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7/16/91

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

RECEIVED

MAY 15 1991

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 WHEELING-PITTSBURGH STEEL)
 CORPORATION,)
)
 Defendant.)

KENNETH J. MURPHY, Clerk
COLUMBUS, OHIO

Case No. C2 88-598

Judge Smith

CONSENT DECREE

WHEREAS, Plaintiff, the United States of America (the "United States"), on behalf of the United States Environmental Protection Agency ("EPA"), filed a Complaint in this action, alleging that Defendant, Wheeling-Pittsburgh Steel Corporation ("Wheeling-Pittsburgh"), has violated and is continuing to violate Sections 301 and 311 of the Clean Water Act (the "Act"), 33 U.S.C. §§ 1311, and 1321, by discharging pollutants from its Steubenville, Mingo Junction, and Yorkville facilities, in excess of the limits in its National Pollutant Discharge Elimination System ("NPDES") permits;

WHEREAS, the United States and Wheeling-Pittsburgh (collectively referred to as "the Parties") agree that settlement of this action is in the public interest and that entry of this Consent Decree ("Decree") without further litigation is the most appropriate means of resolving this matter; and

WHEREAS, Wheeling-Pittsburgh's consent to this Decree is not an admission of fact, liability, or violation of law;

NOW, THEREFORE, before the taking of any testimony, without adjudication of any issue of fact or law, and upon the consent and agreement of the parties to this Decree, it is ORDERED and DECREED as follows:

I. JURISDICTION

1. This Court has jurisdiction over the subject matter of this action and over the parties consenting to this Decree, pursuant to 28 U.S.C. §§ 1345 and 1355, and Sections 309(b) and 311(f) of the Act, 33 U.S.C. §§ 1319(b) and 1312(f). The Complaint filed by the United States of America states a claim upon which relief can be granted against Wheeling-Pittsburgh.

II. APPLICABILITY

2. Each signatory to this Decree on behalf of Wheeling-Pittsburgh certifies that he is fully authorized to enter into the terms and conditions of this Decree, to execute the Decree on behalf of and to bind Wheeling-Pittsburgh to it.

3. The provisions of this Decree shall apply to and be binding upon Wheeling-Pittsburgh, its officers, directors, agents, assigns, and successors in interest. The provisions of this Decree shall apply to and be binding upon the United States. The provisions of this Decree shall apply to and be binding upon all persons, firms, and corporations having notice of this Decree that are, or will be, acting in concert or privity with Wheeling-Pittsburgh or its agents, assigns and any successors in interest.

Wheeling-Pittsburgh shall give written notice of this Decree to all successors in interest, prior to transfer of ownership, and shall simultaneously verify, in writing, to EPA and the United States Department of Justice that such notice has been given.

III. DEFINITIONS

4. "Authorized discharge(s)" means for each facility only those discharges or discharge points specifically allowed in the applicable NPDES Permit for that facility, unless specified otherwise in this Decree.

5. "Unauthorized discharge(s)" means for each facility all discharges or discharge points that are not "authorized discharges," as defined in the previous paragraph.

6. "Pollutant(s)" shall have the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362(5).

7. "Process wastewaters" is defined to include all wastewaters generated by process operations, but does not include any non-contact cooling water, steam condensate, or stormwater. The circumstance that non-contact cooling water, steam condensate, or stormwater discharges contain pollutants that may or may not violate any effluent limitations contained in this Decree or in an applicable permit does not, in itself, classify that discharge as a process wastewater discharge.

8. "Single operational upset" is defined as an exceptional incident which causes simultaneous, unintentional, unknowing (not the result of a knowing act or omission), temporary noncompliance with more than one Clean Water Act effluent discharge pollutant

limitation. Single operational upset does not include Clean Water Act violations involving discharge without an NPDES or locally issued permit or non compliance to the extent caused by improperly designed or inadequate treatment facilities.

9. For purposes of this Decree, the "applicable NPDES Permit" means that version of the facility's NPDES Permit that was issued pursuant to the Act and is applicable, federally-approved and in effect at the time. Should any proposed, modified, or reissued NPDES permit for any of the three facilities become federally approved and effective, except as specifically stated otherwise in this Decree, it will replace the previous permit as the "applicable NPDES Permit."

10. Unless otherwise defined herein, terms used in this Decree shall have the meaning given to those terms in the Act and the regulations promulgated thereunder.

IV. FINDINGS OF FACT

11. Wheeling-Pittsburgh is a corporation organized and existing under the laws of the State of Delaware and registered to do business in the State of Ohio. This Decree concerns the discharge of pollutants into the Ohio River and other navigable waters by three steel manufacturing facilities that are owned and operated by Wheeling Pittsburgh Steel Corporation and located in the State of Ohio. Each of these facilities generates wastewater streams that include a variety of substances that are pollutants within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362(5). The Ohio River, Jumbo Run, Cross Creek and Wells Run

are each a "navigable water" within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7), and are part of the "waters of the United States" within the meaning of 40 C.F.R. § 122.2.

12. The Steubenville Facility: Wheeling-Pittsburgh owns and operates a facility located on South Third Street, in Steubenville, Ohio (the "Steubenville facility" or "plant"), where it manufactures iron and cold rolled steel strip. On March 27, 1987, the Ohio Environmental Protection Agency ("OEPA") issued NPDES permit No. OH0011347 (the "Steubenville Permit") to Wheeling-Pittsburgh, pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), which authorizes National Pollutant Discharge Elimination System Permits. The Steubenville Permit authorizes Wheeling-Pittsburgh to discharge specific amounts of pollutants into the Ohio River and Wells Run from specific outfalls at the Steubenville facility. A copy of the Steubenville Permit, as modified by OEPA on March 5, 1991, which is the applicable NPDES Permit for this facility, is attached and incorporated by reference as "Appendix A."

13. The Mingo Junction Facility: Wheeling-Pittsburgh owns and operates a facility located on McLister Avenue, in Mingo Junction, Ohio (the "Mingo Junction facility" or "plant"), where it manufactures iron, steel, steel slabs and steel strip. On March 30, 1987, the OEPA issued NPDES permit No. OH0011355 (the "Mingo Junction Permit") to Wheeling-Pittsburgh, pursuant to Section 402 of the Act, 33 U.S.C. § 1342(b). The Mingo Junction Permit authorizes Wheeling-Pittsburgh to discharge specified

amounts of pollutants into the Ohio River, Cross Creek and Jumbo Run from specific outfalls at the Mingo Junction facility. A copy of the Mingo Junction Permit, as modified by OEPA on March 3, 1991, which is the applicable NPDES Permit for this facility, is attached and incorporated by reference as "Appendix B."

14. The Yorkville Facility:

Wheeling-Pittsburgh owns and operates a facility located at 219 South Public Road, in Yorkville, Ohio (the "Yorkville facility" or "plant"), where it conducts pickling, cold rolling and final finishing operations to produce tin and chromium coated and uncoated steel strip. On September 26, 1985, the OEPA issued NPDES Permit No. OH0011371 (the "Yorkville Permit") to Wheeling-Pittsburgh. The Yorkville Permit authorizes Wheeling-Pittsburgh to discharge specific amounts of pollutants into the Ohio River from specific outfalls at the Yorkville facility. A copy of the Yorkville Permit, as modified by Ohio EPA on February 5, 1990, which is the applicable NPDES Permit for this facility, is attached and incorporated by reference as "Appendix C."

V. OBJECTIVES OF THIS CONSENT DECREE

15. The objectives of this Decree are:

a. to require Wheeling-Pittsburgh to achieve and thereafter maintain compliance at the Steubenville Facility, the Mingo Junction Facility, and the Yorkville Facility with the applicable NPDES Permit for each facility, the Act and all regulations and other requirements promulgated pursuant to the

Act, and all other applicable water pollution control requirements of this Decree, and federal law;

b. to require Wheeling-Pittsburgh to identify, evaluate and describe completely the manner and routes at each of these three facilities by which the effluent process wastewaters, non-contact cooling waters, sanitary wastewaters and stormwater runoff are transported, bypassed and/or otherwise discharged from the facility, as specified in this Decree;

c. to establish a schedule under which Wheeling-Pittsburgh shall construct, operate and maintain water pollution control equipment at these facilities, as specified in this Decree;

d. to establish a program under which Wheeling-Pittsburgh shall evaluate and, as necessary, improve or maintain its water pollution control equipment at these facilities, as specified in this Decree;

e. to require Wheeling-Pittsburgh to identify and eliminate the acute toxicity of its effluent at certain Outfalls at each of the facilities;

f. to require Wheeling-Pittsburgh to operate and maintain the wastewater treatment plants at each of the three facilities to ensure that Wheeling-Pittsburgh maintains compliance with the applicable NPDES Permit for each of the three facilities and all other applicable water pollution control requirements of this Decree, and federal law;

g. to require Wheeling-Pittsburgh to ensure that all monitoring, sampling, analyses, and reporting on its effluents from each of the three facilities is conducted in compliance with the applicable NPDES Permit for each facility, all other applicable water pollution control requirements of this Decree, and federal law; and

h. to resolve all claims for civil penalties for violations of the applicable NPDES permits and the Act that have occurred at the Steubenville, Mingo Junction and Yorkville facilities up to the entry of this Decree, which are alleged in the Complaint in this action or which the EPA had knowledge of and could have alleged in the Complaint.

VI. COMPLIANCE PROGRAM

16. Wheeling-Pittsburgh shall complete the following measures at the Steubenville, Mingo Junction, and Yorkville facilities. Unless scheduled otherwise in this Section, as of the effective date of this Decree, Wheeling-Pittsburgh shall operate these facilities in compliance with the applicable NPDES Permit for each facility, federal law and this Decree.

17. By its signature to this Decree, Wheeling-Pittsburgh certifies to the following:

a. Steubenville Facility:

1. that by April 15, 1990, it completed construction of the wastewater treatment facilities for the Blast Furnace, as set forth in OEPA Permit to Install ("PTI") No. 06-2472;

2. that by May 31, 1990, it achieved compliance with the effluent limitations for the Blast Furnace (Outfall 601) in the applicable NPDES Permit;

3. that by March 19, 1990, it completed construction of the sewer modifications and wastewater collection systems for the North Pickler, as set forth in OEPA PTI No. 06-2487; and

4. that it has shut down, dismantled and discontinued all operations at the 45" Slab Mill.

b. Mingo Junction Facility:

1. that by November 19, 1990, it completed construction of the wastewater treatment facilities for the 80" Hot Strip Mill, as set forth in OEPA PTI No. 06-2455;

2. that by December 31, 1990, it achieved compliance with the effluent limitations for the 80" Hot Strip Mill (Outfall 012) in the applicable NPDES Permit;

3. that by June 30, 1990, it completed construction of the wastewater treatment facilities for the Basic Oxygen Furnace process, as set forth in OEPA PTI No. 06-2488;

4. that by November 30, 1990, it achieved compliance with the effluent limitations for the Basic Oxygen Furnace process (Outfall 605) in the applicable NPDES Permit;

5. that by March 31, 1990, it achieved compliance with the effluent limitations and monitoring requirements for the 44" Slab Mill (presently Outfall 002) in the applicable NPDES Permit;

6. that by April 15, 1990, it completed construction

of the wastewater treatment facilities for the Blast Furnace and Boilerhouse, as set forth in OEPA PTI No. 06-2483; and

7. that by May 31, 1990, it achieved compliance with the effluent limitations for the Blast Furnace (Outfall 601) and the Boilerhouse (presently designated Outfall 008, but to be redesignated Outfall 607) in the applicable NPDES Permit.

