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11 Continued After Caption

12  
13 IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

14 \_\_\_\_\_ )  
15 UNITED STATES OF AMERICA and )  
STATE OF CALIFORNIA, DEPARTMENT )  
16 OF TOXIC SUBSTANCES CONTROL, )  
17 Plaintiffs, )  
18 vs. )  
19 )  
20 LOCKHEED MARTIN CORPORATION; CITY )  
OF BURBANK, CALIFORNIA, a Charter )  
21 City; WEBER AIRCRAFT, INC.; ACCRA- )  
TRONICS SEALS CORPORATION; WILLIAM )  
22 H. FISCH TRUST, DATED OCTOBER 29, )  
1993; JONES FAMILY TRUST, DATED )  
23 MAY 14, 1993; ADLER SCREW PRODUCTS, )  
INC.; EIRIK LIRHUS; BERGLJOT )  
24 LIRHUS; LIRHUS FAMILY TRUST; )  
AEROQUIP CORPORATION; TRINOVA )  
25 CORPORATION; A-H PLATING, INC.; )  
THE WASCHAK FAMILY TRUST; )  
26 JOHN P. WASCHAK; MELBA R. )  
WASCHAK; AVIAL SERVICES, INC.; )  
27 AVICA, INC.; MCENTEE FAMILY )  
PARTNERSHIP; B.J. GRINDING, INC.; )  
28 ROBERT J. HOISETH; GLENDA HOISETH; )

CIVIL ACTION NO. 91-  
4527-MRP (Tx)  
  
SECOND CONSENT DECREE  
FOR SAN FERNANDO VALLEY  
SUPERFUND SITE, BURBANK  
OPERABLE UNIT

1 HOISETH FAMILY TRUST; JOSEPH F. )  
BANGS, DBA BANGS MANUFACTURING )  
2 COMPANY; BANGS TRUST, DATED )  
OCTOBER 3, 1990; MEL BERNIE & )  
3 COMPANY, INC., DBA ACCESSORY )  
PLATING AND 1928 JEWELRY LTD.; )  
4 LAURIE S. BERNIE AND MELVYN J. )  
BERNIE, AS TRUSTEES OF THE BERNIE )  
5 TRUST; THE BERNIE TRUST; BURMAR )  
METAL FINISHING CORP. DBA BARRON )  
6 ANODYZING AND PAINT; CRANE CO., )  
HYDRO-AIRE DIVISION; DELTRON ENGI- )  
7 NEERING, INC.; FILIJAN AND KUEBLER )  
PROPERTIES; MICHAEL FILIJAN; TONY )  
8 KUEBLER; HYDRA-ELECTRIC COMPANY; )  
DAVIS INDUSTRIES, INC.; JANCO )  
9 CORPORATION, BKT ENTERPRISES, )  
INC.; JOSLYN CORPORATION, LLC, )  
10 FKA JOSLYN CORPORATION, JOSLYN SUN-)  
BANK COMPANY, LLC FKA JOSLYN )  
11 SUNBANK CORPORATION; OCEAN )  
TECHNOLOGY, INC.; TEXTRON, INC.; )  
12 HR TEXTRON INC.; PACIFIC PARTNER-)  
SHIP; SARGENT INDUSTRIES, INC.; )  
13 ANTONINI FAMILY TRUST; MARIO )  
E. ANTONINI AND MARISI A. )  
14 ANTONINI, TRUSTEES; SIERRACIN )  
CORPORATION; INDUSTRIAL BOWLING )  
15 CORPORATION; R&G SLOANE )  
MANUFACTURING CO., INC.; )  
16 SPACE-LOK, INC., LERCO DIVISION; )  
THE ESTATE OF ALBINA BREBBIA; )  
17 CHRISTINA COGAR, INDIVIDUALLY )  
AND AS EXECUTRIX FOR THE ESTATE )  
18 OF ALBINA BREBBIA; STAINLESS )  
STEEL PRODUCTS, INC.; ZIMMERMAN )  
19 HOLDINGS, INC.; THE UHLMANN )  
OFFICES, a California corporation; )  
20 SUNHILL PARTNERS, a California )  
partnership; STEVE'S PLATING )  
21 CORPORATION; TERRY S. KNEZEVICH; )  
UNIFACTOR, INC., WALTON R. EMMICK; )  
22 CLELTA SPELMAN; DIANE BARR; ELAINE )  
S. BARR; THE HOMER R. BARR AND )  
23 ELAINE S. BARR FAMILY TRUST; )  
L.A. GUAGE COMPANY, INC.; )  
24 TWISS HEAT TREATING CO., INC. )  
DBA TWISS HEAT TREATING CO.; )  
25 THE WILLIAM E. AND EVELYN TWISS )  
FAMILY TRUST; WILLIAM E. TWISS )  
26 AND EVELYN TWISS; W AND E TWISS )  
TRUST; VALLEY ENAMELLING CORP.; )  
27 )  
28 )

