UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA, Plaintiff, and the STATES OF LOUISIANA; INDIANA; ILLINOIS; KANSAS; OHIO; MISSISSIPPI; IOWA; ALABAMA; Plaintiff-Intervenors, v. BUNGE NORTH AMERICA, INC., BUNGE NORTH AMERICA (EAST), L.L.C., BUNGE NORTH AMERICA (OPD WEST), INC., AND BUNGE MILLING, INC. Defendants.	)	CIVIL ACTION NO.

CONSENT DECREE

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JOHM M. WATERS, Clerk
U.S. DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS

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WHEREAS, Plaintiff, the United States of America, on behalf of the United States Environmental Protection Agency ("EPA"), has, simultaneously with the lodging of this Consent Decree, filed a Complaint alleging that Defendants, Bunge North America, Inc. ("Bunge"), and its wholly owned subsidiaries, Bunge North America (East), L.L.C., Bunge North America (OPD West), Inc. and Bunge Milling, Inc., are and have been in violation of the following statutory and regulatory requirements of the Clean Air Act (the "Act") at their twelve (12) processing plants at eleven (11) facilities nationwide: New Source Review requirements at Part C and Part D of Title I of the Act, 42 U.S.C. §§ 7470-7492 and 7501-7515, and regulations promulgated thereunder; certain New Source Performance Standards ("NSPS"), 40 C.F.R. Part 60; the state implementation plans ("SIPs") that implement the above-listed federal requirements; and SIP permitting programs for construction and operation of new and modified stationary sources of air pollution;

WHEREAS, the States of Louisiana, Indiana, Illinois, Ohio, Mississippi, Kansas, Iowa, and Alabama, have filed Complaints in Intervention, joining in the claims alleged by the United States;

WHEREAS, the Complaint and Complaints in Intervention filed by the United States and the State Plaintiff-Intervenors (collectively "Plaintiffs") further allege that Defendants commenced major modifications of major emitting facilities

without first obtaining the appropriate construction permits and installing the appropriate air pollution control equipment required by 40 C.F.R. § 52.21 and § 51.165 and the SIPs applicable to each of Defendants' 11 facilities;

WHEREAS, Defendants do not admit the violations alleged in the Complaints;

WHEREAS, in May 2003, Defendants, EPA and several states in which Defendants' solvent extraction plants are located began negotiations toward a comprehensive resolution of compliance concerns under federal and state air quality programs, including alleged violations that were the subject of a notice of violation issued by EPA;

WHEREAS, Defendants have waived any applicable requirements of statutory notice of the alleged violations;

WHEREAS, on June 2, 2003, Bunge executed a letter of commitment to negotiate with Plaintiffs for emission reductions at Defendants' facilities, as the basis for a comprehensive resolution of federal and state concerns;

WHEREAS, in 2002, the Defendant that owns and operates each of the following plants performed the project indicated at each plant, which collectively produced reductions of approximately 996 tons per year of volatile organic compound ("VOC") emissions and 29 tons per year of particulate matter ("PM") emissions:

Cairo, IL:	Installation of Mineral Oil Heat Exchanger/Heater
Marks, MS:	Plant Upgrade/Desolventizer Toaster ("DT") and Extractor Retrofit
Decatur, AL:	Primary Condenser Improvements
Emporia, KS:	Extractor Retrofit
Council Bluffs, IA:	Concrete Paving
Danville, IL:	Extractor Retrofit

WHEREAS, in 2003, the Defendant that owns and operates each of the following plants performed the project(s) indicated at each plant, which collectively produced reductions of approximately 61 tons per year of VOC emissions and 16 tons per year of PM emissions:

Marks, MS:	Plant Process Control Automation Upgrade
Decatur, AL:	Extraction Area Cooling Water Piping Improvements
Emporia, KS:	Installation of Oil Vacuum Dryer
Council Bluffs, IA:	Concrete Bin Dust Control
	Concrete Paving
	Installation of DT Vapor Scrubber
Marion, OH:	Installation of Enclosed Moving Tripper

WHEREAS, in 2004, the Defendant that owns and operates each of the following plants performed the project(s) indicated at each plant, which collectively produced reductions of

approximately 123 tons per year of VOC emissions and 31 tons per year of PM emissions:

Danville, IL:	Cooling Tower Replacement
	Hexane Tanks Conversion
	Installation of Vapor Tight Conveyor - Corn Germ Extraction
	Installation of Gas Chromatograph for Residual Hexane Analysis
	Corn DT/Dryer Cooler ("DC") Improvements
Decatur, AL	Vent Condenser Improvements
Decatur, IN	Boiler MACT Engineering Study
	Installation of Extractors Condensers
Delphos, OH	Boiler MACT Engineering Study
Council Bluffs, IA	Concrete Paving

WHEREAS, Defendants have worked cooperatively with Plaintiffs to structure a comprehensive program that will result in reduction of approximately 2,200 additional tons of potential air pollution annually from Defendants' facilities in eight states;

WHEREAS, the parties agree that certain of the emission reductions under the Consent Decree would not otherwise be required by law;

WHEREAS, installations of air pollution control equipment undertaken pursuant to this Consent Decree are intended to abate

or control atmospheric pollution or contamination by removing, reducing, or preventing the emission of pollutants, and as such, may be environmentally beneficial projects that may be considered to be pollution control projects by the appropriate permitting authorities;

WHEREAS, Plaintiffs and Defendants have agreed that settlement of this action is in the public interest, will result in air quality improvements in the areas where Defendants' facilities are located, and that entry of this Consent Decree without further litigation is the most appropriate means of resolving this matter; and

WHEREAS, subject to the requirements in Paragraph 100, below, Plaintiffs and Defendants consent to entry of this Consent Decree without trial of any issues;

NOW, THEREFORE, without any admission of fact or law, and without any admission of the violations alleged in the Complaint and Complaints in Intervention, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction of the subject matter herein and over the parties consenting hereto pursuant to 28 U.S.C. §§ 1331 and 1345 and pursuant to Sections 113 and 167 of the Act, 42 U.S.C. §§ 7413 and 7477. Venue is proper under Section 113(b) of the Act, 42 U.S.C. § 7413(b), and under 28 U.S.C. § 1391(b)

and (c) because Defendant Bunge Milling, Inc. ("Bunge Milling"), owns and operates a facility in this District. The Complaint and Complaints in Intervention state claims upon which relief can be granted against Defendants under Sections 113 and 167 of the Act, 42 U.S.C. §§ 7413 and 7477, and 28 U.S.C. § 1355. The Defendants' consent to jurisdiction in this matter does not waive their rights to contest jurisdiction in unrelated matters.

II. APPLICABILITY

2. The provisions of this Consent Decree shall, as specified herein, apply to and be binding upon the Plaintiffs and upon Defendants, as well as Defendants' officers, employees, agents, subsidiaries, successors and assigns, and shall apply to each of Defendants' facilities listed herein for the life of the Consent Decree.

a. In the event a Defendant proposes to sell or transfer all or part of any of its facilities subject to this Consent Decree, such Defendant shall advise the proposed purchaser or successor-in-interest in writing of the existence of this Consent Decree and provide it with a copy of the Consent Decree, and shall send a copy of such written notification by certified mail, return receipt requested, to EPA and the air pollution control authority where the facility is located at least 30 days prior to the closing date of the sale or transfer. This provision does not relieve such Defendant from having to comply with any

applicable state or local regulatory requirement regarding notice and transfer of facility permits.

b. A Defendant may comply with any emission reduction requirement of this Consent Decree by permanently shutting down the emission unit to which the requirement applies. In such case, the Appropriate Defendant shall provide written notice of the shutdown to the Appropriate Plaintiffs and permitting authorities prior to the planned shutdown as required in the applicable Control Technology Plan.