18. Steubenville Facility:

a. Blast Furnace:

1. Not later than February 29, 1992, Wheeling-Pittsburgh shall complete all remedial actions necessary to collect and route all Blast Furnace process wastewaters, including but not limited to, gas cleaning waters and gas cooling waters, and blast furnace gas condensates and seal waters, to the Blast Furnace wastewater treatment and recycle system.

2. Commencing not later than February 29, 1992, Wheeling-Pittsburgh shall collect and remove all coke oven gas condensates from the Steubenville facility, and shall dispose of or treat such condensates at its Follansbee, West Virginia coke plant, unless EPA approves an alternative method of disposal and/or treatment.

3. Effective March 1, 1992, Wheeling-Pittsburgh shall not discharge Blast Furnace process wastewaters through Outfall 003 except by way of Outfall 601. The discharge of Blast Furnace process wastewaters through any other outfall or point or non-point source is prohibited.

4. Beginning on March 1, 1992, and lasting until May 31, 1992, Wheeling-Pittsburgh shall monitor Outfall 601, Outfall 003, and the river intake as follows:

<u>Pollutant</u>	<u>Frequency</u>	<u>Sample Type</u>
Flow, MGD	3/week	24 hour total
Ammonia-N, lbs/day	3/week	24 hour composite
Total Cyanide, lbs/day	3/week	24 hour composite
Phenols (4AAP), lbs/day	3/week	24 hour composite

The purpose of the monitoring program is to demonstrate compliance with the requirement set out in Paragraph 18.a.3. The frequency of this monitoring requirement, as with all monitoring requirements in this Decree, is a minimum. Wheeling-Pittsburgh may sample more frequently, but shall report all data in accordance with this Decree and its applicable NPDES Permits.

5. Effective March 1, 1992, Wheeling-Pittsburgh shall initiate investigative and corrective actions to remove any treated or untreated blast furnace wastewaters, blast furnace gas condensates, or coke oven gas condensates from Outfall 003, other than that authorized from Outfall 601, whenever the monthly average mass discharge of ammonia-N from Outfall 003 exceeds the sum of the monthly average mass loadings of ammonia-N in the intake water discharged through Outfall 003 and the discharge from Outfall 601 by more than 30% ("trigger"). Wheeling-Pittsburgh shall report the monitoring results, calculations and

any corrective actions conducted pursuant to this subparagraph in its Quarterly Progress Report in accordance with Section XI.

6. Wheeling-Pittsburgh, for good cause, may petition EPA to modify the 30% excess ammonia-N discharge trigger of subparagraph 5. Such modification shall only occur upon written approval of EPA. If the monitoring required by subparagraph 5 shows no such trigger during six (6) consecutive months, Wheeling-Pittsburgh may petition EPA to terminate the ammonia-N balance computations of subparagraph 5. Such termination shall occur only upon written approval of EPA. Upon written notification to Wheeling-Pittsburgh by EPA, Wheeling-Pittsburgh shall reinstitute the requirements of subparagraph 5. Paragraph 78 does not apply to the operation of this subparagraph.

b. North Pickler:

Effective September 30, 1991, the discharge of North Pickler process wastewaters through Outfall 002 is prohibited.

c. 45" Slab Mill:

Wheeling-Pittsburgh shall not discharge any process wastewater or non-contact cooling water from the 45" Slab Mill area unless such discharge has been authorized in the applicable NPDES Permit.

d. Finishing Operations:

Effective March 1, 1992, the discharge of process wastewaters containing Naphthalene and Tetrachloroethylene from Outfall 005 is prohibited. The discharge from Outfall 005 shall

be monitored quarterly until March 31, 1993, and annually thereafter, as follows:

<u>Pollutant</u>	<u>Type of Monitoring</u>
Naphthalene	24 hr. composite sample
Tetrachloroethylene	grab

19. Mingo Junction Facility:

a. Hot Strip Mill:

1. Effective December 31, 1991, Wheeling-Pittsburgh shall route process wastewaters from the 80" Hot Strip Mill finishing operations from Outfall 011 to the 80" Hot Strip Mill wastewater treatment facilities.

2. Effective January 1, 1992, the discharge of process wastewaters to Outfall 011 is prohibited.

3. Effective January 1, 1992, Wheeling-Pittsburgh may discharge 80" Hot Strip Mill process wastewaters and 80" Hot Strip Mill finishing process wastewaters through Outfall 007 only by way of Outfall 603. The discharge of Hot Strip Mill process wastewaters through any other outfall or point or non-point source is prohibited.

4. Effective October 1, 1991, Wheeling-Pittsburgh shall achieve and maintain compliance with the following effluent limitations for the 80" Hot Strip Mill wastewater treatment system (Outfall 603):

<u>Pollutant</u>	<u>Effluent Limitations</u>		<u>Monitoring Requirements</u>	
	<u>Monthly</u>	<u>Daily</u>	<u>Frequency</u>	<u>Sample</u>
	<u>Average</u>	<u>Maximum</u>		<u>Type</u>
	(lbs/day)			
Flow	-	-	Daily	24 hr. total
TSS	1333	3556	1/week	24 hr. comp
Oil & Grease	-	889	1/week	2 grabs/24 hrs.

The effluent limitations for TSS for the 80" Hot Strip Mill in this Paragraph are gross effluent limitations. The parties recognize, that, infrequently, under certain conditions entirely beyond the control of Wheeling-Pittsburgh, the quality of the Ohio River may be such that the 80" Hot Strip Mill effluent limitations for TSS may not be achievable despite optimum operation of the 80" Hot Strip Mill treatment facility at Wheeling-Pittsburgh. Under such circumstances, Wheeling-Pittsburgh shall continue to operate the 80" Hot Strip Mill treatment in an optimum manner. Should, despite its best efforts, Wheeling-Pittsburgh not achieve the daily maximum effluent limitations for TSS, or not achieve the monthly average limit for TSS due to such occurrence, Wheeling-Pittsburgh may petition EPA for relief from stipulated penalties set forth in Paragraph 46.g. In such petition, Wheeling-Pittsburgh shall describe fully the conditions that led to the exceedance (e.g.,

high river stage, high runoff or rainfall, etc.), provide concurrent measurements of intake quality for TSS for each day of such occurrence, and certify that it has operated the 80" Hot Strip Mill treatment facility in an optimum manner throughout the entire period of occurrence of high river TSS.

b. 44" Slab Mill:

1. Not later than June 30, 1991, Wheeling-Pittsburgh shall route slab spray cooling water to the 44" Slab Mill wastewater treatment facility.

2. Effective July 1, 1991, Wheeling-Pittsburgh shall discharge any 44" Slab Mill process wastewaters only through Outfall 002. The discharge of any 44" Slab Mill process wastewaters through any other outfall or point or non-point source is prohibited.

c. Continuous Caster:

1. Not later than December 31, 1991, Wheeling-Pittsburgh shall route the treated effluent from the continuous caster to the 80" Hot Strip Mill wastewater treatment and recycle system for the purpose of providing additional treatment of Total Suspended Solids (TSS) and Oil and Grease for the continuous caster effluent.

2. Wheeling-Pittsburgh shall continue to maintain compliance with effluent limitations and monitoring requirements for Total Lead and Total Zinc for Outfall 606, as set forth in the applicable NPDES Permit.

3. Not later than January 1, 1992, Wheeling-Pittsburgh shall comply with the combined effluent limitations for Total Suspended Solids and Oil and Grease applicable to the Continuous Caster and the 80" Hot Strip Mill at Outfall 603, as set forth in Paragraph 19.a.4 of this Decree.

d. Blast Furnace:

1. Not later than February 29, 1992, Wheeling-Pittsburgh shall complete all remedial actions necessary to collect and route all Blast Furnace process wastewaters, including but not limited to, gas cleaning waters and gas cooling waters, and blast furnace gas condensates and seal waters, to the Blast Furnace wastewater treatment and recycle system.

2. Commencing not later than February 29, 1992, Wheeling-Pittsburgh shall collect and remove all coke oven gas condensates from the Mingo Junction Facility, and shall dispose of or treat such condensates at its Follansbee, West Virginia coke plant, unless EPA approves an alternative method of disposal and/or treatment.

3. Commencing March 1, 1992, Wheeling-Pittsburgh shall not discharge Blast Furnace process wastewaters through Outfall 004 except by way of Outfall 601. The discharge of Blast Furnace process wastewaters through any other outfall or point or non-point source is prohibited.

4. Beginning on March 1, 1992, and lasting until May 31, 1992, Wheeling-Pittsburgh shall monitor Outfall 601, Outfall 004, and the river intake as follows:

<u>Pollutant</u>	<u>Frequency</u>	<u>Sample Type</u>
Flow, MGD	3/week	24 hour total
Ammonia-N, lbs/days	3/week	24 hour composite
Total Cyanide, lbs/day	3/week	24 hour composite
Phenols (4AAP), lbs/day	3/week	24 hour composite

The purpose of the monitoring program is to demonstrate compliance with the requirement set out in paragraph 19.d.3.

5. Effective March 1, 1992, Wheeling-Pittsburgh shall initiate investigative and corrective actions to remove any treated or untreated blast furnace wastewaters, blast furnace gas condensates, or coke oven gas condensates from Outfall 004, other than that authorized from Outfall 601, whenever the monthly average mass discharge of ammonia-N from Outfall 004 exceeds the sum of the monthly average mass loadings of ammonia-N in the intake water discharged through Outfall 004 and the discharge from Outfall 601 by more than 30% ("trigger"). Wheeling-Pittsburgh shall report the monitoring results, calculations and any corrective actions conducted pursuant to this subparagraph in its Quarterly Progress Report in accordance with Section XI.

6. Wheeling-Pittsburgh, for good cause, may petition EPA to modify the 30% excess ammonia-N discharge trigger of subparagraph 5. Such modification shall only occur upon written approval by EPA. If the monitoring required by subparagraph 5 shows no such trigger during six (6) consecutive months, Wheeling-Pittsburgh may petition EPA to terminate the ammonia-N

balance computations of subparagraph 5. Such termination shall occur only upon written approval of EPA. Upon written notification to Wheeling-Pittsburgh by EPA, Wheeling-Pittsburgh shall reinstitute the requirements of subparagraph 5. Paragraph 78 does not apply to the operation of this subparagraph.

7. Not later than January 31 1992, Wheeling-Pittsburgh shall submit to EPA the plans for a pilot-scale study for air-stripping of ammonia-N from the Mingo Junction Blast Furnace Blowdown. Within thirty (30) days after receipt of EPA's written comments on this plan, Wheeling-Pittsburgh shall incorporate EPA's comments into the plan and shall initiate the study.

8. Not later than one hundred and fifty (150) days after commencement of the study, Wheeling-Pittsburgh shall complete, and submit to EPA the results of the pilot-scale study of air stripping of ammonia-N, set forth in the previous subparagraph. The pilot-scale study shall be conducted at a design flow rate of not less than 5 gallons per minute (GPM) and shall evaluate the effects of effluent temperature, pH, and air flow rate on achievable ammonia-N effluent concentrations. In addition, the duration of the pilot-scale study shall be at least 3 months, and longer if necessary, in order to evaluate fouling and scaling within the air stripping tower.

e. The discharge of Basic Oxygen Furnace ("BOF") gas cooling water from Outfall 006 is prohibited.

