

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

STATE OF OHIO, ex rel. :
ANTHONY J. CELEBREZZE, JR., :
ATTORNEY GENERAL OF OHIO, :
Plaintiff, : Case No. 98877
v. : Judge Paul R. Motia
ALCHEM-TRON, INCORPORATED, :
Defendant. :

CONSENT JUDGMENT

The Complaint in the above-captioned case having been filed herein, and the Plaintiff State of Ohio by its Attorney General, Anthony J. Celebrezze, Jr., (hereinafter "Plaintiff") and the Defendant, Alchem-Tron, Incorporated (hereinafter "Defendant"), having consented to entry of this Consent Judgment,

NOW, THEREFORE, without trial of any issues of law or fact, and upon consent of the parties hereto, it is hereby ORDERED, ADJUDGED and DECREED as follows:

I.

1. This court has jurisdiction over the subject matter herein pursuant to Chapter 3734. of the Ohio Revised Code. The Complaint states a claim upon which relief can be granted against Defendant under this statute. This Court has jurisdiction over the parties hereto. Venue is proper in this Court.

II.

2. The provisions of this Consent Agreement shall apply to and be binding upon the parties to this action, their agents, officers, employees, assigns, and successors in interest.

III. SATISFACTION OF LAWSUIT

3. Plaintiff alleges in its Complaint that Defendant has operated the Bessemer and Train facilities* in violation of various provisions of Ohio Revised Code Chapter 3734. and rules promulgated thereunder. Defendant denies these allegations. This Consent Judgment requires Defendant to implement measures to ensure compliance with the hazardous waste rules. In addition, as described below, the Consent Judgment requires Defendant to construct improvements and upgrade the facilities to provide a degree of protection to human health and the environment even greater than that required by the hazardous waste rules. Compliance with the terms of this Consent Judgment shall be full satisfaction for Defendant's liability, both civil and criminal, for all violations of Revised Code Chapter 3734. and rules promulgated thereunder, if any, which have been alleged in Plaintiff's Complaint. The Court finds that the Plaintiff has represented to it that it has alleged all violations of said chapter in its Complaint of which Plaintiff and/or the Director of Environmental Protection and/or the Ohio Environmental Protection Agency ("Ohio EPA") have knowledge and believe they have sufficient evidence to prove in a court of law. Nothing in this Consent Judgment shall be construed to limit the authority of Plaintiff to seek relief for violations not alleged in the Complaint of which Plaintiff does not have knowledge, or on which Plaintiff believes it presently has insufficient evidence to prove in a court of law.

IV. CIVIL PENALTY

4. Defendant shall pay a total of one hundred and forty-four thousand dollars (\$144,000.00) as set forth in Paragraphs 5

*The term "Bessemer facility" means the Alchem-Tron hazardous waste facility located at 7415 Bessemer Avenue in Cleveland, Ohio. The term "Train facility" means the Alchem-Tron hazardous waste facility located at 2516 Train Avenue in Cleveland, Ohio. "Facilities" means both the Bessemer facility and the Train facility.

and 6 below. This amount shall be paid by delivering to the Manager of the Permits and Manifest Records Section of the Ohio EPA Division of Solid and Hazardous Waste Management, for payment into the Hazardous Waste Cleanup Special Account created by Ohio Revised Code Section 3734.28, certified checks in the amounts set forth in Paragraphs 5 and 6 below made payable to the order of "Treasurer, State of Ohio".

5. By December 31, 1987, Defendant shall pay a civil penalty of eighty-four thousand dollars (\$84,000.00) pursuant to Ohio Revised Code Section 3734.13(C).

6. To reimburse the Ohio EPA for the costs of inspections, monitoring, and investigations incurred as a result of the violations alleged in the Complaint, Defendant shall pay thirty thousand dollars (\$30,000.00) by December 31, 1985, and an additional thirty thousand dollars (\$30,000.00) by December 31, 1986.

V. ANALYSIS AND TREATMENT OR REMOVAL OF
WASTE CURRENTLY STORED AT THE FACILITIES

7. Defendant shall treat or dispose of all cyanide waste currently stored at the Bessemer facility in accordance with the hazardous waste rules. All cyanide waste at the site on the date of the entry of this Consent Judgment which is not soluble in water shall be disposed of within ninety (90) days after entry of this Consent Judgment. All other such cyanide waste which is soluble in water shall be treated or disposed of within sixty (60) days after entry of this Consent Judgment.

8. Within ninety (90) days after entry of this Consent Judgment, Defendant shall have treated or disposed of all waste at the facilities which was received from Bellville Township, New Jersey, in accordance with the hazardous waste rules.

9. As expeditiously as possible, but in no event later than one hundred and eighty (180) days after entry of this Consent Judgment, Defendant shall have, in accordance with the hazardous waste rules, analyzed, packaged, staged and treated or disposed

of all lab packs stored at the facilities on the date of the entry of this Consent Judgment. No additional lab packs may be received at the facilities until all of the lab packs currently stored there are disposed of.

10. Before disposal or treatment of all waste described in Paragraphs 7 through 9 above which remains at the facility on the date of the entry of this Consent Judgment, such waste shall be analyzed in a manner to ensure treatment or disposal of the waste in accordance with the hazardous waste rules. Defendant shall give Ohio EPA prior notice of the time and location of the treatment and/or disposal of this waste, and shall allow Ohio EPA to be present during treatment and disposal.

11. Until the waste described in this Part (V) of the Consent Judgment is treated and/or disposed of, Defendant shall send the Ohio EPA a report, due by the 10th of each month, detailing the progress made in analyzing and treating or disposing of the wastes during the previous calendar month, as well as the procedures and disposal facilities used for such analysis and disposal.

VI. STORAGE OF HAZARDOUS WASTE

12. It is the intention of the Court that waste stored at the facilities pursuant to storage designation SO1 on Defendant's Hazardous Waste Facility Installation and Operation Permit be stored only in secure containers and be otherwise stored in a manner that eliminates risks to public health and the environment. Therefore, with the exceptions listed in subparagraphs (a) through (d) of this Paragraph, and beginning from the date of the entry of this Consent Judgment, no hazardous waste shall be stored in such containers at the facilities for more than ninety (90) days. In addition, within ninety (90) days of the entry of this Consent Judgment and for a period of five (5) years after the entry of this Consent Judgment, Defendant shall provide and lodge with the Ohio EPA an irrevocable letter of credit payable to the account of the Ohio

EPA created by Section 3734.28 of the Revised Code, which will provide funds of up to \$100,000 which may be collected and used by the Director to reimburse or to prepay the costs of the Director incurred or to be incurred in the staging, cleanup, treatment and disposal of containers of hazardous waste which have been stored at the Defendant's facilities for more than that 90 day limit and/or which are found to be in deteriorated or other unsafe condition. Containers will be considered "deteriorated or unsafe" if they are leaking or contain holes and are not secured in overpacks. Such removal shall be accomplished only following actual delivery to the Defendant or to the offices of the Defendant of a letter signed by the Director or acting Director notifying Defendant of the actions to be taken by Ohio EPA and notifying Defendant whether the costs of such actions are to be prepaid or reimbursed. Where Ohio EPA directs the costs to be prepaid, the Defendant shall pay or cause to be paid the approximate costs into the Ohio EPA Section 3734.28 account within seven (7) days after receiving Ohio EPA's written estimate of the costs. Any portion of the prepaid amount not used in the staging, cleanup, treatment or disposal will be returned to Defendant. Should Ohio EPA direct the costs to be reimbursed, the Defendant shall pay or cause to be paid the actual costs of this staging, cleanup, treatment or disposal within fifteen (15) days after receiving a bill for such costs from Ohio EPA. Provision of this letter of credit shall not limit whatever authority Plaintiff might have in contempt or otherwise to enforce the 90 day limit or the hazardous waste laws and rules.