III. FACTUAL BACKGROUND AND DEFINITIONS

3. Bunge, a New York corporation, is a subsidiary of Bunge N.A. Holdings, Inc. Bunge is the North American operating arm of Bunge Limited. Bunge is a leading oilseed processor and corn dry miller and a leading U.S. exporter of soybeans and soybean-derived products (meal and oil). Bunge North America (East), L.L.C. ("Bunge East"), a Delaware limited liability company, and Bunge North America (OPD West), Inc. ("Bunge OPD West"), and Bunge Milling, Inc. ("Bunge Milling") are wholly owned subsidiaries of Bunge. Bunge East owns and operates plants located in Decatur, Indiana; Delphos, Ohio; Marion, Ohio; and Morristown, Indiana, and is a successor by merger to Bunge North America (East), Inc., formerly known as Central Soya Company, Inc. Bunge OPD West owns and operates plants located in Emporia, Kansas and Council Bluffs, Iowa. Bunge Milling owns and operates

plants located in Danville, Illinois. Bunge owns and operates plants located in Decatur, Alabama; Marks, Mississippi; Cairo, Illinois; and Destrehan, Louisiana. Each Defendant shall comply with the requirements of this Consent Decree that apply to the respective plants that it owns and operates.

4. Each of the Defendants is a "person" as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e), that owns and operates solvent extraction plants subject to this Consent Decree.

5.a. Plaintiffs allege that certain of Defendants' solvent extraction plants are "major emitting facilities," as defined by Section 169(1) of the Act, 42 U.S.C. § 7479(1), and the federal and state regulations promulgated pursuant to the Act.

b. The requirements of the Control Technology Plans ("CTPs") which are Attachments A through I to this Consent Decree, are incorporated herein by reference and made a directly enforceable part of this Consent Decree. Non-material modifications to the CTPs may be made by written approval of the Appropriate Plaintiffs and the Appropriate Defendants. Such approval shall not be unreasonably withheld if the modification is consistent with the emission reduction requirements and schedules set forth in this Consent Decree.

6.a. Unless otherwise defined herein, terms used in this Consent Decree shall have the meanings given to those terms in

the Act and in the federal and state regulations promulgated pursuant to the Act.

b. For purposes of this Consent Decree, the term "plant" refers to any solvent extraction plant that is listed in this Consent Decree at Paragraphs 3, 7 or 8. Bunge Milling's facility in Danville, Illinois includes two plants.

c. As used in any Paragraph of this Consent Decree, "Appropriate Defendant" means the Defendant that owns and operates the plant to which the Paragraph applies.

d. As used in any Paragraph of this Consent Decree, "Appropriate Plaintiffs" shall mean the United States and the State where the plant to which the Paragraph applies is located, provided that such State is a Plaintiff-Intervenor.

e. For purposes of this Consent Decree, "operating month" is defined according to the definition provided in 40 C.F.R. § 63.2872(c).

f. For purposes of this Consent Decree, "solvent extraction system" is defined as "a vegetable oil production process" as set forth in 40 C.F.R. § 63.2872(c).

g. For purposes of this Consent Decree and the attached CTPs, the term "Interim Limit Start Date" shall mean the first day of the first calendar month which begins at least thirty days after entry of this Consent Decree.

7. Defendants own and operate the following eleven (11) plants for processing soybeans, as follows:

a. Decatur, Alabama, owned and operated by Bunge;

b. Marks, Mississippi, owned and operated by Bunge;

c. Cairo, Illinois, owned and operated by Bunge;

d. Destrehan, Louisiana, owned and operated by Bunge;

e. Council Bluffs, Iowa, owned and operated by Bunge OPD West;

f. Emporia, Kansas, owned and operated by Bunge OPD West;

g. Decatur, Indiana, owned and operated by Bunge East;

h. Delphos, Ohio, owned and operated by Bunge East;

i. Marion, Ohio, owned and operated by Bunge East;

j. Morristown, Indiana, owned and operated by Bunge East; and

k. Danville, Illinois, owned and operated by Bunge Milling.

8. Bunge Milling owns and operates one (1) corn dry mill extraction plant at Danville, Illinois.

9. Defendants produce crude vegetable oil and meal products at their specific plants by removing oil from the oilseeds or corn germ through direct contact with an organic solvent comprised of hexane isomers. These solvent extraction plants listed in Paragraphs 7 and 8 are major sources of n-hexane, a hazardous air pollutant ("HAP"), and may be major sources of VOCs. Emission units of VOC and HAP emissions at these plants

include the extractor vessels, the solvent recovery system, dryers and coolers, residual solvent in meal and oil products, leaking equipment components, storage tanks, and wastewater treatment equipment. These plants are subject to the requirements of 40 C.F.R. Part 63, Subpart GGGG (Solvent Extraction for Vegetable Oil Production NESHAP), applicable SIP requirements, and in some instances are subject to the PSD requirements of 40 C.F.R. Part 52.

10. Defendants operate combustion units at all 11 facilities subject to this Consent Decree, such as industrial boilers, process heaters, and/or burners for dryers and other process units. These combustion units emit oxides of nitrogen ("NO_x"), particulate matter ("PM"), including PM of 10 microns or less ("PM_{10}"), carbon monoxide ("CO"), and/or sulfur dioxide ("SO_2") emissions.

IV. COMPLIANCE PROGRAM FOR SOLVENT EXTRACTION PLANTS

11. The Appropriate Defendant shall implement the specific requirements applicable to such Defendant's solvent extraction plants in accordance with the schedules set forth in each facility-specific Control Technology Plan ("CTP"), Attachments A through I. The CTPs include the following:

a. Identification of all units to be controlled;

b. Engineering design criteria for all proposed controls;

c. Applicable emission limits for each pollutant;

d. Monitoring parameters for all control equipment;

e. A schedule for installation;

f. Identification of all units to be emission tested and definition of the test methods that will be used; and

g. A procedure for setting emission limits following start-up of emissions control equipment.

A. <u>INTERIM SLR LIMITS</u> (VOC CTP for Defendants' Soybean Extraction Plants at Attachment A)

12. In accordance with the VOC CTP for Defendants' Soybean Extraction Plants, and by no later than the Interim Limit Start Date, the Appropriate Defendant shall begin to account for solvent loss and quantity of oilseeds processed to comply with the following VOC solvent loss ratio (gallon of VOC lost per ton of oilseed processed, hereinafter "SLR") limits at each of the following six (6) soybean solvent extraction plants:

Council Bluffs, Iowa	0.16 gal/ton
Decatur, Indiana	0.15
Delphos, Ohio	0.20
Destrehan, Louisiana	0.19
Cairo, Illinois	0.16
Emporia, Kansas	0.16

The first compliance determination with respect to the plant-specific SLR limits above will be based on the first 12 operating months of data collected after the date on which the Appropriate

Defendant begins to account for solvent loss under this Paragraph.

13. In accordance with the VOC CTP for Defendants' Soybean Extraction Plants, and by no later than twelve months after the Interim Limit Start Date, the Appropriate Defendant shall begin to account for solvent loss and quantity of oilseeds processed to comply with the following VOC SLR limits at each of the following five (5) soybean extraction plants:

Danville, Illinois	0.19 gal/ton
Decatur, Alabama	0.19
Marion, Ohio	0.20
Marks, Mississippi	0.18
Morristown, Indiana	0.16

The first compliance determination with respect to the plant-specific SLR limits above will be based on the first 12 operating months of data collected after the date on which the Appropriate Defendant begins to account for solvent loss under this Paragraph.

B. <u>FACILITY-SPECIFIC PROJECTS</u>

B.1. <u>CAIRO, ILLINOIS FACILITY</u> (Cairo, Illinois CTP at Attachment B)

14. In accordance with the Cairo, Illinois CTP, Bunge shall install Phenix technology on one of the coal boilers to control SO_2 and NOx emissions by no later than eighteen months following

lodging of this Consent Decree, or as otherwise provided in the Cairo, Illinois CTP.

15. In accordance with the Cairo, Illinois CTP, Bunge shall replace the first effect evaporator to further control VOC emissions by no later than December 31, 2005.