20. Yorkville Facility: Outfall 003 - Oil Control Program:a. Interim Oil Control Program:

Commencing upon the date of entry of this Decree and lasting until March 31, 1992, Wheeling-Pittsburgh shall implement an interim oil control program for Outfall 003. The plan shall include the following:

1. Daily observations of accumulated oil at the sewer manhole near the railroad tracks upstream of Wheeling-Pittsburgh process operations that discharges to Outfall 003, and at the oil boom in the Ohio River at Outfall 003.

2. Oil removal by vacuum truck, absorbent booms and/or pads, rope skimmers, pump skimmers, mop skimmers, floating booms, or other means approved in writing by EPA at the above locations whenever floating oil is observed other than in trace amounts.

3. Wheeling-Pittsburgh shall record the daily observations, the dates when oil is removed and the estimated quantity of oil removed from each location. Wheeling-Pittsburgh shall report the monitoring results in its Quarterly Progress Reports to EPA in accordance with Section XI.

b. Oil Source Identification:

1. Not later than August 1, 1991, Wheeling-Pittsburgh shall conduct a complete and thorough investigation of oil sources to the Outfall 003 sewer system. Such sources shall include, but not be limited to, railroad operations, Wheeling-Pittsburgh process and shipping operations, off-site sources, and

the Develco oil reclamation operation. The investigation shall include field sampling programs and oil and grease source characterization by infrared scan analyses or other suitable analyses as necessary to identify and quantify all sources of oil and grease to the Outfall 003 sewer system.

2. Not later than August 1, 1991, Wheeling-Pittsburgh shall submit to EPA a report of the results of the investigation outlined in paragraph 20.b.1. The report shall identify any manhole(s) or access point(s) in the upstream portion of the sewer tributary to outfall 003 that are located such that wastewaters from any upstream non-Wheeling-Pittsburgh sources flow through the manhole(s) or access point(s) ("003 Upstream Point(s)").

c. Final Oil Control Program:

1. Not later than March 31, 1992, Wheeling-Pittsburgh shall complete all corrective actions necessary to eliminate all Wheeling-Pittsburgh process wastewater sources of oil and grease to Outfall 003, except discharges as authorized from Outfalls 601 and 602.

2. Effective April 1, 1992, Wheeling-Pittsburgh shall monitor each 003 Upstream Point and Outfall 003 as follows:

Monitoring Requirements

<u>Pollutant</u>	<u>Frequency</u>	<u>Sample Type</u>
Oil & Grease	3/week	Observation
Oil & Grease, mg/l	3/week	2 grabs/24 hrs.

3. When oil and grease is observed at any 003 Upstream Point or Outfall 003 in amounts other than trace amounts, Wheeling-Pittsburgh shall remove such oil by vacuum truck (or other means, as set forth in paragraph 20.a.2) and initiate investigative and corrective actions as appropriate to remove the Wheeling-Pittsburgh source or sources of such oil. If Wheeling-Pittsburgh determines the source of oil is from off-site, Wheeling-Pittsburgh shall remove such oil as set out above and notify the Ohio EPA and the National Response Center in accordance with applicable regulations.

4. Wheeling-Pittsburgh shall report the results of the monitoring and corrective actions taken under subparagraphs c.2 and c.3 in its Quarterly Progress Reports to EPA in accordance with Section XI.

5. Effective April 1, 1992, the discharge of Wheeling-Pittsburgh process wastewater sources of oil and grease to the Outfall 003 sewer system, in excess of the actual discharges from Outfalls 601 and 602, is prohibited, except as may be authorized in subparagraphs 6, 7 and 8 of this Paragraph.

6. No later than November 1, 1992, Wheeling-Pittsburgh shall monitor Outfalls 601, 602 and 003, the Yorkville plant river intake, and each 003 Upstream Point as follows:

	<u>Monitoring Frequency</u>	<u>Sample Type</u>
Oil and grease	3/week	Observation (outfall 003 and each 003 Upstream Point only)
Oil and grease	3/week	2 grabs/24 hrs.

For each monitoring day, Wheeling-Pittsburgh shall compute the mass loading of oil and grease at each monitoring point.

Whenever the weekly average mass discharge of oil and grease from Outfall 003 exceeds the sum of the weekly average loadings of oil and grease from Outfalls 601 and 602, the river intake water discharged from Outfall 003, and each 003 Upstream Point by more than 30%, Wheeling-Pittsburgh shall initiate investigative and corrective actions to remove the Wheeling-Pittsburgh sources of such oil. In no case, however, shall the average oil and grease concentration at Outfall 003 exceed 20 mg/l on any day after November 1, 1992. For purposes of this subparagraph, Wheeling-Pittsburgh shall use analytical detection levels for oil and grease of not greater than 3.0 mg/l.

7. Effective November 1, 1992, in the event the average concentration of oil and grease at Outfall 003 exceeds 20 mg/l on any given day, and the exceedance is due to sources other than Wheeling-Pittsburgh, Wheeling-Pittsburgh may petition EPA for relief from stipulated penalties for that exceedance. In such petition, Wheeling-Pittsburgh shall, to the extent available, provide flow, oil and grease concentration data (average of all samples and individual sample data), and mass loading data for oil and grease at the Yorkville facility river intake, each 003 Upstream Point, Outfall 601 and 602, and Outfall 003 for that day. EPA will grant such petition only if the data or other information conclusively demonstrate the cause of the

exceedance above 20 mg/l was due to a non-Wheeling-Pittsburgh source.

8. Effective six months after Wheeling-Pittsburgh commences the monitoring program in subparagraph 6, Wheeling-Pittsburgh may petition EPA to reduce the observation and monitoring frequency set forth in Paragraph 20.c.6 to once per week. EPA shall grant such petition if Wheeling-Pittsburgh demonstrates that it has been in compliance with the 20 mg/l effluent limitation for oil and grease set forth in Paragraph 20.c.6 for six consecutive months. Such modification shall only occur upon written approval by EPA. Paragraph 78 does not apply to such modification. If the monitoring frequency is reduced, Wheeling-Pittsburgh shall compare the monthly average discharge with monthly average loadings, in lieu of the weekly averages as required by Paragraph 20.c.6.

21. Yorkville Facility: Outfall 601/602:

a. Upon entry of this Decree, Wheeling-Pittsburgh shall operate the wastewater treatment facilities tributary to Outfalls 601 and 602 in a manner to maximize removal of pollutants and minimize the discharge of pollutants.

b. Wheeling-Pittsburgh shall, at a minimum, achieve the following schedule to achieve and maintain compliance with the effluent limitations for Outfalls 601 and 602 contained in the applicable NPDES Permit for the Yorkville Facility:

<u>Milestone</u>	<u>Deadline</u>
(1) Install lime slaker and pH control system for Phase II	Completed

wastewater treatment system

- | | | |
|-----|---|-------------------|
| (2) | Submit preliminary engineering plans for upgrading the wastewater treatment system to EPA | August 1, 1991 |
| (3) | Submit Permit to Install application to OEPA with copy to EPA | September 1, 1991 |
| (4) | Submit bid package to EPA | November 1, 1991 |
| (5) | Initiate construction | March 1, 1992 |
| (6) | Complete construction and provide certification thereof to EPA | October 1, 1992 |
| (7) | Achieve and thereafter maintain final effluent limitations | November 1, 1992 |

c. The above schedule does not relieve Wheeling-Pittsburgh from its obligations to comply with the NPDES Permit effluent limitations applicable to Outfalls 601 and 602 during the period beginning on the effective date of this Decree and lasting until November 1, 1992. During the period from the effective date of this Decree and lasting until November 1, 1992, the provisions of Paragraph 46.f shall not apply, however, this does not affect the United States' rights as set forth in Paragraphs 52 and 71.

d. Effective upon entry of this Decree, Wheeling-Pittsburgh shall monitor the discharges from Outfalls 601 and 602 three (3) times per week for flow, Total Suspended Solids (TSS), Oil and Grease, Total Lead, Total Zinc and pH. Sampling shall be as follows:

<u>Pollutant</u>	<u>Frequency/Sample Type</u>
Flow, MGD	24 Hour Continuous
TSS, mg/l, lbs/day	24 hour composite
Oil and Grease, mg/l, lbs/day	2 Grabs/24 hours
Total Lead, mg/l, lbs/day	24 hour composite
Total Zinc, mg/l, lbs/day	24 hour composite
pH (Outfall 601), S.U.	24 hour continuous
pH (Outfall 602), S.U.	2 Grabs/24 Hours

Effective six months after Wheeling-Pittsburgh achieves milestone 21.b.(7), if the monitoring data shows that Wheeling-Pittsburgh is in compliance with the effluent limitations for Outfalls 601 and 602, for six (6) consecutive months, Wheeling-Pittsburgh may petition EPA to eliminate or otherwise modify these monitoring requirements. Such termination or modification shall occur only upon written approval of EPA. Paragraph 78 does not apply to the operation of this subparagraph.

22. Yorkville Facility: Tin Line:

Wheeling-Pittsburgh shall conduct a wastewater characterization and treatability study for the Tin Line. Wheeling-Pittsburgh shall evaluate technically feasible alternatives, including flow reduction and treatment. At a minimum, the study shall include the following:

a. Wastewater Characterization:

1. Not later than September 1, 1992, Wheeling-Pittsburgh shall complete a wastewater characterization study for

the Tin Line. The study shall include the monitoring program set out below for each tin mill wastewater stream and the service water feeding the Tin Line. The duration of the monitoring program shall be at least one month.

<u>Pollutant</u>	<u>Frequency</u>	<u>Sample Type</u>
Flow, MGD	3/month	24 hr total or estimate
TSS	3/month	24 hour composite
Oil & Grease	3/month	2 grabs/24 hours
Toxic metals	3/month	24 hour composite
Volatile organics	3/month	2 grabs/24 hours
A/B-N Organics	3/month	24 hour composite
Phenols (4AAP)	3/month	24 hour composite
pH	3/month	2 grabs/24 hours

2. Not later than September 1, 1992, Wheeling-Pittsburgh shall submit to EPA a report summarizing the results of the study conducted in accordance with paragraph 22.a.1. The report shall include for each wastewater stream the concentrations (mg/l) and net and gross mass discharge (lbs/day) of each pollutant.

b. Wastewater Treatability Analysis:

Not later than March 1, 1993, Wheeling-Pittsburgh shall submit to EPA a preliminary engineering report based upon a review of the data obtained in subparagraph a, above, and any other current and relevant information, of wastewater treatment alternatives for tin mill wastewaters. For each technically

feasible wastewater alternative, the report shall include preliminary engineering investment cost and annual cost estimates, and estimates of resultant treated wastewater volume and quality for pollutants detected in the monitoring program set out above. Treatment alternatives evaluated shall include, but not necessarily be limited to:

1. Flow reduction:

- (a) installation of cascade countercurrent rinsewater systems;
- (b) recycle of vacuum aspirator water; and,
- (c) substitution of alternative systems to eliminate vacuum aspirators.

2. Wastewater treatment:

- (a) phenols (4AAP) removal;
- (b) toxic organic pollutant removal; and,
- (c) toxic metals removal.