1 DENISE E. MCLAUGHLAN; SHARYN E. )  
SCHRICK; SANDRA E. BOWMAN; )  
2 HM HOLDINGS, INC.; PH BURBANK )  
HOLDINGS, INC., )  
3 )  
Defendants. )  
4 )

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1  
2 CONSENT DECREE

3 I. BACKGROUND

4 A. Summary of Site Background.

5 The following is a summary of the Site background as alleged  
6 by the United States which, for the purposes of this Consent  
7 Decree, Settling Defendants neither admit nor deny:

8 1. The United States of America ("United States"), on  
9 behalf of the Administrator of the United States Environmental  
10 Protection Agency ("EPA"), and the State of California Department  
11 of Toxic Substances Control ("State") have filed concurrently  
12 with this Consent Decree a supplemental complaint pursuant to  
13 Sections 106 and 107 of the Comprehensive Environmental Response,  
14 Compensation, and Liability Act, 42 U.S.C. §§ 9606 and 9607  
15 ("CERCLA"), as amended by the Superfund Amendments and  
16 Reauthorization Act of 1986 ("SARA").

17 2. The United States and the State in the supplemental  
18 complaint, seek, inter alia: (1) reimbursement of costs of  
19 response incurred by EPA, the Department of Justice, and the  
20 State for response actions at the Burbank Operable Unit Site  
21 ("Site") of the San Fernando Valley Superfund sites, with accrued  
22 interest; and (2) performance of response work by the Defendants  
23 at the Site consistent with the National Contingency Plan, 40  
24 C.F.R. Part 300 (as amended) ("NCP").

25 3. This is the second complaint the United States has  
26 filed in this action. Pursuant to the first complaint, a consent  
27 decree ("First Consent Decree") was entered by this Court on  
28

1 March 25, 1992. A copy of the First Consent Decree is included  
2 as Exhibit 1 to this Consent Decree. Under Section XXIII  
3 (Continuing Jurisdiction) of the First Consent Decree, this Court  
4 retained jurisdiction over both the subject matter and the  
5 parties to the original action for the duration of the First  
6 Consent Decree and for the purpose of issuing such further orders  
7 or directions as may be necessary or appropriate to construe,  
8 implement, modify, enforce, terminate or reinstate the terms of  
9 the First Consent Decree or for any further relief as the  
10 interest of justice may require.

11 4. The First Consent Decree provided for the  
12 defendants to the first complaint, Lockheed Corporation (now  
13 Lockheed Martin Corporation, hereinafter "Lockheed Martin"), the  
14 City of Burbank, and Weber Aircraft, Inc. ("Weber"), to fund  
15 and/or to perform certain response actions at the Site, and for  
16 Lockheed Martin and Weber to pay certain costs of response  
17 incurred by EPA and the Department of Justice with respect to the  
18 Site. This consent decree ("Second Consent Decree" or "this  
19 Consent Decree") provides for the defendants that have entered  
20 into this Consent Decree (collectively, "Settling Defendants") to  
21 fund and/or to perform the remainder of the response actions and  
22 to pay part of EPA's, the Department of Justice's, and the  
23 State's remaining costs of response for the Site. In general,  
24 the Second Consent Decree provides for the continued operation  
25 and maintenance of (1) the facilities constructed under the First  
26 Consent Decree, and (2) the facilities constructed under EPA  
27 Unilateral Administrative Order No. 92-12 ("UAO 92-12") by the  
28

1 parties to UAO 92-12 ("UAO Parties"), during the final eighteen  
2 years of the interim remedy operating period. The Second Consent  
3 Decree further provides for: (a) the performance of the UAO  
4 Remedial Action Work by the UAO Parties (who are all Settling  
5 Defendants), pursuant to UAO 92-12, to the extent that work has  
6 not been completed at the time the Second Consent Decree is  
7 entered; and (b) the possible dismantling or decommissioning of  
8 these facilities upon completion of the interim remedy.