B.2. <u>DANVILLE, ILLINOIS FACILITY</u> (Danville, Illinois CTPs at Attachments C and D)

16. In accordance with the Danville, Illinois Conventional Soybean CTP (Attachment C), Bunge Milling shall further reduce VOC emissions by upgrading the mineral oil system at its Danville soybean extraction plant by no later than December 31, 2005.

17. In accordance with the Danville, Illinois Conventional Soybean CTP (Attachment C), Bunge Milling shall complete a coal-boiler lime injection optimization study and submit an evaluation report by no later than 240 days after lodging of this Consent Decree, and shall complete optimization of the lime injection system by no later than one year after submitting the Evaluation Report.

18. In accordance with the Danville, Illinois Conventional Soybean CTP, Bunge Milling shall improve control of hexane temperature to the extractor at its Danville soybean solvent extraction plant by no later than December 31, 2007, to further reduce VOC emissions.

19. In accordance with the Danville, Illinois Corn Dry Mill Extraction Plant CTP (Attachment D), Bunge Milling shall install

operational controls on the corn DT/DC at its Danville corn dry mill extraction plant by no later than December 31, 2005, to further reduce VOC emission.

20. In accordance with the Danville, Illinois Corn Dry Mill Extraction Plant CTP (Attachment D), Bunge Milling shall complete the following emission reduction projects at its Danville corn dry mill extraction plant by no later than December 31, 2007 to further reduce VOC emissions:

a. Upgrade Mineral Oil System; and

b. Improve Control of Hexane temperature to the extractor.

21. In accordance with both Danville, Illinois CTPs, Bunge Milling shall perform a root cause analysis for each malfunction event at its Danville plants for a period of twenty-four months following entry of this Consent Decree.

B.3. <u>DECATUR, ALABAMA FACILITY</u>

22. In accordance with the VOC CTP for Defendants' Soybean Extraction Plants at Attachment A, Bunge shall comply with the Interim VOC Solvent Loss Ratio Limit and the Final VOC Solvent Loss Ratio Limit for the Decatur, Alabama plant.

B.4. <u>DECATUR, INDIANA FACILITY</u> (Decatur, Indiana CTP at Attachment E)

23. In accordance with the Decatur, Indiana CTP, Bunge East shall complete the following emission reduction projects on or before December 31, 2006:

a. install a bag filter on the coal boiler(s) to reduce PM/PM_{10} emissions; and

b. begin complying with the requirements of the Boiler MACT.

B.5. <u>MARION, OHIO FACILITY</u> (Marion, Ohio CTP at Attachment F)

24. In accordance with the Marion, Ohio CTP, Bunge East shall complete a modification to its RJ filter-dust control system to improve PM/PM_{10} control by no later than December 31, 2005.

B.6. <u>COUNCIL BLUFFS, IOWA FACILITY</u>

25. In accordance with the VOC CTP for Defendants' Soybean Extraction Plants at Attachment A, Bunge OPD West shall comply with the Interim VOC Solvent Loss Ratio Limit and the Final VOC Solvent Loss Ratio Limit for the Council Bluffs, Iowa plant.

B.7. <u>DESTREHAN, LOUISIANA FACILITY</u> (Destrehan, Louisiana CTP at Attachment G)

26. In accordance with the Destrehan, Louisiana CTP, Bunge shall complete installation of low NOx burners on each of two (2) natural gas boilers (Boilers Nos. 1 and 2) to reduce NOx emissions by no later than December 31, 2006.

B.8. <u>EMPORIA, KANSAS FACILITY</u> (Emporia, Kansas CTP at Attachment H)

27. In accordance with the Emporia, Kansas CTP, Bunge OPD West shall complete installation of a low NOx burner on the

Cleaver Brooks boiler (Boiler No. 1) to reduce NOx emissions by no later than December 31, 2005.

B.9. <u>DELPHOS, OHIO FACILITY</u>

28. a. In accordance with the VOC CTP for Defendants' Soybean Extraction Plants at Attachment A, Bunge East shall comply with the Interim VOC Solvent Loss Ratio Limit and the Final VOC Solvent Loss Ratio Limit for the Delphos, Ohio plant.

b. Bunge East shall begin complying with the requirements of the Boiler MACT (40 C.F.R. Part 63, Subpart DDDDD) on or before December 31, 2006.

B.10. <u>MORRISTOWN, INDIANA FACILITY</u> (Morristown, Indiana CTP at Attachment I)

29. In accordance with the Morristown, Indiana CTP, Bunge East shall complete installation of a low NOx burner on the primary boiler to reduce NOx emission by no later than December 31, 2005.

30. In accordance with the Morristown, Indiana CTP, when not using natural gas, Bunge East shall, on and after December 31, 2005, only use, as an alternative fuel for firing facility boilers, fuel oil with a reduced sulfur content less than or equal to 0.05% sulfur.

C. <u>FINAL SLR LIMITS</u> (VOC CTP for Defendants' Soybean Extraction Plants at Attachment A and the CTP for Bunge Milling's Danville, Illinois Corn Dry Mill Extraction Plant at Attachment D)

31.a. By no later than 90 days following lodging of this Consent Decree, each Appropriate Defendant shall submit to Appropriate Plaintiffs, with a certification as provided in Paragraph 51, below, the design capacity value for each of its plants. Such certification may be claimed Confidential Business Information ("CBI") under 40 C.F.R. Part 2, Subpart B and applicable state law. Such claim may be approved or rejected by the Appropriate Plaintiffs only in accordance with the procedures for such approval or rejection set forth under 40 C.F.R. Part 2 Subpart B or applicable state law. For purposes of this Consent Decree, design capacity is the "maximum permitted crush capacity," expressed as tons of crush per day, as defined in the VOC CTP for Defendants' Soybean Extraction Plants (Attachment A) and in the CTP for Bunge Milling's Danville, Illinois Corn Dry Mill Extraction Plant (Attachment D).

b. If the design capacity for any plant submitted under Paragraph 31.a., above, changes any time before the Appropriate Plaintiffs approve the final VOC SLR limit for each soybean solvent extraction processing plant, the Appropriate Defendant will notify the Appropriate Plaintiffs within fifteen (15) days of the end of the calendar quarter in which such change occurs.

32. By no later than May 1, 2007, each Appropriate Defendant shall propose in writing to the Appropriate Plaintiffs

final VOC SLR limits for each of its soybean solvent extraction processing plants.

33. Immediately upon proposal of any final VOC SLR limit pursuant to the preceding Paragraph, the Appropriate Defendant shall comply with the proposed limit and begin to account for solvent loss and quantity of oilseeds processed to comply with the proposed final VOC SLR limit. For each soybean solvent extraction plant, the first compliance determination will be based on the first 12 operating months of data collected after the date on which that plant's final VOC SLR limit is proposed. The compliance certification for that first 12-month period shall be submitted with that facility's next semi-annual report as set forth in Paragraph 47, below.

34. For each final VOC SLR limit proposed by any Defendant pursuant to Paragraph 32, the Appropriate Plaintiffs will review the proposed limit, and either (a) approve, in writing, the proposed limit if the Appropriate Plaintiffs determine that such limit complies with the requirements in Paragraphs 36 and 37, or (b) only if the proposed limit does not comply with the requirements in Paragraphs 36 and 37, approve, in writing, an alternate SLR limit based on the information and data submitted with the proposal, that is no more stringent than necessary for the proposed limit to comply with Paragraphs 36 and 37. If an alternate SLR limit is approved, the Appropriate Defendant shall

comply with the alternate final VOC SLR limit and begin to account for solvent loss and quantity of oilseeds processed to comply with the alternate limit on the first day of the month following receipt by the Appropriate Defendant of the written notice of the alternate SLR limit. For each soybean solvent extraction plant, the first compliance determination will be based on the first 12 operating months of data collected after the date on which the final VOC SLR limit is approved.

35. Within 90 days after receipt of written approval of each final VOC SLR limit pursuant to the preceding Paragraph, the Appropriate Defendant shall apply to the appropriate permitting authority for the appropriate federally-enforceable operating permit(s) which incorporate(s) that limit.