23. Facilities Evaluation and Action Program:

a. Wheeling-Pittsburgh shall, in accordance with this Paragraph, perform engineering analyses and develop and implement, as appropriate, remedial action plans and good management practices for each facility, including process operations, as identified below. The purpose of the Facilities Evaluation and Action Program ("Program") is to ensure compliance with the Act, the applicable NPDES permits, and this Decree. Wheeling-Pittsburgh may at its option retain a consulting engineering firm(s) ("Engineer") to perform the analyses and

develop and design any necessary improvement and remediation program, but Wheeling-Pittsburgh shall be liable to perform the items specified herein whether or not it retains an Engineer. This Program shall be subject to review and approval by EPA as set forth in paragraph 23.d.

b. The specific objectives and reporting requirements for each element of the Facilities Evaluation and Action Program are set out below:

1. Discharge Surveys

A. Discharge surveys shall be conducted for the following facilities:

- (1) Steubenville Plant
- (2) Mingo Junction Plant
- (3) Yorkville Plant

B. Objectives:

Wheeling-Pittsburgh shall conduct a complete and thorough survey of known and possible discharges from each plant. The objectives of the discharge surveys are to locate and identify all stormwater, cooling water, sanitary wastewater and process wastewater discharge points.

C. Reporting:

Upon completion of the discharge surveys, Wheeling-Pittsburgh shall submit detailed reports for each plant. The reports shall include: maps depicting the location of each discharge; narrative descriptions of the source of discharged waters, specifically identifying any process or other contaminated waters; and, the receiving water for each discharge.

2. Overflow and Bypass Points

A. Engineering surveys of overflow and bypass

points shall be conducted for the following facilities, as specified:

- (1) Steubenville Plant
 - (a) Blast Furnaces
 - (b) Finishing Operations
 - (c) Boilerhouses

- (2) Mingo Junction Plant
 - (a) Blast Furnaces
 - (b) BOF Steelmaking
 - (c) Continuous Caster
 - (d) Hot Strip Mill
 - (e) 44" Slab Mill
 - (f) Boilerhouses

- (3) Yorkville Plant
 - (a) Acid Pickling
 - (b) Cold Rolling
 - (c) Alkaline Cleaning
 - (d) Steel Coatings
 - (e) Boilerhouses
 - (f) Develco Oil Recovery

B. Objectives:

Wheeling-Pittsburgh shall conduct complete and thorough engineering surveys of known and possible overflow and bypass points of process wastewaters and process liquid raw materials used in each process and boilerhouse operation, including wastewater treatment facilities associated with each process and boilerhouse operation. Potential overflow points are those points from which process waters and liquid raw materials can be released and may reach the outfalls. The objectives of the overflow and bypass surveys are to locate and identify all known and potential overflow and bypass points, and to develop remedial actions or good management practices, as appropriate, to eliminate, or minimize to the maximum extent practicable, overflows and bypasses.

C. Reporting:

Upon completion of the engineering surveys, Wheeling-Pittsburgh shall submit detailed reports

for each plant. The reports shall include: identification of each actual and potential overflow point for each process and boilerhouse operation, including wastewater treatment facilities; conditions which could result in an overflow or bypass; and, remedial actions or good management practices Wheeling-Pittsburgh proposes to implement to eliminate, or minimize to the maximum extent practicable, overflows and bypasses. The report shall include construction schedules for completion of any remedial actions not completed prior to submission of the respective reports for each plant.

3. Clean Water Outfalls

A. Engineering and field monitoring surveys shall be conducted for the following facilities, as specified:

(1) Steubenville Plant

- (a) Outfalls 001, 002, 004
- (b) Wells Run

(2) Mingo Junction Plant

- (a) Outfalls 001, 003, 006, 008,
009, 011
- (b) Jumbo Run
- (c) Cross Creek

(3) Yorkville Plant
Outfalls 001, 002

B. Objectives:

Wheeling-Pittsburgh shall conduct complete and thorough engineering and field monitoring surveys of its sewer systems on its property tributary to each identified outfall and Wells Run, Jumbo Run and Cross Creek. The objectives of the engineering and field monitoring surveys are to determine whether any process wastewaters or other contaminated wastewaters have not been collected and treated in process wastewater treatment systems at the respective plants. The engineering surveys and field monitoring surveys shall consist of, but not necessarily be limited to, sewer system and effluent monitoring, and other appropriate techniques to detect the presence of process wastewater pollutants. The

field monitoring shall include sampling and analyses and field measurements of pollutants and physical characteristics indicative of the processes located in the area drained by each sewer system being studied. The type and frequency of monitoring shall be determined by Wheeling-Pittsburgh, but shall be of sufficient magnitude to determine conclusively whether and to what extent, process wastewater pollutants are discharged from the respective outfalls or to each Ohio River tributary.

C. Reporting:

Upon completion of the engineering surveys, Wheeling-Pittsburgh shall submit detailed reports for each plant. The reports shall include: summaries of monitoring data for each outfall; conclusions reached by Wheeling-Pittsburgh Steel regarding whether process wastewater pollutants are discharged from each outfall or to each Ohio River tributary; construction schedules for any remedial actions proposed by Wheeling-Pittsburgh to remediate unauthorized discharges of process wastewaters; and proposed follow-up monitoring programs to document the effectiveness of such corrective actions.

4. Sanitary Wastewater Discharges

A. Surveys of sanitary wastewater discharges shall be conducted at the following facilities:

- (1) Steubenville Plant
- (2) Mingo Junction Plant
- (3) Yorkville Plant

B. Objectives:

Wheeling-Pittsburgh shall conduct a complete and thorough survey of known and possible sanitary wastewater discharges to the respective municipal sewerage systems serving each plant. The objectives of the discharge surveys are to determine whether and to what extent, process wastewaters may be discharged to municipal sewerage systems, and to what extent sanitary wastewaters are discharged to Wheeling-Pittsburgh steel process, storm water and cooling water outfalls, and to Ohio River tributaries. The type and frequency of monitoring shall be determined by

Wheeling-Pittsburgh, but shall be of sufficient magnitude to determine conclusively whether and to what extent, process wastewater pollutants are discharged to the respective municipal sewerage systems, and whether and to what extent sanitary wastewaters are discharged to Wheeling-Pittsburgh process, stormwater and cooling water outfalls, and Ohio River tributaries.

C. Reporting:

Upon completion of the surveys, Wheeling-Pittsburgh shall submit detailed reports for each plant. The reports shall include: summaries of monitoring data for each outfall; conclusions reached by Wheeling-Pittsburgh Steel regarding whether process wastewater pollutants are discharged to the respective municipal sewerage systems, and whether sanitary wastewaters are discharged to Wheeling-Pittsburgh Steel process, stormwater and cooling water outfalls, and to Ohio River tributaries; construction schedules for any remedial actions proposed by Wheeling-Pittsburgh to remediate such discharges of process and sanitary wastewaters; and, proposed follow-up monitoring programs to document the effectiveness of such corrective actions.

c. Wheeling-Pittsburgh shall comply with the following schedule for conducting the engineering analyses and implementing necessary remedial actions derived from the Facilities Evaluation and Action Program. The compliance dates are applicable to the Steubenville Facility, the Mingo Junction Facility, and the Yorkville Facility:

<u>MILESTONE</u>	<u>COMPLIANCE DATE</u>
1. Selection of engineering firm, or election to complete work by Wheeling-Pittsburgh and notify EPA	June 15, 1991
2. Submission of detailed study plans to EPA:	
Discharge Surveys	Oct. 1, 1991

- | | | |
|----|---|-----------------|
| | Overflow and Bypass Points | Oct 1, 1991 |
| | Clean Water Outfalls | Oct. 1, 1991 |
| | Sanitary Wastewater Discharges | Oct. 1, 1991 |
| 3. | Initiation of field studies: | |
| | Discharge Surveys | Feb. 1, 1992 |
| | Overflow and Bypass Points | Feb. 1, 1992 |
| | Clean Water Outfalls | July 1, 1992 |
| | Sanitary Wastewater Discharges | July 1, 1992 |
| 4. | Submission of final reports and plans for corrective actions and/or good management practices to EPA: | |
| | Discharge Surveys | Dec. 15, 1992 |
| | Overflow and Bypass Points | Dec. 15, 1992 |
| | Clean Water Outfalls | Dec. 15, 1992 |
| | Sanitary Wastewater Discharges | Dec. 15, 1992 |
| 5. | Implement Good Management Practices | |
| | Discharge Surveys | March 15, 1993 |
| | Overflow and Bypass Points | March 15, 1993 |
| | Clean Water Outfalls | March 15, 1993 |
| | Sanitary Wastewater Discharges | March 15, 1993 |
| 6. | Completion of Corrective Actions: | |
| | Discharge Surveys | August 15, 1993 |
| | Overflow and Bypass Points | August 15, 1993 |
| | Clean Water Outfalls | August 15, 1993 |
| | Sanitary Wastewater Discharges | August 15, 1993 |
| 7. | Submit Certification of Completion: | August 31, 1993 |

d. Within 60 days after submission of each detailed study plan (Paragraph 23.c.2) and report and plan for corrective action and/or good management practices (Paragraph 23.c.4), EPA shall submit to Wheeling-Pittsburgh written comments on each study plan, report and plan for corrective action and/or good management practices. Within thirty (30) days following its receipt of EPA's comments, Wheeling-Pittsburgh shall incorporate EPA's comments into revised study plans and plans for corrective

action and/or good management practices. If Wheeling-Pittsburgh invokes the provisions of Section XVII (Dispute Resolution), Wheeling-Pittsburgh shall proceed with all portions of any field study, corrective action plan, and good management practices not in dispute.

e. The compliance dates set forth in subparagraph c are presumed adequate for completion of the corrective actions required. However, if Wheeling-Pittsburgh finds that any corrective action identified through any of the surveys set forth in this Paragraph is of such magnitude that Wheeling-Pittsburgh cannot reasonably implement the corrective action within the compliance schedules set out above, Wheeling-Pittsburgh may petition EPA for an extended compliance schedule for that corrective action. Wheeling-Pittsburgh shall submit its petition for an extension as early as possible, but in no case later than December 15, 1992. In such petition, Wheeling-Pittsburgh shall support its claim in detail and provide expeditious alternate compliance schedules for each extension requested. Upon review of any such petition submitted by or on behalf of Wheeling-Pittsburgh, EPA, for good cause shown, shall grant the relief requested. If EPA denies said petition, in full or part, EPA shall set forth its reasons in writing. Such decision by EPA shall be subject to Dispute Resolution (Section XVII).

24. Overflow and Bypass Points:

a. Not later than February 1, 1992, Wheeling-Pittsburgh shall install all equipment necessary to monitor, analyze and report the occurrence and duration of any emergency bypass discharges from the Blast Furnace cold well at the Steubenville Facility and the Blast Furnace cold well, Blast Furnace scrubber transfer station and the BOF gas cooling water cooling tower cold well at the Mingo Junction Facility.

b. Not later than March 1, 1992, Wheeling-Pittsburgh shall commence monitoring, analyzing, and reporting the occurrence and duration of any emergency bypass discharges from the locations identified in the previous subparagraph. For each such emergency bypass discharge, Wheeling-Pittsburgh shall analyze the bypass in accordance with the applicable NPDES Permit for Outfall 601 at the Steubenville Facility (for the Steubenville Blast Furnace cold well), Outfall 601 at the Mingo Junction Facility (for the Mingo Junction Blast Furnace cold well and Blast Furnace scrubber transfer station), and Outfall 605 at the Mingo Junction Facility (for the Mingo Junction BOF gas cooling water cooling tower cold well). Wheeling-Pittsburgh shall monitor the mass loadings of limited pollutants discharged during each bypass at each location. The mass loadings determined from each bypass shall be added to the mass loadings determined at the respective applicable NPDES Permit monitoring

points to determine compliance with the applicable NPDES Permit limits.

c. Wheeling-Pittsburgh shall report all emergency bypass discharges and bypass analyses in the quarterly Progress Report following any bypass.