9           5. Tests conducted on San Fernando Valley groundwater  
10 in the early 1980's revealed significant concentrations of  
11 volatile organic compounds ("VOCs") in San Fernando Valley basin  
12 ("Basin") groundwater. The primary VOCs found in the Basin  
13 groundwater were trichloroethylene ("TCE") and perchloroethylene  
14 ("PCE"), which were widely used solvents in machinery degreasing,  
15 metal plating and dry cleaning. TCE and PCE have been found at  
16 the Site at levels that exceed the Maximum Contaminant Levels  
17 ("MCLs") for these hazardous substances. MCLs are safe drinking  
18 water standards established under the Safe Drinking Water Act of  
19 1974, as amended, 42 U.S.C. § 300f et seq. The Federal MCL for  
20 TCE and PCE is 5 parts per billion ("ppb").

21           B. Based on investigations of Basin groundwater, and  
22 pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, in June 1986  
23 EPA placed four well field sites in the San Fernando Valley on  
24 the National Priorities List, set forth at 40 C.F.R. Part 300,  
25 Appendix B, by publication in the Federal Register (see 51 Fed.  
26 Reg. 21054): (1) the North Hollywood Superfund site (Area 1);  
27 (2) the Crystal Springs Superfund site (Area 2); (3) the Pollock  
28

1 Superfund site (Area 3); and (4) the Verdugo Superfund site (Area  
2 4).

3 C. EPA is conducting a Basin-wide Remedial Investigation  
4 and Feasibility Study ("RI/FS") for the San Fernando Valley  
5 Superfund sites, which EPA manages as one large Superfund site.  
6 EPA has also entered into a multi-site cooperative agreement with  
7 the California Department of Health Services ("DHS") which funds  
8 DHS participation in remedial activities at many California  
9 Superfund sites, including the San Fernando Valley sites. In  
10 September of 1989, EPA entered into a cooperative agreement with  
11 the California State Water Resources Control Board ("SWRCB").  
12 Under that cooperative agreement, SWRCB funds the Los Angeles  
13 Regional Water Quality Control Board's ("RWQCB") ongoing source  
14 investigation and source control work in the Basin.

15 D. EPA has designated four operable units within the San  
16 Fernando Valley Superfund sites known as the North Hollywood,  
17 Burbank, Glendale North and Glendale South operable units. This  
18 Site, the Burbank Operable Unit Site, is one of those four  
19 operable units.

20 E. EPA has issued interim Records of Decision ("RODs")  
21 prescribing interim remedies for each of these operable units.

22 F. The Site is part of the North Hollywood (Area 1)  
23 Superfund site, and is the second operable unit in the Basin for  
24 which EPA has issued an interim ROD. The Site includes the  
25 northeast corner of the North Hollywood Superfund site, as well  
26 as the areas to which the plume of TCE and PCE has spread beyond  
27 the original boundaries drawn at the time the North Hollywood  
28

1 Superfund site was listed on the NPL.

2 G. EPA completed an Operable Unit Feasibility Study  
3 ("OU/FS") Report on the Site in October 1988.

4 H. The comment period on the OU/FS Report and the Proposed  
5 Plan for the Site opened on October 19, 1988 and closed December  
6 2, 1988. Pursuant to Section 117 of CERCLA, 42 U.S.C. § 9617,  
7 EPA published notice of the completion of the OU/FS and of the  
8 Proposed Plan in two major local newspapers of general  
9 circulation, the Los Angeles Times and the Burbank Leader. EPA  
10 provided an opportunity for written and oral comments from the  
11 public on the Proposed Plan for remedial action. A copy of the  
12 transcript of the public meeting is available to the public as  
13 part of the Administrative Record upon which the Regional  
14 Administrator based the selection of the interim response actions  
15 selected for the Site.