36.a. Except for Bunge East's Morristown, Indiana plant, for which Bunge East must propose a final VOC SLR emission limit of no more than 0.16 gal/ton, any Defendant's proposed final VOC SLR emission limit for a specific plant may be higher than, lower than, or the same as the interim limits for that plant, provided that the requirements of this Consent Decree related to the final capacity-weighted average of the final VOC SLR limits and the requirement of Paragraph 36.b. are satisfied. The Morristown, Indiana plant shall be included in making the determination required by Paragraph 36.c.

b. For each plant, the final VOC SLR limit proposed by the Appropriate Defendant shall not exceed (1) 0.20 gal/ton or (2) the existing solvent loss permit limit for that plant, whichever is lower.

c. The capacity-weighted average of the final VOC SLR limits for Defendants' eleven soybean solvent extraction plants shall not exceed 0.175 gal/ton. The capacity-weighted averages shall be based on the design capacity for each plant included in the average. The VOC CTP for Defendants' Soybean Extraction Plants, Attachment A, provides the formula for calculating the capacity-weighted average of the final VOC SLR limits for soybean solvent extraction plants.

d. The final SLR limit at Bunge Milling's corn dry mill extraction plant located in Danville, Illinois shall not exceed 0.70 gal/ton based on HAP content. Beginning on entry of this Consent Decree, Bunge Milling shall continue to comply with this limit. By no later than May 1, 2007, Bunge Milling shall apply to the State of Illinois for the appropriate federally-enforceable operating permit(s) to incorporate this limit.

D. COMPLIANCE DEMONSTRATION

37. Solvent Loss Limits. Compliance with the interim and final VOC SLR limits for the soybean solvent extraction plants and the final SLR limit for the Danville, Illinois corn dry mill extraction plant in this Consent Decree shall be determined in

accordance with 40 C.F.R. Part 63, Subpart GGGG, with the following exceptions: (1) provisions pertaining to HAP content shall not apply, except for the Danville, Illinois corn dry mill extraction plant; (2) monitoring and recordkeeping of solvent losses at each plant shall be conducted daily; (3) solvent losses and quantities of oilseed processed during startup and shutdown periods shall not be excluded in determining solvent losses; and (4) records shall be kept in the form substantially similar to the table in the VOC CTP for Defendants' Soybean Extraction Plants (Attachment A), that show total solvent loss, solvent loss during malfunction periods, and adjusted solvent loss (i.e., total solvent loss minus malfunction period loss) monthly and on a 12-month rolling basis.

38. Malfunctions. In determining compliance with the interim and final VOC SLR limits, the Appropriate Defendant may apply the provisions of 40 C.F.R. Part 63, Subpart GGGG, pertaining to malfunction periods at a particular plant only when both of the conditions in sub-Paragraphs (i) and (ii) are met:

(i) The malfunction results in a total plant shutdown. For purposes of this Consent Decree, a "total plant shutdown" means a shutdown of the solvent extraction system; and

(ii) The total amount of solvent loss, to which the provisions of 40 C.F.R. Part 63 Subpart GGGG relating to malfunctions is applied in a rolling twelve-month period, does

not exceed the Allowable Malfunction Volume as defined below. The Allowable Malfunction Volume in gallons for a given plant is equal to the plant's 12-month "crush capacity" (as defined in section 4.2(d) of the VOC CTP for Defendants' Soybean Extraction Plants at Attachment A and Section 9.2 of the CTP for Bunge Milling's Danville, Illinois Corn Dry Mill Extraction Plant at Attachment D) times its interim or final VOC SLR limit times 0.024, as follows:

Allowable Malfunction Volume (gal) = 12-month crush capacity (tons) * Interim or Final VOC SLR limit (gal/ton) * 0.024

Actual malfunction solvent loss must be less than or equal to the allowable malfunction solvent loss.

Except as set forth in this Paragraph, each Appropriate Defendant must include all solvent losses when determining compliance with the interim or final VOC SLR limits at each plant.

39. During a malfunction period, the Appropriate Defendant shall comply with the Startup, Shutdown, Malfunction ("SSM") Plan as required under 40 C.F.R. Part 63, Subpart GGGG for the plant. The total solvent loss corresponding to a malfunction period will be calculated as the difference in the solvent inventory, as defined in 40 C.F.R. § 63.2862(c)(1), for the day before the malfunction period began and the solvent inventory on the day the plant resumes normal operation.

E. PERMITS

40.a. Construction Permits. Except as allowed under Paragraph 40.b., below, the Appropriate Defendants shall apply for and obtain and/or modify all permits, including any SIP pre-construction permits as may be required by the affected permitting authority, for the construction of pollution control devices and any other equipment required under this Consent Decree and all requirements to meet the emission reduction requirements specified in this Consent Decree.

b. In lieu of requiring the Appropriate Defendant to obtain a construction permit, as required under Paragraph 40.a., a State may submit the portions of this Consent Decree applicable to the facilities in that State to the EPA for approval, under its State Implementation Plan ("SIP") in accordance with 40 C.F.R. Part 51, App. V. Upon approval by the EPA, those portions of this Consent Decree will be incorporated into the State's SIP. The Defendants agree not to contest the submittal of the applicable portions of this Consent Decree as a SIP by the State and the approval of the applicable portions of this Consent Decree into the State's SIP by the EPA.

41. Unit Operating Permits.

a. Each Appropriate Defendant shall, consistent with applicable regulations, apply for and obtain federally-enforceable SIP operating permit(s), and/or modify its existing

SIP operating permit(s), to incorporate the emission limits, operational requirements, and the monitoring and recordkeeping requirements for each of its plants set forth in or developed pursuant to this Consent Decree or the CTPs.

b. Each Appropriate Defendant shall incorporate the terms of the Consent Decree, including CTPs, into appropriate Title V permits for each plant consistent with applicable requirements in 40 C.F.R. Part 70 or the state-specific rules adopted and approved consistent with Part 70.

c. In lieu of incorporating the terms of the Consent Decree directly into a SIP operating permit or Title V Permit, as required under Paragraphs 41.a. and 41.b., a State may submit the portions of this Consent Decree applicable to the facilities in that State to the EPA for approval under that State's SIP in accordance with 40 C.F.R. Part 51, App. V. Upon approval by the EPA, those portions of this Consent Decree will be incorporated into the State's SIP, and subsequently incorporated into Title V permits for each plant consistent with applicable requirements in 40 C.F.R. Part 70 or the State-specific rules adopted and approved consistent with Part 70. The Defendants agree not to contest the submittal of the applicable portions of this Consent Decree as a SIP by the State, the approval of the applicable portions of the Consent Decree into the State's SIP by the EPA

and the incorporation of the applicable portions of this Consent Decree through these SIP requirements into the Title V permits.

42. General Permitting Requirements.

a. Defendants shall submit timely and complete applications for all permits required to be obtained under this Consent Decree pursuant to the Clean Air Act and applicable State or local permitting requirements.

b. For individual emission units for which the Appropriate Defendant accepts NSPS applicability under Section V of this Consent Decree and that are not otherwise required to implement emission reduction projects under this Consent Decree, each Appropriate Defendant shall have a period of 18 months from the date of lodging of the Consent Decree to apply for a permit or permit amendment imposing or modifying VOC, SO_2, NOx and particulate matter limits for such emission units at the plants listed in Paragraphs 7 and 8. Any Defendant's failure to submit full and complete applications for these permits or permit amendments by the 18-month deadline may subject it to additional civil penalties and injunctive relief requirements. Each Appropriate Defendant, in its semi-annual reports pursuant to Paragraph 47, shall submit a list of its facilities for which applications for permits or permit amendments were filed. This provision shall not extend any deadlines for submission of Title V permit applications.

c. This Consent Decree does not require Defendants to incorporate the capacity-weighted average of the final VOC SLR limits established in Paragraph 32 into any site-specific SIP revisions or construction and/or operating permits.