25. Pretreatment:

Wheeling-Pittsburgh shall comply with all sampling, monitoring and reporting requirements in 40 C.F.R. Part 136 and 403, and all federal, state or local POTW pretreatment standards and requirements, including, but not limited to: a. reporting the results of all effluent samples collected; b. reporting the results of all flows monitored; and c. reporting all bypasses. Until termination of this Decree, Wheeling-Pittsburgh shall submit to EPA copies of all reports required by 40 C.F.R. Part 136 and 403, all reports required by the State of Ohio, and all reports required by any local POTW at the same time any such report is to be provided to Ohio or any local authority.

26. The specific provisions of this Decree set out below take precedence over and supercede corresponding and less stringent effluent limitations and monitoring requirements contained in the currently applicable NPDES permits for the Steubenville, Mingo Junction and Yorkville facilities. By entering into this Decree, Wheeling-Pittsburgh agrees not to protest or appeal modification or reissuance of the respective NPDES permits to conform to this Decree.

<u>Area</u>	<u>Consent Decree Paragraph(s)</u>	<u>NPDES Permit Page(s)</u>
A. <u>Steubenville Facility</u>		
1. Blast Furnaces	18.a	M2, M7, M11, M14
2. 45" Slab Mill	18.c	M3
3. Finishing	18.d	9a, M15
B. <u>Mingo Junction Facility</u>		
1. Blast Furnaces	19.d	M2, M10, M18, M21
2. BOF	19.e	M10a, M11, M12, M19
3. Continuous Caster	19.c.2	M6
4. 44" Slab Mill	19.b	M7, 7a, M8, M19, M20
5. 80" Hot Strip Mill Finishing	19.a.1-2	M17, M20
6. 80" Hot Strip Mill	19.a.3-4	M3, M4, M6, M18, M19, M20
C. <u>Yorkville Facility</u>		
1. Outfalls 601, 602, 003	20, 21	M3, M4, M5

VII. SELF-MONITORING DATA AND REPORTING QUALITY ASSURANCE PROGRAM

27. Not later than January 1, 1992, Wheeling-Pittsburgh shall submit to EPA for review and comment, a detailed Self-Monitoring Data and Reporting Quality Assurance Program (SMDRQAP) for the Yorkville Facility. The objectives of the SMDRQAP are to establish and document procedures that Wheeling-Pittsburgh shall follow to ensure reliable and accurate generation and reporting of monitoring data for NPDES permit compliance and compliance with this Consent

Decree. The Program shall include, but not be limited to, the following elements:

- a. A data quality management plan encompassing all levels of Wheeling-Pittsburgh personnel involved in the generation, transcription and reporting of self-monitoring data.
- b. Specific field and laboratory quality assurance plans Wheeling-Pittsburgh shall use to ensure generation of representative flow, temperature, pH, and chemical monitoring data. The quality assurance plans shall include, but not necessarily be limited to, the following elements:
 - (1) Quality assurance objectives for measurement of data in terms of precision, accuracy, completeness, representativeness, and comparability.
 - (2) Field Sampling plan for each monitoring point.
 - (3) Sample handling and sample custody.
 - (4) Analytical procedures.
 - (5) Calibration procedures and frequency.
 - (6) Data reduction, validation and reporting.
 - (7) Internal quality control checks.
 - (8) Analytical system performance audits.
 - (9) Preventative maintenance.

(10) Specific routine procedures to assess data precision, accuracy and completeness.

(11) Corrective action plans.

(12) Quality assurance reporting to management.

c. Specific internal and external audit procedures Wheeling-Pittsburgh shall use to ensure accurate reporting of self-monitoring data.

28. EPA shall respond to Wheeling-Pittsburgh in writing within 60 days after its receipt of the draft Yorkville SMDRQAP with any comments on the draft. Wheeling-Pittsburgh shall revise the SMDRQAP for the Yorkville Facility in response to comments received from EPA. The final SMDRQAP for the Yorkville Facility shall be submitted to EPA not later than May 1, 1992.

29. Wheeling-Pittsburgh shall submit draft SMDRQAPs for the Mingo Junction and Steubenville facilities to EPA for review not later than June 1, 1992. These draft SMDRQAPs shall comply with all requirements of Paragraph 27 and reflect comments received on the draft Yorkville SMDRQAP. EPA shall respond in writing within 30 days after receipt of each draft SMDRQAP regarding that document. Wheeling-Pittsburgh shall incorporate EPA's comments in a revised SMDRQAP for each facility, which it shall submit to EPA within 30 days after receipt of EPA comments for that facility.

30. Not later August 1, 1992, for the Yorkville Facility, and not later than October 1, 1992, for the Steubenville and Mingo Junction Facilities, and continuing thereafter, Wheeling-Pittsburgh shall implement fully the SMDRQAP for each facility.

Wheeling-Pittsburgh shall report the results of each SMDRQAP in its Quarterly Progress Reports in conformance with the reporting requirements set out in Section XI of this Decree. The report shall include a summary of all quality assurance measures taken and all quality assurance results obtained at each facility, including data completeness, any data quality problems or issues detected, and any remedial measures implemented.

VIII. TOXICITY REDUCTION

31. Wheeling-Pittsburgh shall conduct a Biomonitoring Program, a Toxicity Reduction Evaluation ("TRE") and a Toxicity Reduction Program ("TRP"), as set forth in Appendix D, which is attached and incorporated by reference. For the purposes of this Decree, Wheeling-Pittsburgh shall use its best efforts to eliminate the "acute toxicity" of its effluents at each of the three facilities in accordance with Appendix D. The schedule for completing the programs, which is set forth more fully in Appendix D, is as follows:

<u>Milestone</u>	<u>Compliance Date</u>
Begin Biomonitoring	8/1/93
Submit TRE Plan	4/1/94
Commence Implementation of TRE Plan	7/1/94
Finish Implementation of TRE Plan	2/1/95
Submit TRE Report	7/1/95
Submit Final TRP	2/1/96

Commence Implementation of Final TRP	3/1/96
Complete Implementation of Final TRP	7/1/97
Complete Acute Toxicity Testing	12/31/98
Submit Final Report of Acute Toxicity Testing	2/28/99

32. The Parties do not intend this Section to impose redundant requirements that are substantially similar to requirements that may be contained in future applicable NPDES Permits. To implement this intent, the Parties agree as follows:

a. Wheeling-Pittsburgh shall not protest or appeal modification or reissuance of the respective NPDES Permits to conform to the requirements of this Section.

b. To the extent that an applicable NPDES Permit or other legal requirement imposes upon Wheeling-Pittsburgh a toxicity reduction requirement that: 1) is substantially equivalent to one or more requirements in this Section; and 2) must be met in a time frame that is substantially equivalent to the schedule set forth in this Section, Wheeling-Pittsburgh may petition EPA to substitute the substantially equivalent requirement for one or more corresponding requirements of this Section.

c. If EPA agrees with the petition, the Parties shall move the Court to modify the Decree. If EPA denies the petition (in full or in part), EPA shall set forth the basis for its decision in writing. EPA's decision shall be subject to the requirements of Section XVII (Dispute Resolution).

d. EPA shall retain the right to review and comment on plans and programs submitted pursuant to any substituted requirement. Each substituted requirement shall be subject to any stipulated penalties set forth in Section XIII that correspond to the substituted requirement.

IX. ENVIRONMENTAL AUDITS AND ENVIRONMENTAL MANAGEMENT ASSESSMENT

33. Environmental Compliance Audit:

a. Commencing July 1, 1992, and continuing every other year thereafter until all provisions of this Decree except those relating to the performance of Section VIII (Toxicity Reduction) have terminated pursuant to Paragraph 80, Wheeling-Pittsburgh shall conduct an environmental compliance audit of its Steubenville, Mingo Junction, and Yorkville facilities and its Martins Ferry, Ohio facility, to assess compliance with the Clean Water Act, this Decree, and each Facility's applicable NPDES Permits. The environmental audit set forth in this paragraph and the corporate management systems report set forth in Paragraph 34 shall be developed and performed by an independent third party professional auditor ("Audit Firm"), not affiliated with Wheeling-Pittsburgh. The Audit Firm shall be allowed to exercise independent judgment in its performance of both efforts.

b. Wheeling-Pittsburgh shall ensure that the Audit Firm conducts the audit in accordance with the relevant provisions of EPA's Environmental Auditing Policy Statement, 51 F.R. 25004 (July 9, 1986), the National Enforcement Investigations Center Multi-

Media Compliance Audit Procedures dated June 1987, and upon such other protocols as the parties may hereafter agree. Wheeling-Pittsburgh shall give the Audit Firm complete and unlimited access to all information in the custody or control of Wheeling-Pittsburgh necessary to perform the audit, including but not limited to, documents, persons, and facilities.

c. Wheeling-Pittsburgh shall submit the Audit Reports to EPA not later than December 1 of each audit year. Each Audit Report shall describe in detail: (1) the procedures followed and information consulted during the audit; (2) the current compliance status of the facility; (3) each potential violation of the Act, this Decree, or the applicable NPDES permit detected during the audit; and (4) any other information, which in the judgment of the Audit Firm, merits review by Wheeling-Pittsburgh and/or EPA.

d. Wheeling-Pittsburgh shall implement, as soon as practicable, procedures to correct any violation identified in each Facility Audit Report. No later than sixty (60) days after Wheeling-Pittsburgh receives each Facility Audit Report, Wheeling-Pittsburgh shall prepare and submit to EPA a Certified Compliance Report and Plan, in which Wheeling-Pittsburgh: (1) reports that it has corrected any violations identified in the audit, (2) reports it developed a schedule to correct any violations identified in the audit and provides that schedule, (3) responds to and addresses each item identified by the Audit Firm, and (4) certifies that it shall correct all violations identified in the audits within 180 days after completion of the audit and reports its proposed

measures to remedy each violation. For corrections that cannot be completed within 180 days after completion of the audit, Wheeling-Pittsburgh shall submit an explanation why the corrections cannot be completed within 180 days and a schedule for completing those corrections. The schedule will be subject to approval by EPA. Nothing contained in this paragraph shall be construed to extend or diminish any statutory or regulatory deadline or to excuse Wheeling-Pittsburgh from compliance with any applicable statutory or regulatory requirements.

34. Corporate Environmental Management Systems Audit:

a. No later than December 31, 1991, Wheeling-Pittsburgh shall ensure that an Audit Firm with the same independence and access to information set forth in Paragraph 33.a and b, submits to Wheeling-Pittsburgh a Corporate Management Systems Report which shall:

1. Identify and describe the existing environmental operations and the corporate officials and employees responsible for overall company-wide environmental compliance and management systems, policies, and prevailing practices as they affect all applicable statutory and regulatory compliance management, including but not limited to, all such lines of authority and lines of communication between the corporate officials and employees and various departments and operating facilities; and

2. Evaluate such operations and systems, practices and

policies, and identify and describe fully the perceived weaknesses in such operations and systems, practices and policies;

3. Identify and describe fully with supporting rationales, the areas where Defendants' environmental management systems, practices and policies may be improved as they affect Wheeling-Pittsburgh's obligations to comply with environmental laws and regulations, listing specific options for any improvements; and

4. Describe in detail the procedures followed, information consulted and factors relied upon in preparing this report.

b. No later than ninety (90) days after it has received the Corporate Environmental Management Systems Audit, Wheeling-Pittsburgh shall prepare and submit to EPA a Corporate Environmental Management Systems Report and Plan describing in full what actions it has taken or will take to implement the recommendations of the Corporate Environmental Management Systems Audit, or responding to the findings and recommendations and explaining why implementation of the recommendations is not necessary.