Hazardous wastes not subject to the ninety (90) day storage limitation in the preceding paragraph include the following:

- a. all waste described in Paragraphs 7 through 9 above shall be treated or disposed of in accordance with the deadlines set forth in those paragraphs;
- b. solvents and bulk shipments are not subject to any limit specified in Paragraph 12;
- c. all lab packs received at the facilities after entry of this Consent Judgment shall be treated or disposed of within the time limits specified in the plan described in Paragraph 16 below; and

- d. drummed waste which has been designated by the Defendant for technical analysis to determine alternative treatment technologies applicable to that waste will have no time limits on storage provided that at no time shall more than fifteen (15) drums of such waste be stored for this purpose. Should Ohio EPA upon inspection determine that any of the drums so stored presents an imminent and substantial threat to human health or the environment or is in deteriorated or unsafe condition as defined in Paragraph 12, it may order immediate removal of the drum or, if applicable, draw upon the letter of credit described above in this paragraph to secure removal and disposal of the drum.

13. Before disposal or treatment of any hazardous waste, Defendant shall obtain a detailed chemical and physical analysis of the waste containing all information needed to treat or dispose of the waste in accordance with the hazardous waste rules.

14. Defendant is prohibited from storing at the facilities a total of more than 165,000 gallons of hazardous waste in containers and drums as defined by the S01 process code in the Defendant's Hazardous Waste Facility Installation and Operation Permits for the facilities. It is expected that most containers will be 55-gallon drums. For this purpose a 55-gallon drum of waste contained in an overpack drum shall be counted as one 55-gallon drum. Where defendant desires to store more than one-third (1/3) of its hazardous waste in containers smaller than 55-gallon drums, Defendant shall first demonstrate to Ohio EPA that it can store such containers in accordance with this judgment and the hazardous waste rules. No more than one-third (1/3) of these 165,000 gallons stored in containers (i.e., 1000 55-gallon drum equivalents) may constitute waste exhibiting the characteristic of ignitability. Ohio EPA agrees to revise, or recommend to the Hazardous Waste Facility Board, that the current Hazardous Waste Facility Installation and Operation Permits for the facilities which are currently being considered for renewal be modified to reflect the 165,000 gallon maximum and the ninety (90) day container storage limit provided in Paragraph 13. These limits do not apply to gallons in containers which contain distilled solvent which has been reclaimed and is being held prior to shipment off the premises as a product.

15. After the expiration of the renewal Hazardous Waste Facility Installation and Operation Permits described in Paragraph 14, the 165,000 gallon maximum and/or 90 day container storage limits provided in this Part (VI) of the Consent Judgment may be superseded by subsequent permit issuance(s) for the facilities.

VII. LAB PACKS

16. Defendant shall not receive any additional lab packs at the facilities until it has submitted to and received approval from Ohio EPA of a plan setting forth the procedures by which it will analyze and treat or dispose of the lab packs. This plan shall specify the maximum length of time the lab packs may be stored at the facilities before they are analyzed, packaged and staged and treated or disposed. Such plan may provide those conditions under which lab pack wastes may be bulked for economical disposal.

VIII. DRUM STORAGE

17. Defendant shall handle all drums of hazardous waste at the facilities in accordance with the hazardous waste rules. In addition, beginning on the one hundred and twenty-first (121st) day after entry of this Consent Judgment, Defendant shall thereafter handle all drums containing hazardous waste at the facilities in accordance with the procedures set forth in Paragraphs 18 through 28 below, which include safety and health protections exceeding the requirements of the hazardous waste rules.

18. Defendant shall maintain a base under the drums which is:

- (a) free of gaps and cracks,
- (b) sufficiently impervious to contain accumulated liquid, and
- (c) sloped or otherwise designed to drain all liquids on the base to a sump.

19. All drums must be kept on pallets or racks except when the waste in the drums is in the process of treatment.

20. Defendant shall prevent rainwater or other liquid from collecting or standing under the drums.

21. Defendant shall maintain sump(s) near the drum storage areas that, without overflowing, collect any and all hazardous waste spilled or leaking out of the drums.

22. If any liquid collected in the sump(s) is a hazardous waste, Defendant shall manage and treat or dispose of the liquid in accordance with the hazardous waste rules.

23. All liquid (including rain water) collected in the sumps shall be transferred to holding tanks and shall not be allowed to leave the facilities other than by discharge after treatment to the public sanitary sewer system in compliance with the discharge limits authorized by the sewer system, unless a) it is otherwise lawfully treated onsite, or b) it is removed by transport elsewhere pursuant to a hazardous waste manifest for lawful treatment or disposal. Before treatment or disposal of the liquid, Defendant shall evaluate the liquid in accordance with OAC 3745-52-11. Before any such liquid is treated in a wastewater treatment unit for which Defendant has no Hazardous Waste Facility Installation and Operation Permit, Defendant shall conduct whatever analyses are necessary to determine that the liquid is a wastewater.

24. Defendant shall maintain aisle spaces adequate to allow passage between the drums by a forklift, keeping each drum adjacent to an aisle space (i.e., two rows of drums may be placed together in a double row as long as an aisle space is provided on each side of the double row). Where drums are stored in two rows on a rack, two such racks may be placed side-by-side provided each rack is adjacent to an aisle space wide enough to allow passage by a forklift.

25. Defendant shall install and maintain guardrails or other obstacles which shall be designed to adequately prevent trucks and other vehicles from coming into contact with racks holding drums.

26. Defendant shall install and maintain an adequate fire suppression system in the areas storing flammable, combustible or pyrophoric liquids, organic oxidizers, organic peroxides, and flammable solids as those terms are defined by 49 C.F.R. Part 173.

27. After the entry of this Consent Judgment, Defendant shall keep all drums closed except when opening the drums is necessary to sample waste or transfer waste into or out of the drums.

28. Where drums are stacked in such a way that they support each other, they shall not be stacked more than two (2) high.

IX. WASTE PILES

29. After the entry of this Consent Judgment, Defendant shall maintain the waste piles at the facilities in accordance with the hazardous waste rules, and in addition shall manage the waste piles in the following manner:

- a. all piles shall be covered and protected in a way that prevents exposure of the piles to precipitation;
- b. rainwater and other liquid shall be prevented from running into the piles; and
- c. a base must be maintained under the piles which is:
 - (1) free of gaps and cracks,
 - (2) sufficiently impervious to contain accumulated liquids, and
 - (3) sloped or otherwise designed to drain all liquids on the base to trenches and subsequently to sumps.

30. After the entry of this Consent Judgment, Defendant shall maintain trenches around waste piles at the facilities in the following manner:

- a. the trenches shall collect all liquids, leachate, or waste that has run off or leaked from the piles, as well as any liquid (such as rainwater) that has come into contact with the piles;
- b. at all times, the trenches shall be kept free of obstacles and shall have adequate capacity to prevent their overflowing; and

c. the trenches shall be maintained in a manner that enables Defendant to pump or otherwise remove the liquid and waste out of the trenches.

31. Any liquid or waste collected in the trenches must be analyzed in accordance with OAC 3745-65-13(A)(1) after it reaches the sump and before it is treated or disposed.

32. If analysis shows liquid or waste collected in the sumps to be a hazardous waste, the liquid or waste must be managed and disposed in accordance with the hazardous waste rules.

X. GENERAL WASTE STORAGE

33. Defendant shall store incompatible wastes in accordance with the hazardous waste rules and at least eight (8) feet apart from each other, with a dike, berm, or wall between them. If the incompatible wastes are stored at least fifty (50) feet apart and the surface between them is sloped in a manner that prevents any runoff from the wastes from commingling, it is not necessary to have a dike, berm, or wall between the wastes.