V. NSPS REQUIREMENTS APPLICABLE TO PLANTS SUBJECT TO THIS CONSENT DECREE

43. By no later than 180 days after lodging of this Consent Decree, each Appropriate Defendant shall identify the units (referred to as "affected facilities" for NSPS purposes) at its plants subject to this Consent Decree for which such Appropriate Defendant shall accept NSPS applicability in the following categories:

a. Steam generating units accepting applicability under 40 C.F.R. Part 60, Subpart Db (Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units);

b. Steam generating units accepting applicability under 40 C.F.R. Part 60, Subpart Dc (Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units);

c. Affected facilities at grain terminal and storage elevators accepting applicability under 40 C.F.R. Part 60, Subpart DD (Standards of Performance for Grain Elevators);

d. Storage vessels accepting applicability under 40 C.F.R. Part 60, Subpart Kb (Standards of Performance for Volatile Organic Liquid Storage Vessels);

e. Affected facilities at coal preparation plants accepting applicability under 40 C.F.R. Part 60, Subpart Y (Standards of Performance for Coal Preparation Plants); and

f. Affected facilities accepting applicability under any other subpart of 40 C.F.R. Part 60.

44. Units Accepting Applicability: By no later than 180 days after lodging of the Consent Decree, each Defendant shall submit its completed list of NSPS-applicable units identified pursuant to Paragraph 43 to the Appropriate Plaintiffs. This completed list shall include all information required by 40 C.F.R. Part 60, Subpart A.

a. Units Subject to Immediate Compliance. By no later than 180 days after lodging of the Consent Decree, and except for units for which a compliance schedule is submitted under Paragraph 44.b., each Appropriate Defendant shall immediately comply with the requirements of the NSPS for those units accepting applicability.

b. Units Subject to Compliance Schedule. By no later than 180 days after lodging of the Consent Decree, each Appropriate Defendant shall submit a compliance schedule for review and approval by the Appropriate Plaintiffs for any unit for which it accepts NSPS applicability but which is not in compliance with all applicable NSPS requirements. Upon receipt of written approval of a compliance schedule, the approved compliance

schedule is incorporated by reference herein and made enforceable under this Consent Decree. Thereafter, each Appropriate Defendant shall comply with the requirements of each compliance schedule, as approved in writing, and shall demonstrate by the time specified in the compliance schedule that the unit covered by the schedule meets all applicable NSPS requirements.

45. Units Not Accepting Applicability:

a. Information Requirement. For those units in the categories of Subparts Db, Dc, DD, Kb, Y, or any other Subparts identified under Paragraph 43.f., but for which the Appropriate Defendant does not accept applicability for the unit under NSPS, the Appropriate Defendant shall provide in the report submitted under Paragraph 44 a description of the unit or class of units, size and type, and approximate time period of construction. For those units that fit the category of Subpart Kb, the Appropriate Defendant need not provide information relating to the following types of units:

1. Process vessels;

2. Vessels subject to 40 C.F.R. Part 63, Subpart GGGG; and

3. Vessels having a capacity of less than 20,000 gallons or containing a liquid that has a vapor pressure less than 3.5 kPa.

b. Reservation of Plaintiffs' Claims. Those units for which the Appropriate Defendant declines to accept NSPS applicability are beyond the scope of the release from liability set forth in Paragraph 93 ("Resolution of Claims") of this Consent Decree, and Plaintiffs reserve their rights to take judicial and administrative enforcement actions regarding claims of violations of NSPS regulations. Defendants reserve any rights and defenses with regard to such claims.

VI. GENERAL RECORDKEEPING AND REPORTING REQUIREMENTS

46. Data Retention. Each Appropriate Defendant shall monitor all operating parameters as provided by each facility-specific CTP, and shall maintain records of this data in accordance with the retention requirements set forth in Paragraph 48.

47. Semi-annual Reports. Beginning six months after the Interim Limit Start Date, and every six months thereafter until termination of this Consent Decree, each Appropriate Defendant shall submit written reports to the Appropriate Plaintiffs. The reports shall contain the information applicable to each facility as specified in the CTPs for the most recent reporting period:

a. For VOC emissions reductions projects, a description of technologies and techniques implemented to meet the interim and/or final SLR limits required by this Consent Decree. The report shall include the following information for each plant for

which final VOC SLR limits are required under Paragraphs 32 through 34, and at which a project has been completed:

> (1) a brief characterization of each plant (e.g., oilseed type, crush throughput);
> (2) emission reduction projects;
> (3) project costs;
> (4) emission reductions resulting from these projects; and
> (5) the basis for the emission reduction and cost estimates.

The report, at a minimum, shall address the technologies and techniques identified in Paragraphs 14 through 30 above that were implemented. The report may include claimed Confidential Business Information ("CBI") under 40 C.F.R. Part 2, Subpart B and applicable state law in a separate section where submission of such information is deemed necessary to proper understanding of the technologies by the Appropriate Plaintiffs.

b. The current schedule for compliance with the CTP requirements, which shall itemize all such requirements with the applicable deadline or milestone, the tasks that have been completed and the date completed, and the future tasks (including permanent shutdown of any emission units) that have yet to be completed and their expected date of completion;

c. For each unit for which an emission limit under this Consent Decree is in effect, information to support the Appropriate Defendant's compliance status for such limit, including data for emissions or operational parameters, as required to be monitored, during the reporting period. For this

purpose, monitored emissions data may be submitted to the Appropriate Plaintiffs in electronic format as provided for by 40 C.F.R. Part 75; and

d. Other information specifically required to be included in the semi-annual reports pursuant to the CTPs or this Consent Decree.

48. Record Retention. Notwithstanding the provisions of Paragraph 106, Defendants shall preserve and retain all records and documents that reflect their compliance with the requirements of this Consent Decree for a project required under this Consent Decree for a period of five (5) years following the demonstration of compliance for that project, unless other regulations require the records to be maintained longer, or unless otherwise agreed between any Defendant and Appropriate Plaintiffs.

49. For each plant subject to interim or final VOC SLR limits, the Appropriate Defendant shall maintain the records required by 40 C.F.R. Part 63, Subpart GGGG on solvent loss and quantity of oilseed processed.

50. For each plant subject to interim or final VOC SLR limits, the Appropriate Defendant shall maintain the records required by 40 C.F.R. Part 63, Subpart GGGG, for any malfunction period as defined in Paragraph 38, above.

51. Certification. Defendants' semi-annual reports and submission of design capacity values required in Paragraphs 31

and 47 shall contain the following certification and shall be signed by a plant manager, a corporate official responsible for plant management or a corporate official responsible for environmental management and compliance at the plant(s) covered by the report:

> "I certify under penalty of law that I have personally examined the information submitted herein and that I have made a diligent inquiry of those individuals immediately responsible for obtaining the information and that to the best of my knowledge and belief, the information submitted herewith is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

Each such report and certification shall be reviewed and initialed by a corporate official at the vice presidential level of the Appropriate Defendant or higher. If the signatory is such an official, the report and certification may be peer-reviewed and initialed.

VII. CIVIL PENALTY

52. Within thirty (30) calendar days of entry of this Consent Decree, Defendants shall pay to the Plaintiffs a civil penalty pursuant to Section 113 of the Act, 42 U.S.C. § 7413, in settlement of Clean Air Act claims in the amount of $625,000.00.

53. Of the civil penalty amount set forth in Paragraph 52, $361,000.00 shall be paid by Electronic Funds Transfer ("EFT") to the United States Department of Justice, in accordance with current EFT procedures, referencing the USAO File Number and DOJ

Case Number 90-5-2-1-07950, and the civil action case name and case number of the Central District of Illinois. The costs of such EFT shall be Defendants' responsibility. Payment shall be made in accordance with instructions provided to Bunge by the Financial Litigation Unit of the U.S. Attorney's Office in the Central District of Illinois. Any funds received after 11:00 a.m. (EST) shall be credited on the next business day. Bunge shall provide notice of payment, referencing the USAO File Number and DOJ Case Number 90-5-2-1-07950, and the civil action case name and case number, to the Department of Justice and to EPA, as provided in Paragraph 101 ("Notice").