X. OPERATION AND MAINTENANCE PROGRAM

35. Wheeling-Pittsburgh shall complete the following actions, at a minimum, to ensure that the process water recycle systems, wastewater collection and sewerage systems, wastewater treatment systems, and sampling/monitoring stations at each facility are operated and maintained in a manner that ensures compliance with

the applicable NPDES Permits and all other applicable water pollution control requirements of federal law and this Decree.

a. No later than December 31, 1991, Wheeling-Pittsburgh shall develop a spare parts inventory list of components prone to failure. Wheeling-Pittsburgh shall certify it has developed this list in the quarterly Progress Report following that date. This inventory list shall be updated once a year, or more often if necessary, as additional operating experience is gained.

b. Within 30 days after completion of the Spare Parts Inventory List, Wheeling-Pittsburgh shall maintain (or for items not then in stock, commence procurement for and thereafter maintain) an adequate spare parts inventory to provide that components prone to failure are maintained in sufficient quantity to ensure that equipment replacement can occur expeditiously. If a spare item is depleted in the inventory, replacement must be ordered or specifications released for bid within 45 days.

c. No later than the date provided in subparagraph a, Wheeling-Pittsburgh shall develop general work order procedures that prioritize the maintenance work necessary to ensure that the performance and reliability is maintained. Wheeling-Pittsburgh shall continue to employ a maintenance staff.

d. No later than December 31, 1991, Wheeling-Pittsburgh shall develop, and thereafter shall use and update, a preventative maintenance checklist program that includes replacement and calibration of equipment and instrumentation.

e. Wheeling-Pittsburgh shall maintain the programs required by this Section in such formats that they may be inspected by EPA or OEPA upon request.

XI. MONITORING AND REPORTING REQUIREMENTS

36. For any work done pursuant to this Decree, Wheeling-Pittsburgh shall comply with all monitoring, sampling and analysis requirements in 40 C.F.R. Part 136 and 403, and all monitoring and sampling requirements contained in the applicable NPDES Permit for each facility.

37. Beginning with the first calendar quarter after lodging of this Decree and thereafter, on a quarterly basis until termination of this Decree, Wheeling-Pittsburgh shall submit written Progress Reports to EPA. Wheeling-Pittsburgh shall mail each Progress Report no later than thirty (30) days after the close of the quarter.

38. These Progress Reports shall include, but not necessarily be limited to, a statement of all deadlines and other terms of this Decree that Wheeling-Pittsburgh was required to meet during the quarterly reporting period, whether Wheeling-Pittsburgh met these requirements, the reasons for any noncompliance and all steps being taken to remedy the noncompliance, all construction performed during the reporting period related to this Decree, and a projection of work to be performed pursuant to this Decree during the following quarter. Notification of noncompliance or delay to

EPA via the Progress Reports shall not, by itself, excuse the delay.

39. Each quarterly Progress Report shall be signed by an official of the Wheeling-Pittsburgh Corporate Environmental Control Department, and certified as accurate in accordance with the following statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted and obtained in accordance with the requirements of the Consent decree in United States v. Wheeling Pittsburgh Steel Corporation (Civil Action No. C2 88-216). Based upon my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Within two weeks of sending the quarterly Progress Report to EPA, Wheeling-Pittsburgh shall cause the highest ranking official at each facility to certify (and submit such certification to EPA) that the report is accurate in accordance with the following statement:

I certify under penalty of law that I have read and understand all portions of this document and its attachments that are relevant to the [name] facility. The information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Wheeling-Pittsburgh shall not object to the admissibility in evidence of any Progress Report in any proceeding to enforce this Decree.

40. On a monthly basis, Wheeling-Pittsburgh shall submit its discharge monitoring reports and transmittal letter for that report to EPA at the same time Wheeling-Pittsburgh submits these same documents to OEPA. If Wheeling-Pittsburgh has provided these materials to EPA in a timely manner pursuant to this paragraph, it may omit these documents from its quarterly Progress Report. Wheeling-Pittsburgh shall not object to the admissibility in evidence of any discharge monitoring report and transmittal letter in any proceeding to enforce this Decree.

41. Compliance with the reporting and notification requirements of this Decree shall not relieve Wheeling-Pittsburgh of any other reporting and notification requirements imposed by any federal, state or local law or regulation.

42. Wheeling-Pittsburgh may assert business confidentiality claims covering information provided in connection with this Decree in accordance with 40 C.F.R. Part 2, subpart B. EPA will provide the information the protection afforded under 40 C.F.R. Part 2, subpart B. If Wheeling-Pittsburgh does not assert a confidentiality claim when it submits information to EPA, the public may be given access to the information without further notice to Wheeling-Pittsburgh.

XII. RIGHT OF ENTRY

43. In order to determine compliance with this Decree, EPA, and its authorized representatives, shall have the right of entry without a warrant into and upon each of the Facilities and offices

of Wheeling-Pittsburgh's corporate environmental department, to, inter alia:

1. Monitor the program of activities required by this Decree;
2. Verify any data or information submitted to EPA;
3. Obtain samples of influent and effluent from any of the Facilities; and
4. Inspect and review any record required to be kept under the terms of this Decree, any applicable NPDES Permit for the Facilities or the Act.

44. This Section does not limit any right of entry and inspection held by EPA pursuant to applicable Federal or state laws, regulations or permits.

XIII. STIPULATED PENALTIES

45. Written Demand for Stipulated Penalties

a. Wheeling-Pittsburgh shall pay stipulated penalties in this Section upon written demand by EPA; however, penalties accrue from the date of the violation, not from the date of the demand. EPA may decide not to demand the full amount of stipulated penalties accrued. EPA's decision whether to demand stipulated penalties is committed to its discretion and is not subject to Dispute Resolution (Section XVII) or judicial review.

b. For the purposes of this Decree, EPA may waive its right to demand a stipulated penalty if and only if EPA notifies Wheeling-Pittsburgh, in writing, of the violations and the amount

of accrued stipulated penalties, and expressly releases Wheeling-Pittsburgh from its obligation to pay the referenced stipulated penalties.

c. In its Quarterly Progress Report, Wheeling-Pittsburgh shall report all exceedances of the effluent limitations in this Decree and its applicable NPDES Permit which have occurred during the preceding calendar quarter.

d. Although stipulated penalties accrue from the date of violation, stipulated penalties shall not accrue in an amount greater than \$20,000 for any single violation or failure under Paragraphs 46.b or c unless and until EPA has served written notice of the specific plan or report obligation that remains unfulfilled and Wheeling-Pittsburgh further fails to fulfill that obligation within 10 business days of receipt of such notice.

46. After entry of this Decree, Wheeling-Pittsburgh shall pay stipulated penalties for each failure by Wheeling-Pittsburgh to comply fully and timely with the requirements of the Decree as follows:

a. Wheeling-Pittsburgh shall pay a stipulated penalty of \$3,000 per day, per violation, for each failure to comply with any requirement prohibiting or limiting the discharge of particular wastewaters to particular outfalls, as set forth in Paragraphs 18.a.3, 18.b, 18.c, 18.d, 19.a.2, 19.a.3, 19.b.2, 19.d.3, 19.e, and 20.c.5.

b. Wheeling-Pittsburgh shall pay a stipulated penalty for each failure to submit a plan and/or program pursuant to the

requirements of Paragraphs 19.d.7, 21.b.2, 23.c.2, 23.c.4, 27, 28, and 29, as follows:

<u>Period of Noncompliance</u>	<u>Penalty Per Day</u>
1st day to 30th day	\$ 500
31st day to 60th day	\$ 1,000
each day beyond 60th day	\$ 2,000

c. Wheeling-Pittsburgh shall pay a stipulated penalty for each failure to submit a report pursuant to the requirements of Paragraphs 19.d.8, 20.b.2, 21.b.3, 21.b.4, 22.a.2, 22.b, 23.c.7, 25, 33.c, 33.d, and 34.b, as follows:

<u>Period of Noncompliance</u>	<u>Penalty Per Day</u>
1st day to 30th day	\$ 250
31st day to 60th day	\$ 500
each day beyond 60th day	\$ 1,000

d. Wheeling-Pittsburgh shall pay a stipulated penalty for each failure to submit a timely and complete quarterly Progress Report pursuant to Section XI as follows:

<u>Period of Noncompliance</u>	<u>Penalty Per Day</u>
1st day to 30th day	\$ 500
31st day to 60th day	\$ 1,000
each day beyond 60th day	\$ 2,000

e. Wheeling-Pittsburgh shall pay a stipulated penalty for each failure to complete construction, a study, a remedial action, a corrective action or an investigation, pursuant to the deadlines or other requirements of Paragraphs 18.a.1, 19.a.1,

19.b.1, 19.c.1, 19.d.1, 20.b.1, 20.c.1, 21.b.6, 22.a.1, 23.c.6, 24.a, and as follows:

<u>Period of Noncompliance</u>	<u>Penalty Per Day</u>
1st day to 30th day	\$ 2,500
31st day to 60th day	\$ 5,000
each day beyond 60th day	\$ 7,500

f. Wheeling-Pittsburgh shall pay a stipulated penalty for each exceedance of any effluent limitation or violation of the daily minimum or maximum pH limitations, contained in this Decree and/or its applicable NPDES Permit, except as expressly provided otherwise in subparagraph g, as follows:

(1) Daily Violation. For each exceedance of a daily maximum limitation in any month, of each pollutant, at an outfall:

first violation	-----	\$ 2,000
second violation	-----	\$ 3,000
third and subsequent violations	-----	\$ 4,000

(2) Monthly Violation. For each exceedance of a monthly average limitation, of each pollutant, at an outfall:

first month violation	---	\$ 5,000
second consecutive month violation	---	\$ 10,000
third consecutive month of violation and subsequent consecutive monthly violations	---	\$ 15,000

(3) For each violation of the daily maximum or minimum pH limitations in a given month, at a given external outfall that discharges to the Ohio River and its tributaries, a stipulated penalty as follows:

<u>Noncompliance</u>	<u>Penalty Per Day</u>
1st violation	\$ 500
2nd violation	\$ 1,500
3rd and each subsequent violation	\$ 2,500

g. Wheeling-Pittsburgh shall pay a stipulated penalty for each discharge from the 80" Hot Strip Mill wastewater treatment system to outfall 603 at Mingo Junction which exceeds any applicable effluent limitation or for each discharge from outfall 003 at the Yorkville facility which exceeds any applicable effluent limitation, as follows:

(1) Daily Violation. For each exceedance of a daily maximum limitation in any month, of each pollutant, at an outfall:

first violation	-----	\$ 1,000
second violation	-----	\$ 2,000
third and subsequent violations	-----	\$ 2,500

(2) Monthly Violation. For each exceedance of a monthly average limitation, of each pollutant, at an outfall:

<u>Noncompliance</u>	<u>Penalty</u>
first month violation ---	\$ 3,500
second consecutive month of violation ---	\$ 7,000
third consecutive month of violation and subsequent consecutive monthly violations ---	\$15,000

h. Wheeling-Pittsburgh shall pay a stipulated penalty of \$1,000 per day for each failure to monitor a by-pass event as required by Paragraph 24.b.

i. Wheeling-Pittsburgh shall pay a stipulated penalty for each failure to comply with the observation and monitoring requirements set forth at Paragraphs 18.a.4, 18.d, 19.a.4, 19.d.4, 20.a.1, 20.a.2, 20.c.2, 20.c.6, 21.d, and 36 of this Decree:

<u>Period of Noncompliance</u>	<u>Penalty Per Day</u>
1st day to 30th day	\$ 750
31st day to 60th day	\$ 1,500
each day beyond 60th day	\$ 3,000

j. Wheeling-Pittsburgh shall pay a stipulated penalty for each failure to comply with the remedial action, collection, and removal requirements set forth at Paragraphs 18.a.2, 18.a.5, 19.d.2, 19.d.5, and 20.c.3 of this Decree:

<u>Period of Noncompliance</u>	<u>Penalty Per Day</u>
1st day to 30th day	\$ 1,000
31st day to 60th day	\$ 3,000
each day beyond 60th day	\$ 5,000

47. Wheeling-Pittsburgh shall pay a stipulated penalty for each failure to comply with any of the compliance requirements set forth in Paragraph 31 and Appendix D of this Decree:

a. Wheeling-Pittsburgh shall pay a stipulated penalty of \$5,000 for each failure to conduct the biomonitoring set forth in Appendix D, Paragraphs 2 and 8, in a timely manner and in accordance with Paragraph 9 of Appendix D.

b. Wheeling-Pittsburgh shall pay a stipulated penalty for each failure to submit a TRE Plan, TRE Report, or submit the Final TRP, pursuant to Paragraph 31 of this Decree and the requirements of Appendix D, Paragraphs 3, 5, and 6, as follows:

<u>Period of Noncompliance</u>	<u>Penalty Per Day</u>
1st day to 30th day	\$ 500
31st day to 60th day	\$ 1,000
each day beyond 60th day	\$ 2,000

c. Wheeling-Pittsburgh shall pay a stipulated penalty for each failure to complete the TRE Plan or Final TRP, pursuant to Paragraph 31 of this Decree and the requirements of Appendix D, Paragraphs 4 and 7, as follows:

<u>Period of Noncompliance</u>	<u>Penalty Per Day</u>
1st day to 30th day	\$ 1,000
31st day to 60th day	\$ 2,500
each day beyond 60th day	\$ 5,000

48. For purposes of this Decree, a single operational upset that leads to simultaneous exceedance of more than one pollutant effluent limitation shall be treated as a single violation; in that event, Wheeling-Pittsburgh shall pay the greater amount of any applicable stipulated penalty. However, each day on which the exceedance occurs shall be treated as a separate violation even if the exceedance arise from a single operational upset. Wheeling-Pittsburgh reserves the right to assert the affirmative defenses of upset and bypass, as provided in its applicable NPDES Permit and 40

C.F.R. §§ 122.41(m) and (n), and bears the burden of establishing these defenses.

49. Wheeling-Pittsburgh shall pay all penalties due the United States under this Section by certified or cashier's check, or by check with cover letter that certifies that sufficient funds are available to cover the amount of the check, payable to "Treasurer, United States," and delivered to EPA, as directed in Paragraph 54 within thirty (30) days after the submission date for the Discharge Monitoring Report, as required by the applicable NPDES Permit, for the month in which the violation(s) occurred, along with a transmittal letter that identifies all violations for which Wheeling-Pittsburgh is paying stipulated penalties.

50. Wheeling-Pittsburgh shall note all payments made under this Section in its Quarterly Progress Reports and shall send a copy of all checks paid under this Section and all transmittal letters identifying the violations for which the payment is sent, to Region V of EPA and the United States Department of Justice.

51. On any amount overdue, Wheeling-Pittsburgh shall pay interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. In addition, after the first thirty days any penalty is overdue, Wheeling-Pittsburgh shall pay a late payment handling charge of \$20.00 and an additional charge of \$10.00 for every subsequent thirty day period that any monies are overdue. For penalty amounts overdue past ninety days, Wheeling-Pittsburgh shall pay a six percent penalty from the date on which the penalty is due.

52. In addition to the provisions of this Section, the United States reserves all other rights it may have under any federal, state or local law or regulation as a result of any violations of this Decree.

XIV. CIVIL PENALTY

53. Within thirty days after entry of this Decree by the Court, Wheeling-Pittsburgh shall pay a civil penalty of \$6,000,000 plus the interest that has accrued thereon from February 8, 1991, until the date of payment in the escrow held by Wheeling-Pittsburgh pursuant to earlier agreement of the parties in United States v. Wheeling-Pittsburgh Steel Corp., et al., Civil Action No. 90-2099 (W.D. Pa.), dated January 3, 1991.

54. Payment to the United States shall be made by certified or cashier's check, payable to "Treasurer, United States," and delivered to EPA, Region V, Post Office Box 70753, Chicago, Illinois 60673. Such payment may also be made by wire transfer to EPA Account 68-011005, following the completion of appropriate forms, which can be obtained through Assistant Regional Counsel Kenneth Graves. This paragraph supersedes Paragraph 4.a. of the Parties' agreement in Civil Action No. 90-2099, as noted in the previous paragraph, regarding this action.

55. Wheeling-Pittsburgh shall send a copy of all checks submitted under this Section and their respective transmittal letters to the EPA and the Department of Justice as specified in

Section XVI, as well as the United States Attorney for the Southern District of Ohio.

56. Interest shall accrue on any amounts overdue under the terms of this Decree at the rate established by the Secretary of the Treasury, pursuant to 31 U.S.C. § 3717. A late payment handling charge of \$20.00 will be imposed after 30 days, with an additional charge of \$10.00 for each subsequent 30-day period over which an unpaid balance remains. In addition, a 6 percent per annum penalty will be assessed on any principal amount not paid within 90 days of the date of entry of this Decree.

XV. ADDRESS FOR SERVICE

57. Unless otherwise specified, all documents, reports or other submittals required by this Decree shall be mailed first class, certified mail, return receipt requested, to the following addresses:

A. For the U.S. Environmental Protection Agency:

Chief, Compliance Section
U.S. EPA, Region V
230 South Dearborn Street (5WCC-TUB-8)
Chicago, Illinois 60604

Kenneth B. Graves
Assistant Regional Counsel
Office of Regional Counsel
U.S. EPA Region V
230 South Dearborn Street (5CA-TUB-6)
Chicago, Illinois 60604

B. For the United States Department of Justice:

Richard B. Stewart
Assistant Attorney General
Environment and Natural Resources Division
10th & Pennsylvania Avenue, N.W.

Washington, D.C. 20530
Re: DJ # 90-5-1-1-3035

C. For Wheeling-Pittsburgh:

Robert Duval
Secretary and General Counsel
Wheeling-Pittsburgh Steel Corporation
1134 Market Street
Wheeling, West Virginia 26003

Dr. William R. Samples
Director, Environmental Control Department
Wheeling-Pittsburgh Steel Corporation
1134 Market Street
Wheeling, West Virginia 26003

XVI. FORCE MAJEURE

58. Wheeling-Pittsburgh shall perform the requirements of this Decree in compliance with the terms and schedules set forth herein unless its performance is prevented or delayed by a "Force Majeure" event. For purposes of this Decree, a "Force Majeure" event is defined as any event arising from causes beyond the control of Wheeling-Pittsburgh that delays or prevents the performance of any obligation under this Decree and that Wheeling-Pittsburgh could not have prevented by the exercise of due diligence. Force Majeure shall not include increased costs or expenses of any requirement of this Decree. Force Majeure also shall not include the financial inability of Wheeling-Pittsburgh to perform these requirements or the failure of Wheeling-Pittsburgh or its representatives to make complete and timely application for any required approval or permit.

59. If any event occurs which causes or may cause a delay or impediment to performance in the compliance with any provision of

this Decree, Wheeling-Pittsburgh shall notify EPA in writing within twenty-one days of when Wheeling-Pittsburgh first knew of the event or should have known of the event by the exercise of due diligence. In this notice, Wheeling-Pittsburgh shall specifically reference this Section of the Decree and describe the anticipated length of time the delay may persist, the cause or causes of the delay, and the measures taken or to be taken by Wheeling-Pittsburgh to prevent or minimize the delay and the schedule by which those measures will be implemented. Wheeling-Pittsburgh shall adopt all reasonable measures to avoid and minimize such delays or other impediments to performance.

60. Failure by Wheeling-Pittsburgh to fully and timely comply with the notice requirement of this Section, as specified above, shall render this Section voidable at the sole non-reviewable discretion of EPA and, if voided, of no effect as to the particular event involved, and, if voided, shall constitute a waiver of Wheeling-Pittsburgh's right to obtain an extension of time for its obligation under this section based on such event.

61. EPA shall notify Wheeling-Pittsburgh in writing of EPA's agreement or disagreement with Wheeling-Pittsburgh's claim of a Force Majeure event. If EPA agrees that the violation has been or will be caused by circumstances beyond the control of Wheeling-Pittsburgh and that Wheeling-Pittsburgh could not have foreseen and prevented such delay or impediment to performance by the exercise of due diligence, the parties may stipulate to an extension of the particular compliance requirement affected by the delay by a period

not exceeding the delay actually caused by such circumstances. Such a stipulation shall be filed as a modification to this Consent Decree. Wheeling-Pittsburgh shall not be liable for stipulated penalties for the period of such delay.

62. If EPA does not agree with Wheeling-Pittsburgh's claim of a delay or impediment of performance, Wheeling-Pittsburgh may submit the matter to the Court for resolution pursuant to the Dispute Resolution procedures established in this Decree. If Wheeling-Pittsburgh submits the matter to the Court for resolution and the Court determines that the violation has been or will be caused by circumstances beyond the control of Wheeling-Pittsburgh and that Wheeling-Pittsburgh could not have foreseen and prevented such delay or impediment of performance by the exercise of due diligence, Wheeling-Pittsburgh shall be excused as to the specific delay (including stipulated penalties), but only for the period of time the delay or impediment of performance continues due to such circumstances.

63. Wheeling-Pittsburgh shall bear the burden of proving that any delay of any requirement of this Consent Decree was caused or will be caused by circumstances beyond the control of Wheeling-Pittsburgh and that Wheeling-Pittsburgh could not have foreseen and prevented such delay or impediment of performance by the exercise of due diligence. Also, Wheeling-Pittsburgh shall bear the burden of proving the duration and extent of any delay attributable to such circumstances. An extension of one compliance date based on a particular event does not necessarily result in an extension of a

subsequent compliance date or dates. Wheeling-Pittsburgh must make an individual showing of proof regarding each delayed incremental step or other requirement for which an extension is sought.

XVII. DISPUTE RESOLUTION

64. This Section sets forth the procedures that the Parties shall follow when there is a dispute between them regarding the Decree and does not change any provision of the Decree or any applicable NPDES Permit.

65. A dispute arises under this Decree only when one party notifies the other party in writing that there is a dispute.

66. Any dispute that arises under or with respect to the Decree shall in the first instance be the subject of informal negotiations between EPA and Wheeling-Pittsburgh. The period for informal negotiations shall not exceed thirty (30) days following the complete and timely notice of the dispute to EPA. By unanimous agreement, EPA and Wheeling-Pittsburgh may extend the time for informal negotiations.

67. If EPA and Wheeling-Pittsburgh extend the period for informal dispute resolution beyond the time when the Decree requires Wheeling-Pittsburgh to pay any stipulated penalty payment or gives Wheeling-Pittsburgh less than ten days to pay the stipulated penalty, Wheeling-Pittsburgh shall have until ten days after the close of informal dispute resolution to pay the penalty or file a formal dispute notice and motion with the Court, as provided below. However, the period for informal negotiations

shall end when EPA provides its position on the disputed matter to Wheeling-Pittsburgh in writing.