34. Except where treatment is conducted in compliance with OAC 3745-65-17, Defendant is prohibited from mixing incompatible wastes. Where waste is to be mixed as a part of storage or treatment Defendant and its operators must discuss the methodology of storage or treatment with Defendant's laboratory employees before mixing wastes to ensure that the wastes are compatible.

35. Defendant shall store ignitable waste at least twelve (12) feet from non-ignitable waste.

36. Defendant shall keep emergency fire extinguishing equipment near and within immediate reach of all hazardous waste stored at the facilities.

XI. WASTE ANALYSIS PLANS

37. Within sixty (60) days after entry of this Consent Judgment, Defendant shall amend the waste analysis plans for the facilities, which at all times thereafter shall be maintained in

accordance with the requirements set forth in Paragraphs 38 through 44 below.

38. Defendant shall include in the plans procedures for determining whether or not waste from a waste stream will be accepted at the facilities, including:

- a. a specific list of parameters for which the waste streams will be analyzed, which must be adequate to determine whether or not Defendant's Hazardous Waste Facility Installation and Operation Permits allow the facilities to accept waste from the waste streams and which must be adequate to identify any of the contents of a waste stream which ordinarily would not be expected to be contained in the stream but which would cause problems during storage, treatment, or disposal if unidentified;
- b. a specific rationale for the selection of each parameter, including an explanation of how analysis of that parameter will accomplish the objectives of the previous subparagraph (i.e., 38(a) above).
- c. the requirement that, before accepting a waste stream from a customer's facility, Defendant shall use good faith efforts to obtain a list of all other hazardous waste streams generated or stored at that facility. Ohio EPA and the Court do not contemplate that this list will be used as a basis for requiring a widespread chemical analysis of all movements accepted at the facilities, but instead, this list shall be used by Defendant to design "fingerprint analyses" procedures for a waste stream and, on occasion, to perform chemical analysis of a movement where "fingerprint" analysis indicates possible deviation of the movement's content from the Waste Product Record for the waste stream from which the movement originated.

39. (a) For each waste stream which has been accepted at the facilities before the entry of this Consent Judgment, Defendant shall include in the plans:

1. an indication as to whether the waste stream will be treated at the facilities or whether instead it will be brokered to another company;
2. a list of hazardous waste constituents (as defined by OAC 3745-50-10(A)(10)) contained in the stream; and
3. a description of the circumstances in which Defendant shall reject a movement (as defined by OAC 3745-50-10(A)(48)) from the stream; if a movement is to be rejected because it contains an excessive concentration of a certain material, the plans must quantify that concentration.

(b) For each waste stream accepted after entry of this Consent Judgment, before a movement from that stream is accepted at the facilities, the plans shall be amended to include the information in subparagraphs (a)(1), (2) and (3) above for that stream.

40. The plans must specify the procedures which will be used to inspect each movement of hazardous waste received at the facilities to ensure that it matches the identity of the waste designated on the accompanying manifest or shipping paper.

41. The plans must specify the procedures which will be used to determine whether physical and/or chemical analysis of a movement received at the facilities is necessary to ensure that it matches the identity of the waste designated on the accompanying manifest or shipping paper, or is necessary for another reason. The plan must describe the circumstances in which such analysis is necessary. The plan must describe the analysis that will be performed whenever such an analysis is necessary, including a specific list of parameters for which the movement will be analyzed and a specific rationale for the selection of each parameter. The parameters selected must be adequate to determine whether or not Defendant's Hazardous Waste Installation and Operation Permits allow the facilities to accept the movement and must be adequate to identify any of the movement's contents which ordinarily would not be contained in the waste stream from which it originated, but which would cause problems during storage, treatment, or disposal if unidentified. The description of the analysis must also specify the procedures by which Defendant shall determine whether the waste in the movement is substantially the same as, and therefore does not require a change in the method of treatment or storage from, the waste described in the waste product record for the waste stream from which the movement originated.

42. Defendant shall include in the plans a description of the circumstances in which waste will be analyzed in accordance with OAC 3745-67-52 before it is added to waste piles at the facilities, a specific list of parameters for which the waste

will be analyzed, and a specific rationale for the selection of each of the parameters listed.

43. The plans shall contain a description of the procedures which will be used to ensure that incompatible waste is not added to waste piles at the facilities, including fingerprint analyses and conferences between Defendant's laboratory employees and the operators who transfer the waste to the piles.

44. The plan shall include the following information about liquid liquid extraction:

- a. a description of the circumstances in which a waste stream or movement will be treated by liquid liquid extraction;
- b. a list of all waste streams which will be treated by liquid liquid extraction, and for each waste stream listed, a description of the circumstances, if any, in which a movement from that waste stream will be exempted from treatment by liquid liquid extraction;
- c. the identity of the person(s) who will decide which waste streams and movements will be treated by or exempted from liquid liquid extraction;
- d. a description of the methods by which oil used in liquid liquid extraction will be disposed, and the reasons for disposal of the oil in that manner; and
- e. a description of the methods which will be used to determine when a waste stream has been adequately treated and a specification of the maximum concentrations of pollutants which will be allowed to remain in the waste after treatment.

45. Defendant is prohibited from incorporating waste product records into its waste analysis plans by reference.

46. The amended waste analysis plan(s) required by the sixtieth (60th) day after entry of this Consent Judgment shall be submitted by that day to Ohio EPA for its review and approval. If Ohio EPA finds and identifies deficiencies in the amended waste analysis plan(s), Defendant shall correct these deficiencies within thirty (30) days after receiving Ohio EPA's notification to Defendant that the plan(s) is deficient.

47. Defendant is enjoined to comply with the provisions of its waste analysis plans, both before and after they are amended.

XII. OPERATING RECORD

48. Besides the information required by OAC 3745-65-73, the operating records for the facilities shall include the following:

- a. a record of all movements rejected by the facilities and the reasons for their rejection;
- b. a record of each movement of a waste which was on the waste analysis plan list of waste streams to be treated by liquid liquid extraction but which was not treated by liquid liquid extraction, the reasons for not so treating, and the person making the decision not to so treat the movement;
- c. a description of the methods which were used to determine that a movement was adequately treated by liquid liquid extraction or other means, and a specification of the maximum concentrations of pollutants which remained in the waste after treatment; and
- d. a description of the methods by which and the locations at which oil used in the liquid liquid extraction process was disposed.

49. The information required for a movement by Paragraph 48 (a), (b), (c) and (d) above shall also be recorded in the file kept by Defendant on the generator sending the movement to the facilities.

50. Defendant shall identify each drum containing hazardous waste at the Bessemer facility by a separate number, which shall be kept marked on the drum. In the operating record for the Bessemer facility, Defendant shall list each drum stored at the facility by using this number. For each drum, the operating record shall also identify the contents, the manifest number, the date of receipt, the specific area at the facility where the drum is located, and the date of disposal or treatment.

51. Defendant shall specify in the operating record which waste stored or treated at the facilities is incompatible with other waste at the facilities. This may be done by identifying the storage areas containing waste incompatible with other waste, rather than identifying the incompatible waste by listing the identification numbers of all drums containing incompatible waste.

XIII. LABORATORIES

52. Unless Defendant has ceased liquid liquid extraction operations at the Train facility within five (5) months after entry of this Consent Judgment, Defendant must by that time have installed and shall thereafter maintain at the Train facility a laboratory quality (i.e., not a portable unit) gas chromatograph with a flame ionization detector. This machine must be equivalent in performance to the Hewlett-Packard 5880 model. Defendant shall continue to maintain such a machine at the Bessemer facility.