54. Of the total civil penalty amount set forth in Paragraph 52, the amount of $264,000.00 shall be divided among the State air authorities that have filed Complaints in Intervention and joined in the claims alleged by the United States in this action. Defendants shall make payment as follows:

a. $22,000.00 to the State of Louisiana;

b. $66,000.00 to the State of Illinois;

c. $44,000.00 to the State of Indiana;

d. $44,000.00 to the State of Ohio;

e. $22,000.00 to the State of Kansas;

f. $22,000.00 to the State of Mississippi;

g. $22,000.00 to the State of Iowa; and

h. $22,000.00 to the State of Alabama.

Payment shall be made according to the instructions set forth in Paragraph 53 and Attachment J (Notice and Penalty Payment Provisions) to this Consent Decree.

55.a. Within thirty (30) calendar days of entry of this Consent Decree, Bunge shall pay to the State of Louisiana civil penalties in settlement of state-specific Clean Air Act claims in the amount of $15,000.00 in addition to the amount pursuant to Paragraph 54.a.

b. Pursuant to Ala. Code §22-22A-5(18)b, as amended, within thirty (30) calendar days of entry of this Consent Decree, Bunge shall pay to the Alabama Department of Environmental Management ("ADEM") civil penalties in settlement of Alabama Air Pollution Control Act (Ala. Code §22-28-1 through 22-28-23, as amended) claims in the amount of $25,000.00 in addition to the amount pursuant to Paragraph 54.h.

56. Defendants shall pay statutory interest on any overdue civil penalty or stipulated penalty amount at the rate specified in 31 U.S.C. § 3717. Upon entry, this Consent Decree shall constitute an enforceable judgment for purposes of post-judgment collection in accordance with Rule 69 of the Federal Rules of Civil Procedure, the Federal Debt Collection Procedure Act, 28 U.S.C. § 3001-3308, and applicable state law. Each Plaintiff shall be deemed a judgment creditor for purposes of collection of

any unpaid amounts of the civil and stipulated penalties and interest due to such Plaintiff.

57. No amount of the civil penalty to be paid by Defendants shall be used to reduce its federal or state tax obligations.

VIII. SUPPLEMENTAL ENVIRONMENTAL PROJECTS

58. Defendants shall spend $1,250,053.36 to implement the State Supplemental Environmental Projects ("SEPs") required under this Consent Decree as specified in Paragraph 59 and in accordance with the other requirements in this Section VIII.

59. Defendants shall perform the following State SEPs:

a. Louisiana

Within sixty (60) days after entry of this Consent Decree, Defendants will donate $83,335.00 to the Louisiana Department of Environmental Quality ("LDEQ") to fund the Mercury Removal/Education Program at LDEQ. The LDEQ will use best efforts to spend a substantial portion of these funds, but no less than $15,000.00, in St. Charles Parish and to spend all of such funds within twenty-six months of entry of this Consent Decree. Based on the needs of the schools, the funds will be used to defray the costs of (a) removing and disposing of present mercury, lead and/or asbestos contamination, and/or, (b) eliminating the use of mercury instruments in local educational institutions. Until such time as the entire donation has been spent or otherwise disbursed, the LDEQ agrees to provide to

Defendants the information necessary to assist Defendants in complying with their obligations under Paragraph 61 of this Consent Decree.

b. Illinois

1. Alexander County Hazardous Materials Equipment and Training SEP. By no later than sixty (60) days after entry of this Consent Decree, Defendants agree to make a contribution in the amount of $54,000.00 to the Alexander County Emergency Services and Disaster Agency ("ESDA") for hazardous materials response equipment and training. Defendants will use their best efforts to ensure that the money is spent for the designated purposes within two years after entry of this Consent Decree.

2. Vermilion County Hazardous Materials Equipment and Training SEP. By no later than sixty (60) days after entry of this Consent Decree, Defendants agree to make a contribution in the amount of $90,000.00 to the Vermilion County Emergency Management Agency ("EMA") for hazardous materials response equipment and training. Defendants will use their best efforts to ensure that the money is spent for the designated purposes within two years after entry of this Consent Decree.

3. Pulaski County Hazardous Materials Equipment and Training SEP. By no later than sixty (60) days after entry of this Consent Decree, Defendants agree to make a contribution in the amount of $62,000.00 to the Pulaski County Emergency Services

and Disaster Agency ("ESDA") for hazardous materials response equipment and training. Defendants will use their best efforts to ensure that the money is spent for the designated purposes within two years after entry of this Consent Decree.

4. Lead Abatement SEP. By no later than sixty (60) days after entry of this Consent Decree, Defendants agree to make a contribution in the amount of $294,000.00 to the City of Danville, Illinois, Department of Public Development, Division of Community Development for lead abatement projects at residential locations in Danville, Illinois. Defendants will use their best efforts to ensure that the money is spent for the designated purposes within three years after entry of this Consent Decree.

c. Indiana

By no later than sixty (60) days after entry of this Consent Decree, Defendants agree to make a contribution in the amount of $166,670.00 to the IDEM Special Fund (Account No. 3240-140-600, Project No. OAQBN00) to be used for projects retrofitting diesel vehicles. The State of Indiana agrees to spend or otherwise disburse the entire contribution made by Defendants within eighteen (18) months of receipt of the contribution. Until such time as the entire contribution has been spent or otherwise disbursed, the State of Indiana agrees to provide to Defendants the information necessary to assist Defendants in complying with their obligations under Paragraph 61 of this Consent Decree.

d. Ohio

By no later than sixty (60) days after entry of this Consent Decree, Defendants agree to make a contribution in the amount of $166,670.00 to the State of Ohio Environmental Protection Agency's fund for the Clean Diesel School Bus Program (Fund 5CD). The State of Ohio agrees to spend or otherwise disburse the entire contribution made by Defendants within eighteen (18) months of receipt of the contribution. Until such time as the entire contribution has been spent or otherwise disbursed, the State of Ohio agrees to provide to Defendants the information necessary to assist Defendants in complying with their obligations under Paragraph 61 of this Consent Decree.

e. Kansas

1. Emporia School District Diesel Retrofit. By no later than sixty (60) days after entry of this Consent Decree, Defendants agree to make a contribution in the amount of $22,640.36 to the Emporia Unified School District No. 253 ("USD 253") for the purchase and installation of diesel oxidation catalyst retrofitting equipment on school buses owned and operated by USD 253. Defendants will use their best efforts to ensure that the money is spent for the designated purposes within two years after entry of this Consent Decree.

2. Southern Lyon County School District Diesel Retrofit. By no later than two years after entry of this Consent Decree,

Defendants shall perform a SEP at a total cost of $16,065.00 for a project retrofitting diesel vehicles owned and operated by the Southern Lyon County Unified School District No. 252 ("USD 252"). This diesel retrofit project may include payment for the purchase and installation of EPA or California Air Resources Board ("CARB") verified oxidation catalysts on school buses. Priority for retrofitting shall be given to vehicles that are anticipated to provide at least an additional three to five years of service. No SEP funds shall be used for testing or demonstration. Defendants will use their best efforts to ensure that the money is spent for the designated purposes within two years after entry of this Consent Decree.

3. KACEE Fund Contribution. By no later than sixty (60) days after entry of this Consent Decree, Defendants agree to make a contribution in the amount of $44,630.00 to the Kansas Association for Conservation and Environmental Education ("KACEE") to provide for environmental education within the State of Kansas. The State of Kansas agrees to spend or otherwise disburse the entire contribution made by Defendants within two years of receipt of the contribution. Until such time as the entire contribution has been spent or otherwise disbursed, the State of Kansas agrees to provide to Defendants the information necessary to assist Defendants in complying with their obligations under Paragraph 61 of this Consent Decree.

f. Mississippi

1. Hancock County Hazardous Materials Equipment and Training SEP. By no later than sixty (60) days after entry of this Consent Decree, Defendants agree to make a contribution in the amount of $20,843.75 to the Hancock County Fire Department for hazardous materials response equipment and training. Defendants will use their best efforts to ensure that the money is spent for the designated purposes within two years after entry of this Consent Decree.