16 I. EPA issued an interim ROD for the Site on June 30, 1989,  
17 which the State had a reasonable opportunity to review. A copy  
18 of the ROD is appended as Appendix A to the First Consent Decree.  
19 The ROD included a responsiveness summary responding to the  
20 public comments received at the public meeting. Notice of the  
21 Final Plan was published in accordance with Section 117(b) of  
22 CERCLA. The remedy described in the ROD was modified by EPA's  
23 Explanation of Significant Differences issued by EPA on November  
24 21, 1990 ("ESD 1"). A copy of ESD 1 is included as Appendix B to  
25 the First Consent Decree. Furthermore, EPA included in the First  
26 Consent Decree certain modifications to the interim remedy, as  
27 provided in Subpart F of Section VII of that decree (Work To Be  
28

1 Performed). Those modifications did not represent a fundamental  
2 change to the remedy selected in the ROD and ESD1. The remedy  
3 described in the ROD was further modified by EPA's second  
4 Explanation of Differences executed by EPA on February 12, 1997  
5 ("ESD2"). Those modifications also did not represent a  
6 fundamental change to the remedy selected in the ROD and ESD1. A  
7 copy of EPA's ESD2 is included as Appendix 5 to this Consent  
8 Decree.

9 J. In 1989, pursuant to Section 122(e) of CERCLA, 42 U.S.C.  
10 § 9622(e), EPA issued Special Notice for Remedial Design and  
11 Remedial Action to potentially responsible parties for the Site.  
12 By its 1989 Special Notice, EPA sought the construction,  
13 operation and maintenance of the interim remedy for the Site. As  
14 more fully described in the ROD, that remedy consists of  
15 groundwater extraction and treatment facilities, a blending  
16 facility, and systems for delivering the treated groundwater to  
17 the public water supply. The treated, blended groundwater  
18 delivered to the public water supply shall meet all drinking  
19 water standards established by the United States and the State of  
20 California. The interim remedy is required to operate for twenty  
21 (20) years.

22 K. In the First Consent Decree, Lockheed Martin, Weber and  
23 the City of Burbank agreed to construct and/or to fund the  
24 construction of the treatment plant for the Burbank Operable  
25 Unit, and to operate and maintain and/or to fund the operation  
26 and maintenance of the treatment plant for two years after  
27 construction is complete. Lockheed Martin and Weber also agreed  
28

1 to pay part of EPA's and the Department of Justice's costs for  
2 the Site.

3 L. In March 1992, EPA issued UAO 92-12 to six potentially  
4 responsible parties who had received the 1989 Special Notice:  
5 Aeroquip Corporation, Crane Company, Inc., Janco Corporation,  
6 Sargent Industries, Incorporated, the Antonini Family Trust and  
7 Ocean Technology, Incorporated. Copies of UAO 92-12 and the  
8 April 28, 1992 Amendment to UAO 92-12 are included as Exhibit 2  
9 to this Decree. UAO 92-12 ordered these parties to construct a  
10 blending facility to receive and blend the treated groundwater  
11 with another source of water to reduce nitrate levels, and to  
12 deliver the water to the public water supply system.

13 M. In this action, EPA and the State seek reimbursement of  
14 past and future response costs, including Basin-wide Response  
15 Costs for the Site, which are not reimbursed pursuant to the  
16 First Consent Decree. EPA also seeks the performance of the  
17 Operation and Maintenance ("O&M") of the treatment and blending  
18 facilities for the period not provided by the First Consent  
19 Decree or UAO 92-12.

20 N. Based on the information presently available to EPA and  
21 the State, EPA and the State believe that this work will be  
22 properly and promptly conducted by the Settling Defendants if  
23 conducted in accordance with the requirements of this Consent  
24 Decree and its appendices.

25 O. The State is not a party to the First Consent Decree.  
26 In accordance with the NCP and Section 121(f)(1)(F) of CERCLA, 42  
27 U.S.C. § 9621(f)(1)(F), EPA notified the State on September 7,  
28