53. Each employee performing laboratory analytical procedures on hazardous waste materials shall be given and possess for his or her own use in conducting analyses one or more manuals which contain the procedures and standard methods, together with any deviations therefrom, which that employee will follow when analyzing a particular waste. A copy of each such manual shall be submitted to Ohio EPA for review and approval within sixty (60) days after entry of the Judgment and any page containing later revisions thereto shall be submitted to Ohio EPA for review and approval within seven (7) days after any revision. Defendant may continue to implement any procedure or deviations from standard methods first reported to Ohio EPA pursuant to this Consent Judgment unless and until Ohio EPA gives Defendant written notice of its disapproval of a procedure or deviation. No procedure or deviation reported pursuant to a revision other than a new standard method shall be implemented until fourteen (14) days after Ohio EPA receives the revision from Defendant. Thereafter, Defendant may implement the new procedure or deviation unless Ohio EPA has given written notice of its disapproval within those fourteen (14) days. Any disapproval is to be in writing and specify the technical reasons upon which the disapproval is based.

XIV. SAFETY PROCEDURES

54. Beginning on the fifteenth (15th) day after entry of this Consent Judgment, Defendant shall maintain a system by which its employees can anonymously (if the employees so choose) bring safety problems and potential violations of the hazardous waste rules at a facility to the attention of the management of that facility. Defendant shall designate those persons on its safety committee to investigate those employee comments. These designated person(s) shall describe each such employee comment in a log for that facility, along with the date the comment was received, the action which was taken in response to the comment, and the date on which the responding action was taken. This log shall be made available to Ohio EPA for inspection and copying upon request.

55. Defendant shall comply with the guidelines written by the National Fire Prevention Association.

XV. PERSONNEL TRAINING

56. Defendant shall train all of the employees working at the facilities, including upper management personnel and laboratory supervisors, in accordance with the requirements of OAC 3745-65-16. This training shall include instruction in the procedures contained in the manual described in Paragraph 57 below and must be completed for each new employee before he or she starts work at the facilities.

57. Within sixty (60) days after entry of this Consent Judgment, Defendant shall have written and submitted to Ohio EPA for its review and approval a manual which describes in detail all practices that must be followed by employees to enable them and the facilities to comply with the hazardous waste rules. The manual must place special emphasis on procedures which must be followed by employees to prevent fires, explosions, releases and spills of waste, and odors at the facilities. If Ohio EPA disapproves the manual, Defendant shall, within ten (10) days after

disapproval, modify the manual according to comments received from Ohio EPA. Each existing employee at the facilities shall be given a copy of the manual within fifteen (15) days after Ohio EPA approves the manual, and each employee hired thereafter shall receive a manual before starting work at the facilities. Defendant and all employees shall comply with the procedures contained in the manual. Such manual shall be reviewed and updated as appropriate to reflect changes at the facilities.

58. Defendant shall keep records of all personnel training, including minutes of the training, in accordance with OAC 3745-65-16(E).

XVI. CONTINGENCY PLANS

59. After the entry of this Consent Judgment, Defendant shall at all times have contingency plans for the facilities which meet the requirements of OAC 3745-65-51 and OAC 3745-65-52.

60. In the contingency plans for the facilities, Defendant shall designate one person by name as the primary emergency coordinator and shall list alternate emergency coordinators by name in the order in which they will assume responsibility as alternates.

61. Within ten (10) days after entry of this Consent Judgment, Defendant shall have submitted copies of the contingency plans for the facilities to Ohio EPA and to all police departments, fire departments, hospitals, and emergency response teams which service Defendant's facilities.

62. In addition to reports required under OAC 3745-65-56, within fifteen (15) days after any fire or explosion of any hazardous waste being treated or stored at the facilities, discharge (as defined in OAC 3745-50-10(A)(17)), or unplanned or sudden or non-sudden release of hazardous waste or hazardous waste constituents from the facilities to the air (other than de minimis evaporation), soil, water, or storm or sanitary sewers and within fifteen (15) days after a spill of hazardous waste not contained in the facilities' sumps or trenches, Defendant shall

submit to the Northeast District Office of Ohio EPA a written report containing the information described in subparts (1) through (8) of OAC 3745-65-56(J), regardless of whether or not the fire, explosion, discharge, or release was an incident requiring the implementation of a contingency plan.

XVII. CLOSURE PLANS

63. Within thirty (30) days after entry of this Consent Judgment, Defendant shall submit to Ohio EPA for review and approval, a closure plan(s) for the facilities which complies with the requirements of OAC 3745-66-12. If Ohio EPA disapproves this plan(s), Defendant shall within fifteen (15) days after disapproval revise the plan(s) pursuant to Ohio EPA's comments.

XVIII. SECURITY

64. Defendant shall comply with the hazardous waste security requirements as set forth in OAC 3745-65-14. The door to Building #35 shall at all times be locked in a manner that prevents access through the door from the outside.

65. Beginning on the thirty-first (31st) day after entry of this Consent Judgment, Defendant shall operate and monitor two television cameras to monitor the Bessemer facility through gates and entrances (other than doors to the office building during office hours) during times when the gates to the facility are unlocked.

XIX. STIPULATED PENALTIES

66. In the event Defendant violates a provision or provisions of this Consent Judgment, Defendant shall pay to Plaintiff a stipulated civil penalty for each violation in the amounts and in the manner specified in Paragraphs 67 and 68 below. The parties understand that the dollar amounts of these civil

penalties were set at levels which contemplated violations which are not repeated, flagrant, or damaging to the environment. In addition, not all requirements of the Consent Judgment have been addressed by these stipulated civil penalties. In lieu of accepting stipulated civil penalties for any particular violation of this Consent Judgment, Plaintiff reserves whatever rights it has in contempt or otherwise to seek redress for violations of this Consent Judgment or Ohio Revised Code Chapter 3734. (including civil penalties of up to ten thousand dollars (\$10,000.00) for each day of each violation of Revised Code Chapter 3734.), whether or not the violations are repeated, flagrant, or damaging to the environment. However, upon tender of any stipulated penalty for a violation pursuant to Paragraphs 67 and 68 and acceptance thereof by Plaintiff, Defendant shall be deemed to have been subject to enforcement action for that violation and shall not thereafter be subject to any additional penalty or other relief for that violation.

67. The violations of the Consent Judgment for which stipulated civil penalties shall be paid and the dollar amounts of these penalties are as follows:

- a. for each drum of Bellville Township waste still stored at the facilities after ninety (90) days from the entry of this Consent Judgment, \$400 per drum for each day of storage until the drum has been analyzed in accordance with Paragraph 10 above and packaged for transportation and disposal;
- b. for each drum of lab packs currently stored at the facilities and which remains at the facilities after one hundred and eighty (180) days from the entry of this Consent Judgment, \$400 per drum for each day of storage until the drums have been analyzed in accordance with Paragraph 10 above and packaged for transportation and disposal;
- c. for each day during which the 165,000 gallon (3000 drum) maximum container or drum storage limit specified in Paragraph 14 above is exceeded, \$50 per day for each extra drum equivalent, up to a maximum of 25 drum equivalents over the limit;
- d. for each day during which more than 3,025 drum equivalents of hazardous waste are stored at the facilities, \$100 per day for each extra drum equivalent over 3,025;
- e. for each day during which the 1,000 maximum ignitable drum equivalent storage limit specified in Paragraph 14 above has been exceeded, \$50 per extra drum equivalent, up to a maximum of 25 drum equivalents over the limit;

- f. for each day during which Defendant stores at the facilities more than 1,025 drum equivalents containing waste exhibiting the characteristic of ignitability, \$100 per day for each extra drum equivalent over 1,025;
- g. \$100 per day for each drum of hazardous waste at the facilities which is leaking or contains hole(s) and has not been secured in an overpack drum;
- h. \$100 per day for each drum of hazardous waste at the facilities which is not closed with tightly secured lids and bungs during times when opening the drum is not necessary to sample waste or transfer waste into or out of the drum;
- i. \$50 per drum for each day during which the drum is not stored at the location designated in the facilities' operating record for the storage of that drum;
- j. \$50 per drum of hazardous waste for each day during which the drum is stored at the facilities in a manner not complying with Paragraphs 33 through 35 above;
- k. \$50 for each drum and each bulk shipment which is accepted at the facilities before a waste profile record is possessed by Defendants for the waste in that drum or shipment;
- l. \$50 per day for each drum stored at the facilities which has not been marked with Defendant's number pursuant to Paragraph 50; and
- m. \$100 for each drum and each bulk shipment which has not been analyzed in accordance with the facilities' waste analysis plan.