2. Long Beach Fire Department Hazardous Materials Equipment and Training SEP. By no later than sixty (60) days after entry of this Consent Decree, Defendants agree to make a contribution in the amount of $20,843.75 to the Long Beach Fire Department for hazardous materials response equipment and training. Defendants will use their best efforts to ensure that the money is spent for the designated purposes within two years after entry of this Consent Decree.

3. Biloxi Fire Department Hazardous Materials Equipment and Training SEP. By no later than sixty (60) days after entry of this Consent Decree, Defendants agree to make a contribution in the amount of $20,843.75 to the Biloxi Fire Department for hazardous materials response equipment and training. Defendants will use their best efforts to ensure that the money is spent for

the designated purposes within two years after entry of this Consent Decree.

4. Pass Christian Fire Department Hazardous Materials Equipment and Training SEP. By no later than sixty (60) days after entry of this Consent Decree, Defendants agree to make a contribution in the amount of $20,843.75 to the Pass Christian Fire Department for hazardous materials response equipment and training. Defendants will use their best efforts to ensure that the money is spent for the designated purposes within two years after entry of this Consent Decree.

g. Iowa

By no later than sixty (60) days after entry of this Consent Decree, Defendants agree to make a contribution in the amount of $83,335.00 to the Bus Emissions Education Program ("BEEP") administered by the School Administrators of Iowa ("SAI"). The State of Iowa agrees to spend or otherwise disburse the entire contribution made by Defendants within two years of receipt of the contribution. Until such time as the entire contribution has been spent or otherwise disbursed, the Iowa Department of Natural Resources agrees to provide to Defendants the information necessary to assist Defendants in complying with their obligations under Paragraph 61 of this Consent Decree.

h. Alabama

By no later than two years after entry of this Consent Decree, Defendants shall perform a SEP at a total cost of $83,333.00 for a project retrofitting diesel vehicles owned and operated by the Decatur City Schools and/or the City of Huntsville (the "Diesel Retrofit Project") and, to the extent that the Diesel Retrofit Project does not substantially exhaust the $83,333.00, such other SEPs as may be agreed to by ADEM and Defendants. This diesel retrofit project may include payment for the purchase and installation of EPA or CARB verified oxidation catalysts on vehicles, including, but not limited to, mass transit vehicles, school buses and fire department vehicles. Priority for retrofitting shall be given to vehicles that are anticipated to provide at least an additional three to five years of service. No SEP funds shall be used for testing or demonstration. Defendants will use their best efforts to ensure that the money is spent for the designated purposes within two years after entry of this Consent Decree.

60. Defendants hereby certify that, as of the date of this Consent Decree, Defendants are not required to perform or develop the SEPs specified in this Section by any federal, state or local law or regulation; nor are Defendants required to perform or develop such SEPs by any other agreement, grant or as injunctive relief in this or any other case. Defendants further certify

that they have not received, and are not presently negotiating to receive, and will not receive in the future, credit in any other enforcement action for such SEPs.

61. SEP Report. For each SEP completed under this Section, Defendants shall provide, as part of Defendants' next semi-annual report submitted pursuant to Paragraph 47, a SEP Completion Report certified in accordance with Paragraph 51 of this Consent Decree and containing the following information:

a. A detailed description of the SEP as implemented;

b. A description of any pre-report operating problems encountered with regard to the SEP and the solutions thereto;

c. An accounting of all costs incurred for the purpose of implementing the SEP. Defendants shall provide, upon request, copies of the invoices, receipts, purchase orders, or other documentation that specifically identifies and itemizes the individual cost of the goods and/or services for which payment is being made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made;

d. A certification that the SEP has been satisfactorily completed; and

e. Additionally, for each diesel retrofit SEP Completion Report, except for the State of Ohio's SEP (Paragraph 59.d.), the

State of Indiana's SEP (Paragraph 59.c.) and the State of Iowa's SEP (Paragraph 59. g), Defendants shall include documentation of the following:

(1) Vehicle owner with contact name and phone number;

(2) Vehicle Type (i.e. mass transit bus, etc.);

(3) Model Year;

(4) Engine Manufacturer;

(5) Engine Size (Hp);

(6) Actual, or if not known, estimated or projected, annual miles or hours of operation;

(7) Retrofit Type (e.g., oxidation catalyst, particulate filter);

(8) Retrofit Cost per Vehicle (separate installation costs);

(9) Actual, or if not known, estimated or projected, annual Fuel Usage (gal/yr);

(10) Actual, or if not known, estimated or projected, annual emissions reductions (PM, HC, CO); and

(11) Copy of invoices for purchase of control technology.

62. Acceptance of SEP Report.

a. After receipt of the SEP Completion Report described in Paragraph 61, the Appropriate Plaintiffs shall notify Defendants, in writing, that: (i) deficiencies exist in the SEP Report

itself, which Defendants must correct within thirty (30) days; or (ii) the Appropriate Plaintiffs conclude that the project has been completed satisfactorily; or (iii) the Appropriate Plaintiffs determine that the project has not been completed satisfactorily and Defendants are liable for stipulated penalties in accordance with Paragraph 69.o. herein.

b. If the Appropriate Plaintiffs elect to exercise option (i) above, i.e., if the SEP Report is determined to be deficient but the Appropriate Plaintiffs have not yet made a final determination about the adequacy of SEP completion itself, Defendants may object in writing to the notification of deficiency given pursuant to this Paragraph within ten (10) days of receipt of such notification. If Defendants so object, the Appropriate Plaintiffs and Defendants shall have thirty (30) days from Defendants' receipt of the Appropriate Plaintiffs' notification of objection to reach agreement on changes necessary to the SEP Report. If agreement cannot be reached on any such issue within this thirty (30) day period, the Appropriate Plaintiffs shall provide a written statement of their decision on the adequacy of the completion of the SEP to Defendants.

63. In any public statement regarding the funding of SEPs implemented under this Decree, Defendants shall clearly indicate that these projects are being undertaken as part of the settlement of an enforcement action for alleged environmental

violations. The Defendants shall not use or rely on the emission reductions generated as a result of its performance of the SEPs in any federal or state emission averaging, banking, trading, netting or similar emission compliance program.

64. This Consent Decree shall not relieve any Defendant of its obligation to comply with all applicable provisions of federal, state or local law during the implementation of these SEPs, nor shall this be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit, nor to constitute Plaintiffs' approval of the equipment or technology installed by any Defendant in connection with the SEPs undertaken pursuant to this Consent Decree.

65. Defendants shall include a description of the status of each SEP's implementation in each semi-annual report submitted pursuant to Paragraph 47 of this Consent Decree until Defendants report the completion of that SEP.

IX. STIPULATED PENALTIES

66. Any Defendant that fails to comply with any term of this Consent Decree applicable to it shall pay stipulated penalties to the United States for such failure, provided, however, that the United States may elect to bring an action for contempt in lieu of seeking stipulated penalties. Where the violation is at a specific facility and the United States elects to seek stipulated penalties, the Appropriate Defendant shall pay

stipulated penalties to the Appropriate Plaintiffs. Where stipulated penalties are due to both the United States and a Plaintiff-Intervenor, 50% of the total amount due shall be paid to the United States and 50% to the appropriate Plaintiff-Intervenor. As applied below, "a week" shall mean any consecutive 7-day period, and "a month" shall mean any consecutive 30-day period. The stipulated penalties shall be determined as follows:

67. Requirement to Pay a Civil Penalty and to Escrow Stipulated Penalties.

a. For failure to timely pay the civil penalty as specified in Section IX of this Consent Decree, Defendants shall pay an additional $30,000.00 per week that full payment is delayed, as well as interest on the amount overdue at the rate specified in 31 U.S.C. § 3717.

b. For failure to escrow stipulated penalties as required by Paragraph 73, $1,425.00 per day.