68. If EPA and Wheeling-Pittsburgh cannot resolve a dispute by informal negotiations, then the position advanced by EPA shall be considered binding unless, within ten (10) days after the end of the informal negotiations period, Wheeling-Pittsburgh files a Motion in the Court in which this action is filed, and serves this Motion on EPA and the Department of Justice. This Motion shall set forth the matter in dispute, the efforts made by the parties to resolve it, the relief requested, and shall explain in detail all information that Wheeling-Pittsburgh asserts in support of its position.

69. If Wheeling-Pittsburgh initiates formal dispute resolution with the Court, it shall deposit any disputed penalty in an interest-bearing escrow account with the Court. If Wheeling-Pittsburgh prevails, these monies will be returned to it. If Wheeling-Pittsburgh does not prevail in formal dispute resolution, the monies, including interest earned, will be paid to the United States as provided in Paragraphs 49 and 51 of this Decree.

XVIII. GENERAL PROVISIONS

70. This Decree is not and shall not be a permit or modification of any existing permit issued or subsequently issued to Wheeling-Pittsburgh pursuant to Section 402 of the Act, 33 U.S.C. § 1342, or issued under Ohio state law. Nor does this

Decree relieve Wheeling-Pittsburgh of any obligation to apply for and obtain any NPDES permit.

71. Plaintiff and Defendant each reserve all legal and equitable rights available to them to enforce or defend from enforcement the provisions of this Decree.

72. This Decree shall constitute full settlement of all civil violations of the Act and the applicable NPDES Permits which are alleged in the Complaint in this action and any other claims for civil penalties for violations of the Act of which the EPA had knowledge and could have alleged in the Complaint at the Steubenville, Mingo Junction and Yorkville facilities by Wheeling-Pittsburgh that have occurred up to the effective date of this Decree.

73. This Decree shall not affect Wheeling-Pittsburgh's obligation to comply with all applicable requirements of the Act and regulations promulgated under the Act, and all other Federal, state and local laws, regulations or permits. Notwithstanding EPA review and approval of any plans, Wheeling-Pittsburgh shall remain solely responsible for compliance with the terms of the Decree, its applicable NPDES Permit for each of the three facilities addressed in this Decree, and the Act.

74. The provisions of this Decree shall be severable. If a Court of competent jurisdiction declares any provision to be inconsistent with state or federal law, and therefore unenforceable, the remaining provisions shall remain in full force and effect.

75. This Decree shall be effective on the date on which it is entered with the Court.

76. The Court shall retain jurisdiction of this case until termination of this Decree, in order to enforce and implement the Decree, and to interpret the rights and obligations of the Parties to the Decree.

77. This Decree contains the entire agreement of the Parties and shall not be modified by any prior oral or written agreement, representation or understanding.

78. This Decree may be modified with the written consent of both Parties. Any mutually agreed-upon modification to this Decree shall be filed with the Court.

79. The Parties agree and acknowledge that final approval by the United States and entry of this Decree is subject to the requirements of 28 C.F.R. §50.7, which provides for notice and an opportunity for public comment.

80. Termination:

a. As set forth in this Paragraph, certain provisions of this Decree may be terminated within sixty days of the interim termination dates specified for each provision. Each provision may be terminated only if the following conditions have been met:

(1) Wheeling-Pittsburgh has demonstrated and certifies that it has fully complied with the respective provision for at least twelve consecutive months prior to the application for interim termination;

(2) If Wheeling-Pittsburgh is requesting to terminate any of the following paragraphs: 18.a.1-5; 18.b; 18.c; 18.d; 19.a.1-3; 19.a.4; 19.b; 19.c.1-2; 19.c.3; 19.d.1-5; 19.e; 20.c; 21; 23; and 24; the provision to be terminated must have been included in the applicable NPDES Permit for that facility; and

(3) Wheeling-Pittsburgh has paid all civil and stipulated penalties due for any part of this Decree as of the interim termination date. If Wheeling-Pittsburgh is deficient in paying stipulated penalties due for any part of this Decree at the time of any interim termination date, Wheeling-Pittsburgh shall be ineligible to terminate any provision at that time.

b. If Wheeling-Pittsburgh fails to demonstrate and certify full compliance for any provision, Wheeling-Pittsburgh shall not be eligible to terminate that provision until the next interim termination date, provided all applicable conditions described in this Paragraph are met at that time.

c. In order to terminate any provision, Wheeling-Pittsburgh shall petition EPA for such termination on, or within thirty days after, the interim termination date set forth in subparagraph e, below, for that provision. Such petition shall include the required certifications and demonstrations set out in subparagraph a, above.

d. Any termination shall not become effective until either party moves the Court for partial termination and the Court approves such motion. Unless EPA agrees otherwise, Wheeling-Pittsburgh shall not move for termination of any provision until

sixty days after it submits its petition for termination to EPA. Until the Court approves any partial termination motion of any provision, Wheeling-Pittsburgh shall continue to comply with the provisions it has petitioned EPA to terminate.

e. Provisions and Interim Termination Dates

<u>Provision</u>		<u>Interim Termination Date</u>
Steubenville Facility		
18.a.1-5	Blast Furnace	May 31, 1993
18.b.	North Pickler	May 31, 1993
18.c.	45" Mill	May 31, 1993
18.d.	Outfall 005	May 31, 1993
Mingo Junction Facility		
19.a.1-3	80" Hot Strip Mill	May 31, 1993
19.a.4.	80" Hot Strip Mill	May 31, 1994
19.b.	44" Slab Mill	May 31, 1993
19.c.1,2	Continuous Caster	May 31, 1993
19.c.3.	Continuous Caster	May 31, 1994
19.d.1-5	Blast Furnace	May 31, 1993
19.d.7,8	Blast Furnace	May 31, 1993
19.e.	BOF	May 31, 1993
Yorkville Facility		
20.a., b.	Outfall 003	May 31, 1993
20.c.	Outfall 003	May 31, 1995
21.	Outfalls 601/602	May 31, 1995
22.	Tin Line	May 31, 1993
Facilities Evaluation and Action Program		
23.	All Plants	May 31, 1994
Overflow and Bypass Points		
24.	Steubenville, Mingo Junction	May 31, 1994
SMDRQAPs		
28. - 31.	All Plants	May 31, 1995
Toxics		

32. - 33.

All Plants


October 1, 1998

f. Additional Interim Termination Date: In addition to the Interim Termination Dates set forth in subparagraph e, Wheeling-Pittsburgh may submit one additional petition to EPA for interim termination of provisions for which all applicable conditions described above in this Paragraph, have been met. The additional petition may be submitted from October 1 through November 15 of any year after January 1, 1993. The decision to allow additional interim termination dates is committed to the sole discretion of EPA. EPA's decision is not subject to Dispute Resolution or any judicial review.

g. When all of the provisions set forth in subparagraph e have been terminated, either Party may move the Court to terminate this Decree, provided that the non-moving Party receives judicial notice of, and an opportunity to respond to, such motion. If Wheeling-Pittsburgh moves for termination under this subparagraph, it shall certify that it is in compliance with all remaining provisions of the Decree and shall provide EPA with such certification and written notice of Wheeling-Pittsburgh's intent to move for termination of the Decree at least thirty days in advance of filing a motion with the Court to terminate the Decree.

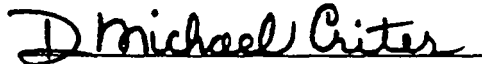
The Parties enter into this Decree and submit it to the Court
that it may be approved and entered:

For Plaintiff, United States of America:


RICHARD B. STEWART
Assistant Attorney General
Environment and Natural Resources Division
Department of Justice


5-10-91

Date


D. MICHAEL CRITES
United States Attorney
Southern District of Ohio


5-15-91

Date


RAYMOND B. LUDWISZEWSKI
Acting Assistant Administrator for
~~Enforcement and Compliance Monitoring~~
U.S. Environmental Protection Agency

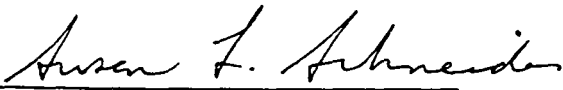
5/9/91

Date


VALDAS V. ADAMKUS
Regional Administrator
U.S. Environmental Protection Agency
Region V

4/26/91

Date


SUSAN L. SCHNEIDER
Senior Attorney
Environmental Enforcement Section
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20044
(202) 514-2912

5/10/91

Date

Samuel B. Boxerman
 SAMUEL B. BOXERMAN
 Trial Attorney
 Environmental Enforcement Section
 (202) 514-4051

5-10-91

Date

Peter E. Jaffe
 PETER E. JAFFE
 Trial Attorney
 Environmental Enforcement Section
 (202) 514-3909

5/10/91

Date

James Rattan
 JAMES RATTAN
 Assistant United States Attorney
 Southern District of Ohio
 200 U.S. Post Office & Courthouse
 85 Marconi Blvd
 Columbus, Ohio 43215

5/15/91

Date

David A. Hindin
 DAVID A. HINDIN
 Attorney-Advisor
 U.S. Environmental Protection Agency
 Washington, D.C. 20460

May 1, 1991

Date

Kenneth B. Graves ^{by DAH}
 KENNETH B. GRAVES
 Assistant Regional Counsel
 U.S. Environmental Protection Agency
 Region V
 230 South Dearborn Street
 Chicago, Illinois 60604
 (312) 886-6663

May 1, 1991

Date

For Defendant, Wheeling-Pittsburgh Steel Corporation:

Richard E. Stoll
 RICHARD E. STOLL
 Executive Vice President, Operations
 Wheeling-Pittsburgh Steel Corporation
 1134 Market Street
 Wheeling, West Virginia 26003
 (304) 234-2300

4/16/91
 Date

Paul K. Morrison
 PAUL K. MORRISON
 Vice President, Environment
 and Engineering
 Wheeling-Pittsburgh Steel Corporation
 1134 Market Street
 Wheeling, West Virginia 26003
 (304) 234-2499

4-16-91
 Date

Robert L. Dobson
 ROBERT L. DOBSON
 General Manager, Primary Operations
 Wheeling-Pittsburgh Steel
 Steubenville and Mingo Junction Plants
 South Third Street
 Steubenville, Ohio

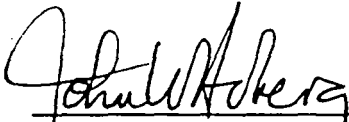
4-16-91
 Date

Richard H. Carter
 RICHARD H. CARTER
 Plant Manager
 Wheeling-Pittsburgh Steel
 Yorkville Plant
 219 South Public Road
 Yorkville, Ohio

4/16/91
 Date

Michael W. Donaldson
 MICHAEL W. DONALDSON
 Trial Counsel for
 Wheeling-Pittsburgh Steel Corporation
 Vorys, Sater, Seymour and Pease
 P.O. Box 1008
 Columbus, Ohio 43216-1008
 (614) 464-6315

4-15-91
 Date



JOHN W. HOBERG
Vorys, Sater, Seymour and Pease
P.O. Box 1008
Columbus, Ohio 43216-1008
(614) 464-6213
Of Counsel to
Wheeling-Pittsburgh Steel Corporation

April 15, 1991
Date

IT IS SO ORDERED, and the Consent Decree is entered in accordance with the foregoing terms.

HONORABLE GEORGE C. SMITH
UNITED STATES DISTRICT COURT JUDGE
Southern District of Ohio

Date