68. These penalties shall be paid within ten (10) days after receiving notice of the violation by delivering to Plaintiff's counsel or a successor in his office, for payment into the Hazardous Waste Cleanup Special Account, a certified check in such amount made to the order of "Treasurer, State of Ohio". Defendant waives all rights it may have to contest the imposition of these stipulated penalties for violations of the Consent Judgment, except the defense that the violation did not occur.

XX. MISCELLANEOUS

69. Defendant is prohibited from storing, treating or disposing of hazardous wastes in tanks, sumps, buildings and other locations, areas or facilities except as are authorized in

the Hazardous Waste Installation and Operation Permits issued to Defendant or as are otherwise conducted in accordance with law.

70. Defendant shall comply with the requirements of the Ohio financial rules, OAC 3745-66-42 and OAC 3745-66-47. Closure cost estimates and liability coverage must be based on the assumption that Defendant has the maximum number of drums (i.e., 3,000 or any higher number contained in Defendant's hazardous waste permit) stored at the facilities.

71. Unless this Consent Judgment expressly provides otherwise, Defendant's duties and obligations under this Consent Judgment become effective upon its entry with the Court of Common Pleas.

72. Unless otherwise defined, any words used in this Consent Judgment have the same meanings ascribed to them in the "hazardous waste rules", as that term is defined by OAC-3745-50-10(A)(33).

73. The Court retains jurisdiction of this suit for the purpose of making any order or decree which it may deem at any time to be necessary to carry out this Consent Judgment.

74. All reports and plans submitted to Plaintiff pursuant to this Consent Judgment shall be sent to Debbie Berg and Paula Cotter, Ohio EPA, or to such other persons or addresses as may hereafter be otherwise specified in writing by Plaintiff to Defendant.

75. Defendant shall pay court costs.

Paul R. Madia
JUDGE, COURT OF COMMON PLEAS

APPROVED:

STATE OF OHIO, ex rel.
ANTHONY J. CELEBREEZE, JR.
ATTORNEY GENERAL OF OHIO

By: *Jack Van Kley*
JACK A. VAN KLEY
PAUL J. COVAL
Assistant Attorneys General
Environmental Enforcement
Section
30 East Broad Street, 17th Floor
Columbus, Ohio 43215

RECEIVED FOR FILING

OCT 09 1985

GERALD E. FUERST, CLERK
DEP.

ALCHEM-TRON, INCORPORATED

BY: *Inderjit S. Somi*
INDERJIT S. SOMI, President

VORYS, SATER, SEYMOUR AND PEASE
52 E. Gay Street, P.O. Box 1008
Columbus, Ohio 43216-1008
(614) 464-6213

BY: *John W. Hoberg*
JOHN W. HOBERG
MARCIA J. MENGEL

Attorneys for Defendant

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

STATE OF OHIO, ex rel., : CASE NO. 98877
ANTHONY J. CELEBREZZE, JR. :
ATTORNEY GENERAL OF OHIO, : JUDGE PAUL R. MATIA
: :
PLAINTIFF :
: :
v. :
: :
ALCHEM-TRON, INCORPORATED :
NOW NAMED GSX CHEMICAL :
SERVICES OF OHIO, INC., :
: :
DEFENDANT. :

(F)

JAN 17 1989

CONSENT JUDGMENT

A joint motion to modify the Court's judgment in the above-captioned case having been filed, and the Plaintiff State of Ohio, by its Attorney General, Anthony J. Celebrezze, Jr., (hereinafter "Plaintiff") and the Defendant Alchem-Tron, Incorporated, now named GSX Chemical Services of Ohio, Inc., (hereinafter "Defendant") having consented to entry of this Consent Judgment, NOW, THEREFORE, without trial of any of the issues of law or fact raised by the motion, and upon consent of the parties hereon, it is hereby ORDERED, ADJUDGED and DECREED as follows:

1. This court has jurisdiction over the subject matter herein pursuant to Chapter 3734 of the Ohio Revised Code. The Complaint states a claim upon which relief can be granted against Defendant under this statute. This Court has jurisdiction over the parties hereto. Venue is proper in this Court.
2. The provisions of this Consent Judgment shall apply and be binding upon the parties to this action, their agents,

officers, employees, assigns and successors in interest.

3. Plaintiff alleges in the Joint Motion to Modify Judgment that Defendant has violated various hazardous waste requirements of Revised Code Chapter 3734. Although Defendant denies those allegations, it has consented to be bound by this Consent Judgment. Compliance with the terms of this Consent Judgment shall constitute full satisfaction of any liability by Defendant to the State of Ohio for all violations of that chapter and the October 9, 1985 Consent Judgment known to Plaintiff at this time, provided, however, that this paragraph does not prevent the Plaintiff from seeking the installation or other application of additional fire suppression techniques under paragraph 7 of this Consent Judgment or paragraph 26 of the October 9, 1985 Consent Judgment. All such violations known to the State of Ohio have been alleged in the Motion.

4. Defendant shall pay to the State of Ohio a civil penalty of forty-one thousand and three hundred dollars (\$41,300.00) not later than thirty (30) days after the entry of this Consent Judgment. This amount shall be paid by delivering to the Ohio EPA Fiscal Administration/General Accounting for payment into the Hazardous Waste Cleanup Fund created by Ohio Revised Code Section 3734.28, a certified check in the amount set forth in this paragraph made payable to the order of "Treasurer, State of Ohio."

5. As used in this Consent Judgment, the term "Bessemer facility" means Defendant's hazardous waste facility located at 7415 Bessemer Avenue in Cleveland, Ohio.

6. Within seven (7) days after entry of this Consent Judgment, Defendant shall submit to the Ohio Environmental Protection Agency Northeast District Office and Central Office any and all documentation relating to the efforts Defendant has made toward the installation of an adequate fire suppression system at the Bessemer facility.

7. In order to obtain guidance in determining what, if any, actions are necessary to comply with paragraph 26 of the October 9, 1985 Consent Judgment the parties have agreed that a fire prevention expert will be retained by Defendant to examine the drum storage area of the Bessemer facility, to determine whether the fire suppression system in that area is adequate under the circumstances when viewed in light of any potential fire hazards present at the facility and existing fire suppression systems generally employed under similar circumstances and, if he/she believes the system is not adequate, to recommend what changes in the system would be necessary to make that system adequate. In addition, the expert shall assess any benefits which could be obtained from upgrading the fire suppression system, including a description of alternative or upgraded systems and the costs of each evaluated alternative or upgraded system. The Defendant has submitted the names of two experts to Plaintiff. Defendant shall retain the expert chosen by the Plaintiff from the proposed experts, and shall fully cooperate with the expert in investigating the Bessemer facility's areas subject to said paragraph 26. If Ohio EPA rejects both experts, Defendant shall submit the names of two or

more additional experts within thirty (30) days. Before the expert begins the study, Defendant shall submit an outline and a schedule of tasks to be performed in the study for Ohio EPA approval. Upon completion of the study, Defendant shall submit a report to Ohio EPA for approval describing the results of the study. Within fifteen (15) days of the receipt of the expert's report, Defendant shall initiate implementation of changes found necessary by the expert, if any, to cause the fire suppression system to be adequate, and Defendant shall complete that implementation as expeditiously as practicable; provided, however, that if either party disagrees with the expert's findings and recommendations that party may petition this Court for a determination of what is necessary to render the system adequate. All communications and reports from the expert shall be made to both the Plaintiff and the Defendant.

