removed on March 20<sup>th</sup>, 2008 and filled a semi truck of a volume capacity of 30 cubic yards. Ms. Sandy Beck stated that her "kids" insulated a portion of

the attic. Dr Gazi George contacted her immediately and told her that the insulation will be removed and that DICO will provide brand new insulation to replace the DICO insulation. This work was completed on April 15<sup>th</sup>, 2008. The other location was at: 755 460<sup>th</sup> Avenue, Grinnell, IA 51507 (about 7 miles from the first site). Mr. Beck "donated this to a neighbor". This was removed on April 15<sup>th</sup> and shipped to USE-Beatty, NV. DICO is not aware of any other location for any insulation. Please refer to the Greenleaf report (Attachment 17), for all activities at the sites and copies of testing protocols, laboratory results , approvals (profiles), manifests and certificates of disposal. You can also see the relevant photographs for each site. Again, the EPA was provided with all this information but Mr. Curtis and Ms. Peterson want it again and again, no matter what the regulations state. They delight in harassing DICO.

- 15) Describe all sampling conducted at each of the properties to which any of the insulation from the two loads described above were taken to verify there was no residual PCB contamination remaining from the insulation.

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Samples were taken by DICO contractors Greenleaf Environmental Group, Inc. of 4943, Austin Park Avenue, Buford, GA 30518 (Phone: 678- 714- 8420). Mr. Jeff Rothwell, CHMM supervised the sampling and removal throughout the location of both loads. He was in direct contact with Mary Peterson of USEPA and Mr. James Dworak of the EPA TSCA division to insure that proper procedures were followed. All chains of custody, testing, manifests, approvals and inquiries were communicated directly to EPA. In addition, Mr. Rothwell issued a Work Summary Report dated 4/18/2008 to highlight all aspects of their involvement in this project (Attachment 17). Please refer to this document to answer all your questions above. Oh no, we now have another EPA individual Mr. James Dworak involved in harassment of DICO, since he was privy to the test showing no detectable PCB in the test results, but instead of stating there was no need for disposal under TSCA, he went along with Mr. Curtis and Ms. Peterson in spite of what the regulations state. Mr. Curtis, Ms. Peterson and Mr. Dworak testing of both insulation samples obtained from both sites indicated, and scientifically proved that the insulation displayed a maximum concentration of total PCB (AROCLORS) of 1.18PPM. This is close to 42 times lower than the TSCA characterization concentration listed in the Codes of Federal Regulations. If the source shows this level of PCB then surely the floor in the barn would be way less than this level. The contractor dedicated ample time for cleaning the sites. As stated earlier, the insulation that was discovered in the attic was totally removed and replaced at our cost with new rolls of insulation purchased from the hardware store. This in spite of the EPA rules in 40CFR 761.61 for porous surfaces allow for reuse, DICO opted to replacing the insulation. Especially, after the scare tactics used by the EPA, stating that the insulation contained PCB's knowing that this was false and the testing proved it was false. Again DICO forgot, the test results are irrelevant only what Mr. Curtis, Ms. Peterson and Mr. Dworak say, to heck with the regulations and test results that have been confirmed since 1993 by EPA testing and other consultants.

16) Provide the following:

- a. The name, address and telephone number of each individual or company that participated in activities related to locating the insulation or conducting sampling.
  - b. Copies of all results of these analyses.
  - c. Copies of any reports prepared with respect to the cleanup activities at each property.
  - d. Bills of lading, manifests, and other shipping records relating to shipment of insulation from each of these locations to a storage or disposal facility.
  - e. Photographs showing the insulation as it was stored, used or installed at each of these locations.
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a)

- (i) Mr. Louis Barrentine, EME consulting, 2030 Castleman Drive, Nashville, TN 37215 (615-463-0026).
- (ii) Mr. Brian Mills, Fehr- Graham & Associates: Environmental Coordinator' DICO inc. P.O. Box 1616 Des Moines, IA 50306 (515-265-9363).
- (iii) Dr. Gazi George, George Technical Services Inc., Box 81083 Rochester, MI 48308 (515- 710- 9654).
- (iv) Mr. Jeff Rothwell and crew: Greenleaf Environmental Group, Inc. of 4943, Austin Park Avenue, Buford, GA 30518 (Phone: 678- 714- 8420).

- b) Please refer to the Greenleaf report for the complete testing documents (Attachment 17).
- c) Copy of Greenleaf report is enclosed with this response.
- d) Copy of Greenleaf report is enclosed with this response. DICO was not successful in obtaining any information from Mr. Hughes especially the weight tickets and/or steel that went to Alter smelter.
- e) Photographs are included in the Greenleaf detailed report (attachment 17).

17) Is there any insulation that has not yet been accounted for? If so, indicate how much material has not been accounted for and describe the steps to be taken to locate this material.

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To the best of our knowledge, there is no other known location aside from the locations mentioned in this response. Oh, but DICO bets you will claim that isn't true.

18) Information available to EPA indicates that Southern Iowa Mechanical purchased at least some of the structural components of the Dico Buildings. Describe the terms of this transaction and provide copies of all documents relating to this transaction.

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Since, the issue was only insulation, and not the building structures per Ms. Peterson, is this just your curiosity? DICO cannot find any documents at this time.

19) Provide copies of the following documents:

- a. All requests for proposal and other documents issued soliciting bids for demolition of the Dico structures.
  - b. Correspondence with Southern Iowa Mechanical or Mr. Jim Hughes regarding demolition of the buildings.
  - c. All contracts with Southern Iowa Mechanical or Mr. Jim Hughes for the demolition of the Dico structures.
  - d. All information provided to Southern Iowa Mechanical regarding either the presence of PCBs in the insulation or the need for special handling or disposal of the insulation.
  - e. All bills of lading, shipping manifests, or other records documenting where the insulation was taken when it left Dico's property, the amounts taken, by whom it was transported, and when it was transported to each location.
  - f. All results of analyses of insulation obtained prior to or during the demolition process.
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DICO has provided all the information on tests results, reports and correspondence in this matter already.

The DICO site should have been closed years ago, but because of pettiness this has not been done. It is time to allow the wells to be closed and the site released.

Sincerely,



Cheri T. Holley

cc: Mr. Stephen L. Johnson with exhibits  
Mr. John Askew with exhibits  
Mr. James Dworak with exhibits  
Ms. Mary Peterson without exhibits  
Mr. Maurice Taylor without exhibits  
Mr. Gazi George without exhibits  
Mr. Stan Reigel with exhibits ✓