8. Defendant submitted to Ohio EPA sampling data and Certification of Closure for drying bed four on October 6, 1988. Should the Ohio EPA find that the closure of drying bed four at the Bessemer facility is inadequate, Defendant shall within thirty days of notice of that finding submit to Ohio EPA for its approval a plan and a schedule to complete closure, in accordance with OAC 3745-66-12(C). Upon approval of the plan and schedule, Defendant shall complete closure in accordance with the plan and schedule. Disputes arising with respect to the adequacy or requirements of this closure, if any, shall be resolved in the normal regulatory process.

9. Whenever hazardous wastes get into or are spilled into

the yard sumps at the Bessemer facility in volumes that would constitute "reportable quantities" as defined in 40 C.F.R. § 3024, Defendant shall, within 24 hours, remove the hazardous wastes from the sumps, dispose of the hazardous wastes in accordance with hazardous waste rules, and file such spill and cleanup reports as are required by law.

10. The "fingerprinting" procedures in the waste analysis plan for the Bessemer facility shall be amended so as to conform with the terms and conditions of Appendix A attached hereto and incorporated herein. These requirements shall be the fingerprinting analyses that shall be recommended by Ohio EPA for incorporation into the permit to be issued by the Ohio Hazardous Waste Facility Board.

11. The orders of the Court contained in this Consent Judgment supplement the previous orders of the Court entered in this action and do not rescind or abrogate such previous orders.

12. The Court retains jurisdiction of this matter for the purpose of making any order or decree which it may deem at any time to be necessary to carry out this Consent Judgment.

13. The Defendant shall pay court costs.

Paul R. Matia
JUDGE, COURT OF COMMON PLEAS

APPROVED:

ANTHONY J. CELEBREZZE, JR.
ATTORNEY GENERAL

BY: Jack A. Van Kley *by JAC*
JACK A. VAN KLEY
Assistant Attorney General
Environmental Enforcement
30 East Broad Street
Columbus, Ohio 43266-0410
(614) 466-2766

CONSENT OF GSX CHEMICAL SERVICES
OF OHIO, INC.

BY: Thomas Smith
THOMAS SMITH, Vice President

VORYS, SATER, SEYMOUR AND PEASE

BY: John W. Hoberg
JOHN W. HOBERG
52 East Gay Street, P. O. Box 1008
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Attorneys for Defendant
GSX Chemical Services of Ohio, Inc.

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JAN 30 1989

GERALD E. JERSI, CLERK
BY: G. E. Jersi DEP.

4.0 ANALYTICAL PARAMETERS AND SAMPLING PROCEDURES

40 CFR 264.13 (b) (3) and OAC 3745-54-13 (B) (3) require that the waste analysis plan specify the sampling methods which will be used to obtain representative waste samples. Information concerning the parameters to be investigated, sampling methods, and other related handling instructions for each waste is presented in tabular format. Table 4-1 lists the parameters to be evaluated for all wastes prior to acceptance and the "fingerprint analyses" (quality assurance) performed upon receipt of all waste movements. General sampling instructions are discussed further in Section 4.1.

The procedure used by GSX to determine the treatability/acceptability of a generator's wastes is outlined in Figure 6, Waste Approval Scheme. This figure is useful in following how the sampling and analysis described in this section fits the overall waste approval process.

4.1

4.1.1 Prior to Acceptance

Following the initial contact with the generator/client, GSX requests that the generator complete a waste profile data form (WPS, see Figure 1) for each type of waste which may be disposed of at the Bessemer Avenue facility. The WPS is a standard form used to identify both the major constituents and trace (ppm) contaminants. The generator may complete the form subject to GSX's verification, request that GSX analyze a representative sample of the waste, or have a third party (generally a state certified laboratory) complete the form. The generator is also required to provide a representative sample of the waste with each waste profile sheet. The sample is evaluated by the facility's on-site lab in conjunction with the waste profile sheet to establish treatability and quality control parameters. (Virgin chemicals in sealed containers do not require a sample).

The WPS and sample evaluation are reviewed by the Technical Services group to determine if any of GSX's treatment units can adequately manage the waste and to confirm that the Bessemer Avenue facility is permitted to receive such a waste. Technical Services personnel also confirm that the waste profile data

form accurately reflects the information gained from the evaluation of the generators sample. Any corrections or additions to the WPS are made in conjunction with the generators approval. The generator is requested to initial any changes made. This initialed copy is then retained in the WPS copy. In Lieu of this procedure the customer service representative may request that the generator use a new WPS. Wastes which are acceptable but untreatable may be received on a "broker only" basis. Broker only wastes include certain cyanide-bearing reactive wastes (D003) and free aluminum-bearing wastes. Brokered cyanide-bearing wastes generally consist of those wastes which are not soluble in the dissolution process and/or amenable to alkali-chlorination. Aluminum-bearing wastes do react with caustic; thus limiting the treatability of these materials.

16(a)

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As previously stated, all wastes undergo complete analysis prior to acceptance and fingerprint analyses upon receipt. Additionally, standard streams from regular clients which are received over a period of time are subject to a complete analysis on an annual basis or whenever there is a doubt about their consistency.

The following procedures are used to collect representative samples. Bulk solids are sampled on a random sampling basis. A trier (typically) is used to obtain a cross-sectional sample from an area chosen by means of an imaginary grid and a random number generator (i.e., a calculator with this function).

At least ten percent of all containerized wastes of every waste movement is sampled on a systematic random selection basis. For example, in a movement of 60 drums containing the same type of waste, one of the first ten drums is randomly chosen and every tenth drum thereafter is also sampled. In addition, each container in a shipment is opened to visually inspect the conformity of the contents for color and physical state with the waste profile sheet.

Bulk liquids are sampled through the available ports on top of the transporting vehicle. Liquid samples are taken through the depth of the liquid to ensure that the sample is representative of multiple layers or density gradients. Samples from multiple sampling ports are composited to create a more representative sample of the bulk liquid.

The sampling apparatus specified for each waste has been selected based on the physical state of the waste upon receipt. Sludges, filter cakes, and moist powders, both bulk and containerized, are collected by means of a trier as described in Section 3.2.5 of EPA SW-846. Samples of dry powders and granules are collected with a thief. Liquid wastes, again both bulk and containerized, are sampled by means of a composite liquid waste sampler (COLIWASA). Sampling methods for both thief and COLIWASA are presented in EPA SW-846.

4.1.2.2 Fingerprint Analyses and Procedure for Accepting
or Rejecting Waste Movements

GSX Chemical Services of Ohio, Inc. has specified 14 fingerprint or quality control parameters to be evaluated for each waste movement received (see Table 4-1). Listed hazardous wastes are also analyzed for the specific constituents identified in 40 CFR 261, Appendix VII as appropriate for processing. The particular listed parameter(s) appropriate for processing are presented in the rationale Section of Tables 6-2 through 6-8. The purpose of the fingerprint analyses is to confirm that the waste movement received is that specified on the waste profile data forms (WPS) and the accompanying manifest. Twelve of the fourteen fingerprint parameters duplicate information requested on the WPS, providing GSX with a reasonable method of waste verification.

A copy of the WPS is kept in the lab files specifically for the purpose of waste verification. The fingerprint analyses data and waste profile sheet data are compared by the chemist (lab technician) performing the analyses, with the lab manager reserving final approval. The two remaining parameters, percent oil and TOX, provide valuable treatability data.

Waste movements whose samples confirm the WPS and manifest proceed to unloading where materials are either placed in storage near compatible materials or directed to the appropriate treatment unit.

Waste movements with samples that produce off specification analytical results are resampled and tested based upon an initial phone conversation with the generator. All parameters listed on the waste profile data form, including metals analyses are analyzed if the generator requests GSX to determine if the waste can be processed. A GC analysis is performed to identify major organic constituents and screen the movement for restricted wastes. Effort is focused on identifying any of the movement's contents which are not ordinarily contained in the waste stream, but which would cause problems during storage, treatment, or disposal if unidentified.

Following resampling and subsequent analyses of the waste to confirm the fingerprint analyses. GSX again contacts the waste generator to apprise them of the situation and inquire as to possible

<u>Parameter</u>	<u>Test Method</u>	<u>Method No.</u>
Oil and Grease	IR	413.2
Total Organic Carbon	Combustion	415.1
Petroleum Hydrocarbons	IR	418.1
Phenolics, Total	Manual 4-AAP	420.1
Free Liquid TCLP Extraction Procedure		9095 *
Radioactivity	Geiger Counter	

Specific Gravity

The weight of a known volume of material is measured. The specific gravity is calculated as grams per cubic centimeter.

Percent Solids by Volume

A known volume of material is centrifuged for 5 minutes and the volume of residues measured. The percent solids is calculated as follows:

$$\% \text{ Solids} = \frac{\text{Volume Residue}}{\text{Volume Sample}} \times 100$$

Percent Solids by Weight

A known volume of sample is vacuum filtered. The moist solid residue is weighed and percent solids calculated as follows:

$$\% \text{ Solids} = \frac{\text{Weight Residue}}{\text{Volume Sample}} \times 100$$

Heating Volume Solids	Colorimetric	D2015
Liquids	Colorimetric	D240
Total Organic Halides (as Chlorine)	Colorimetric	D2015 D240

Reference

USEPA: Chemical Analysis of Water and Waste Water (EPA 600 4-79-020)
Methods for Evaluating Solid Waste (SW-846)
44FR 233 APP. IV pg. 695 December 3, 1979
APHA Standard Methods for the Examination of Waste Water 16th Edition.

*Title 40 CFR, Part 268; Appendix I

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TABLE 4-1
 ANALYSES PARAMETERS FOR ALL NON-AQUEOUS WASTES BOTH PRIOR TO ACCEPTANCE AND UPON RECEIPT
 AT THE GSX BESSEMER AVENUE FACILITY

Waste Description	Parameters	Comments
All wastes prior to acceptance	All items on Waste Profile Data Form: Water content, chemical composition (specific list of major constituents), Ba, Cd, Cr, Cr ⁶⁺ , Hg, Pb, Se, Ag, Al, Be, Cu, Ni, Zn, As, Br, Cl, CN-, P, S, S ²⁻ , Phases, pH, flash point, specific gravity, percent solids, heating value, halogenated aromatics, aromatic amines, pesticides (D012-D017), ureas, thioureas, cyclic nitrogen, phenols, quinones, phosphorus compounds, polycyclic organics, asbestos, radioactive materials, pathogenic activity, color, odor. Listed hazardous wastes are also analyzed for the specific constituents identified in 40 CFR 261, Appendix VII. Refer to specific wastes in Tables 6-2 through 6-8 for additional parameters.	Waste samples will be analyzed by the generator, an approved lab of the generator's choosing, or GSX Chemical Services of Ohio, Inc. All sampling, handling and shipping procedures will conform to applicable federal, state and local requirements.
All waste movements upon receipt	Flash point*, pH, percent solids, specific gravity, heating value, percent oil, total organic halogen (TOX), cyanide, sulfide, radioactive materials, physical state, color and odor. Listed hazardous wastes are also analyzed for the specific constituents identified in 40 CFR 261, Appendix VII as appropriate for processing. The particular listed parameter(s) appropriate for processing are described in the rationale section of Tables 6-2 through 6-8.	All waste movements are sampled upon receipt and analyzed to verify the accompanying manifest prior to off-loading.

*Acidic wastes neutralized to pH7 by addition of NaOH; solids are tested for ignitability.

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Appendix A-6

TABLE 4-1(a)
 ANALYSES PARAMETERS FOR ALL AQUEOUS WASTES BOTH PRIOR TO ACCEPTANCE AND UPON RECEIPT
 AT THE CSX BESSEMER AVENUE FACILITY

Waste Description	Parameters	Comments
All wastes prior to acceptance	<p>All Items on Waste Profile Data Form: Water content, chemical composition (specific list of major constituents), Ba, Cd, Cr, Cr⁺⁶, Hg, Pb, Se, Ag, Al, Be, Cu, Ni, Zn, As, Br, Cl, CN-, P, S, S-, Phases, pH, flash point, specific gravity, percent solids, heating value, halogenated aromatics, aromatic amines, pesticides (D012-D017), ureas, thioureas, cyclic nitrogen, phenols, quinones, phosphorus compounds, polycyclic organics, asbestos, radioactive materials, pathogenic activity, color, odor. Listed hazardous wastes are also analyzed for the specific constituents identified in 40 CFR 261, Appendix VII. Refer to specific wastes in tables 6-2 through 6-8 for additional parameters.</p>	<p>Waste samples will be analyzed by the generator, an approved lab of the generator's choosing, or CSX Chemical Services of Ohio, Inc.</p> <p>All sampling, handling and shipping procedures will conform to applicable federal, state and local requirements.</p>
All waste movements upon receipt	<p>Flash point*, pH, percent solids, specific gravity, percent oil, Cr⁺⁶, CN-, radioactive materials, phases, color and odor. Listed hazardous wastes are also analyzed for the specific constituents identified in 40 CFR 261, Appendix VII as appropriate for processing. The particular listed parameter(s) appropriate for processing are described in the rationale section of Tables 6-2 through 6-8.</p>	<p>All waste movements are sampled upon receipt and analyzed to verify the accompanying manifest prior to off-loading.</p>

*Acidic wastes neutralized to pH7 by addition of NaOH; solids are tested for ignitability.

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Appendix A-7

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

STATE OF OHIO, ex rel.	:	CASE NO. 98877
ANTHONY J. CELEBREZZE, JR.	:	
ATTORNEY GENERAL OF OHIO	:	JUDGE PAUL R. MATIA
	:	
Plaintiff,	:	
	:	
vs.	:	
	:	
ALCHEM-TRON, INCORPORATED	:	
SUCCEDED BY GSX CHEMICAL	:	
SERVICES OF OHIO, INC.	:	
	:	
Defendant.	:	

JOINT MOTION TO MODIFY JUDGMENT

On October 9, 1985, the Court entered a Consent Judgment in this case between Plaintiff State of Ohio (hereinafter "Plaintiff") and Defendant Alchem-Tron, Incorporated. On February 2, 1988 the ownership and control of the Company changed and the name of the Defendant has been changed to GSX Chemical Services of Ohio, Inc., (hereinafter "Defendant"). Plaintiff and Defendant hereby move the Court to modify the judgment of October 9, 1985 entered in this case by approving and entering an additional Consent Judgment, a copy of which is attached to this motion. The grounds for this motion are set forth as follows:

1. On October 9, 1985 Plaintiff and Defendant entered into a Consent Judgment which required that a number of actions be taken by Defendant to comply with the Ohio hazardous waste rules at Defendant's Train Avenue and Bessemer Avenue facilities in Cleveland, Ohio.

2. Plaintiff alleges and Defendant denies that since the Consent Judgment of October 9, 1985 was issued, Defendant has violated several provisions of the Ohio hazardous waste rules. In addition, Plaintiff alleges and Defendant denies that several provisions of the Consent Judgment have been violated. These allegations are more specifically described in the following paragraphs.

3. Plaintiff alleges and Defendant denies that since the Consent Judgment of October 9, 1985 was issued, Defendant has failed to install and maintain an adequate fire suppression system at the Bessemer Avenue facility as required by the October 9, 1985 Consent Judgment.

4. On August 18, 1986, the Ohio Environmental Protection Agency approved the closure plan for drying bed number four at Defendant's hazardous waste facility located at 7415 Bessemer Avenue in Cleveland, Ohio.

5. Ohio Administrative Code Section 3745-66-13(B) provides that the owner or operator shall complete partial and final closure activities in accordance with the approved closure plan and within one hundred eighty days after receiving the final volume of hazardous wastes at the hazardous waste management unit or facility, or one hundred eighty days after approval of the closure plan, whichever is later.

6. Defendant failed to complete closure activities within one hundred and eighty days after approval of the closure plan for drying bed number four at Defendant's hazardous waste

facility located at 7415 Bessemer Avenue in Cleveland, Ohio in violation of O.A.C. 3745-66-13(B).

7. Ohio Administrative Code Section 3745-66-15 provides that within sixty days of completion of closure of each hazardous waste surface impoundment, waste pile, land treatment, landfill unit and storage area, and within sixty days of completion of final closure, the owner or operator must submit to the director, by registered mail, a certification that the hazardous waste management unit or facility, as applicable, has been closed in accordance with specifications in the approved closure plan.

8. Defendant failed to provide a certification within sixty days of completion of closure for drying bed number four at their hazardous waste facility located at 7415 Bessemer Avenue in Cleveland, Ohio which Plaintiff alleges was in violation of O.A.C. 3745-66-15.

9. The October 9, 1985 Consent Judgment provided that Defendant is prohibited from storing, treating or disposing of hazardous wastes in tanks, sumps, buildings and other locations, areas or facilities except as are authorized in the Hazardous Waste Installation and Operation Permits issued to Defendants or as are otherwise conducted in accordance with law.

10. Since the entry of the October 9, 1985 Consent Judgment, Plaintiff and Defendant have had discussions as to whether or not the yard sumps located at Defendant's Bessemer Avenue facility are hazardous waste facilities as contemplated by the Consent Judgment. The parties have concluded that these yard

sumps are not hazardous waste facilities. However, the parties agree that if hazardous wastes get into the yard sumps, these yard sumps should be properly cleaned. Therefore, Plaintiff and Defendant believe a clarification of the previously entered Consent Judgment is necessary to provide for this contingency.

11. On several days, Defendant at the Bessemer Avenue facility failed to mark hazardous waste sumps from the drying beds as containing "Hazardous Wastes" in violation of O.A.C. 3745-52-34.

12. On at least August 24, 1987, Defendant at the Bessemer Avenue facility failed to mark hazardous waste drums as containing "Hazardous Wastes" and failed to clearly mark the date upon which each period of accumulation began in violation of O.A.C. 3745-52-34.

13. On at least August 24, 1987 until October 30, 1987, Defendants did not keep an operating record for the Bessemer Avenue facility containing information showing waste type, quantity, date, EPA number and physical state in violation of O.A.C. 3745-65-73.

14. On at least April 24, 1987, Defendant at the Bessemer Avenue facility, during that time that a portion of the fence was removed for construction activities, failed to have a surveillance system or artificial or natural barrier in good repair completely surrounding the active portion of the facility in violation of O.A.C. 3745-65-14(B) and Revised Code Section 3745.11.

15. Plaintiff alleges that Defendant at its Bessemer facility has failed to include in its waste analysis plan some of the provisions required by the Consent Judgment.

16. On some occasions since the issuance of the October 9, 1985 Consent Judgment, the Defendant has failed to follow its waste analysis plan.

17. On at least June 16, 1986, Defendant had a drum of hazardous waste with an unsecured lid and broken bung ring in violation of O.A.C. 3745-66-73.

18. On at least August 24, 1987, Defendant had present at the Bessemer Avenue facility an unmarked waste drum containing materials in violation of item 17 of the October 9, 1985, Consent Judgment.

19. Plaintiff and Defendant have negotiated a Settlement of the matters described in this motion which is incorporated in an additional Consent Judgment, a copy of which is attached to this motion. The parties request that this Court approve and file this Consent Judgment pursuant to paragraph 73 of the October 9, 1985, Consent Judgment and its inherent powers to modify its orders.

Respectfully submitted,

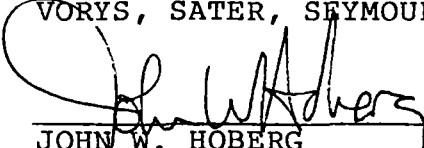
ANTHONY J. CELEBREZZE, JR.
ATTORNEY GENERAL OF OHIO

Jack Van Kley *by PK*

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Assistant Attorney General
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Section

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(614) 464-6213

Int. Book

PROCESSED BY C.S.O.
FEB 7 1989

CASE NO. 98877

ASSIGNED JUDGE Paul Matia

State of Ohio

VS Alchan-Trom, Inc

<input type="checkbox"/> 02 REASSIGNED	DISPOSITION	<input type="checkbox"/> 81 JURY TRIAL	<input type="checkbox"/> 88 BANKRUPTCY STAY
<input type="checkbox"/> 03 REINSTATED (C/A)		<input type="checkbox"/> 82 ARBITRATION DECREE	<input checked="" type="checkbox"/> 89 DIS. W/PREJ.
<input type="checkbox"/> 04 REINSTATED		<input type="checkbox"/> 83 COURT TRIAL	<input type="checkbox"/> 91 DEFAULT-COGNOVITS
<input type="checkbox"/> 20 REFEREE		<input type="checkbox"/> 85 PRETRIAL	<input type="checkbox"/> 93 TRANS TO COURT
<input type="checkbox"/> 40 ARBITRATION		<input type="checkbox"/> 87 DIS W/O PREJ	<input type="checkbox"/> 95 TRANS TO JUDGE
NO. JURORS _____		COURT REPORTER _____	<input type="checkbox"/> PARTIAL
START DATE ___/___/___		START DATE ___/___/___	<input checked="" type="checkbox"/> FINAL
END DATE ___/___/___		END DATE ___/___/___	<input checked="" type="checkbox"/> POST CARD
DATE <u>2 3 1989</u> (NUNC PRO TUNC ENTRY AS OF & FOR ___/___/___)			CLERK OF COURTS
<p><i>Consent Judgment Entry</i> <i>OSJ (final)</i></p> <p><u>Paul R. Matia</u> JUDGE</p>			

JOURNAL

CIVIL CASE STATUS FORM

CPC 43-2

THE STATE OF OHIO }
Columbiana County }
I, GERALD E. FUERST, CLERK OF
SAY, IN COURT OF COMMON PLEAS,
WITHIN AND FOR SAID COUNTY,
HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS TRULY
TRUE AND COPIED FROM THE ORIGINAL dated
Feb 7 1989 Civil #
NOW ON FILE IN MY OFFICE.
WITNESS MY HAND AND SEAL OF SAID COURT THIS 7
DAY OF February, A.D. 1989.
GERALD E. FUERST, Clerk
By Victoria M. Kelley Deputy