68. Failure to install air pollution control devices and/or other measures.

For failure to meet any interim or final deadline for installation of air pollution control devices, as specified in any CTP or in any schedule for installation required to be submitted under any CTP, per day:

1st through 30th day after deadline - $ 1,250.00

31st through 60th day after deadline - $ 3,000.00

Beyond 60 days - $6,000.00

69.a. Requirements to conduct initial compliance demonstrations for an air pollution control device.

For failure to conduct initial compliance demonstrations of an air pollution control device, by the deadlines specified in any CTP, per day, per demonstration:

1st through 30th day after deadline - $ 1,000.00

31st through 60th day after deadline - $ 2,000.00

Beyond 60th day after deadline - $ 5,000.00

69.b. Requirement to monitor operating parameters for an air pollution control device on a unit.

For failure to monitor operating parameters for an air pollution control device on a unit, as required by Attachments B through I, per day, per calendar quarter, per device not monitored:

For four to ten days per calendar quarter - $ 1,500.00

For eleven through twenty days per calendar quarter - $2,500.00

For greater than twenty days per calendar quarter - $3,750.00

69.c. Requirements to operate the air pollution control devices installed on a unit within established parameters.

For failure to operate to the extent required by Attachments

B through I, an air pollution control device within the parameters and time periods established pursuant to the CTPs, per day for each unit and emission parameter:

For two to six days per calendar month - $ 1,500.00

For seven through twelve days per calendar month - $2,500.00

For greater than twelve days per calendar month - $3,750.00

69.d. Requirements to operate CEMS.

For failure to operate the required CEMS in accordance with the requirements of Attachment I, per CEMS not operated, or not properly operated, $100.00 per day.

69.e. Failure to demonstrate compliance with a final NOx emission limit.

For failure to demonstrate compliance with the final NOx emission limit set forth in Attachments G, H and I, in accordance with the time periods set forth in those CTPs, per day for each unit:

For one through three days per calendar month - $1,500.00

For four through ten days per calendar month - $2,500.00

For greater than ten days per calendar month - $5,000.00

69.f. Failure to meet interim SLR emission limits at soybean extraction plants.

For failure to meet any of the interim SLR emission limits specified in Paragraphs 12 and 13, per plant:

For each exceedance of a 12-month rolling average - $20,000.00.

69.g. Failure to propose final SLR limits for soybean extraction plants.

For failure to propose final plant-specific SLR emission limits for soybean extraction plants by the deadline specified in Paragraph 32, $715.00 per plant per day of delay.

69.h. Failure to meet final SLR emission limits at solvent extraction plants.

For failure to meet any of the final SLR emission limits established pursuant to Paragraphs 34 and 36, per plant:

For each exceedance of a 12-month rolling average - $30,000.00.

69.i. Failure to apply for permits.

For failure to apply for a permit under Paragraphs 40.a., 41.a., 41.b. or 42.a, per permit, $1,000.00 per the first full week of delay, and $1,000.00 per each subsequent week of delay, or fraction thereof.

69.j. Failure to submit information as required in Section V.

For failure to submit to the Appropriate Plaintiffs all information required by Paragraphs 43, 44 or 45, by no later than 180 days of lodging of this Consent Decree, $5,000.00 per the first full month of delay, and $5,000.00 per each subsequent

month of delay, or fraction thereof.

69.k. Failure to maintain compliance with applicable NSPS requirements for an affected facility.

For failure to maintain compliance with NSPS requirements after accepting applicability pursuant to Paragraph 44.a., per day of noncompliance, per affected facility;

For one to thirty days - $1,500.00

For thirty one through 60 days - $2,000.00

For greater than sixty days - $3,000.00

69.l. Failure to demonstrate compliance with applicable NSPS requirements for an affected facility subject to a Compliance Schedule.

For failure to demonstrate compliance with NSPS requirements by the applicable deadline for an affected facility subject to a compliance schedule under Paragraph 44.b., per day of noncompliance, per affected facility:

For one to thirty days - $1,500.00

For thirty one through 60 days - $2,000.00

For greater than sixty days - $3,000.00

69.m. Failure to submit semi-annual reports.

For failure to submit complete and properly certified semi-annual reports, according to the deadlines established in Paragraph 47, per day of delay, per report:

1st through 30th day after deadline - $ 200.00

31st day through 60th day after deadline - $ 500.00

Beyond 60th day after deadline - $ 1,000.00

69.n. Failure to preserve and retain records.

For failure to preserve and maintain the records specified for the time period specified in Paragraph 48 of the Decree:

Per record not retained: $ 500.00

69.o. Failure to meet the SEP Requirements under Section VIII.

For failure to comply with any of the terms or provisions relating to the performance of the SEPs described in Paragraph 59 and/or to the extent that the actual expenditures for the SEPs do not equal or exceed the cost of the SEPs described in Paragraph 59, Defendants shall be liable for stipulated penalties according to the provisions set forth below:

(i) For failure to pay timely the State SEP amounts set forth in Paragraph 59.a. (Louisiana), b. (Illinois), c. (Indiana), d. (Ohio), e. (1 & 3) (Kansas - (1) Emporia School District Diesel Retrofit and (3) KACEE Fund Contribution), f. (Mississippi), and g. (Iowa), Defendants shall pay a stipulated penalty to the appropriate State Plaintiff-Intervenor of $4,000.00 per week that full contribution to the appropriate entity is delayed, as well as interest on the amount overdue at the amount specified in 31 U.S.C. § 3717.

(ii) Except as provided in sub-Paragraph (iii) below, if the Alabama SEP has not been completed satisfactorily, Defendants shall pay a stipulated penalty to the ADEM, for the Alabama SEP, in the amount of $70,000.00.

(iii) If the Alabama SEP is not completed satisfactorily, but Defendants: a) made good faith and timely efforts to complete the project; and b) certify, with supporting documentation, that at least 90 percent of the amount of money which was required to be spent was expended on such SEP, Defendants shall not be liable for any stipulated penalty with respect to performance of the Alabama SEP.

(iv) If the Alabama SEP is satisfactorily completed, but Defendants spent less than 90 percent of the amount of money required to be spent for that SEP, Defendants shall pay a stipulated penalty to ADEM for the Alabama SEP in the amount of the difference between the amount that was required to be spent on the Alabama SEP under this Consent Decree and the amount actually spent.

(v) Except as provided in subparagraph (vi) below, if the Southern Lyon County School District Diesel Retrofit SEP in Kansas has not been completed satisfactorily, Defendants shall pay a stipulated penalty to the Kansas Department of Health and Environment (KDHE) for the Lyon County SEP, in the amount of $14,000.00.

(vi) If the Southern Lyon County SEP is not completed satisfactorily, but Defendants: a) made good faith and timely efforts to complete the project; and b) certify, with supporting documentation, that at least 90 percent of the amount of money which was required to be spent was expended on such SEP, Defendants shall not be liable for any stipulated penalty with respect to performance of the Kansas SEP relating to the Southern Lyon County SEP.

(vii) If the Southern Lyon County SEP is satisfactorily completed, but Defendants spent less than 90 percent of the amount of money required to be spent for that SEP, Defendants shall pay a stipulated penalty to KDHE for the Southern Lyon County SEP in the amount of the difference between the amount that was required to be spent on the Southern Lyon County SEP under this Consent Decree and the amount actually spent.

70. Penalties under this Section IX shall begin to accrue on the day after complete performance is due or the day a violation occurs, and shall continue to accrue through the date of completion of performance or the date of demonstrated compliance. Nothing herein shall prevent the simultaneous accrual of separate stipulated penalties for each separate violation of this Consent Decree. Penalties shall accrue regardless of whether the Appropriate Plaintiffs have notified

the Appropriate Defendant of a violation or made a stipulated penalty demand.

71. All penalties owed under this Section shall be due and payable within thirty (30) days of a Defendant's receipt from the Appropriate Plaintiff of a written demand for payment of the penalties, unless that Defendant invokes the dispute resolution procedures under Section XII. Such a written demand shall describe the violation and shall indicate the amount of penalties due. Stipulated penalties shall be paid according to the procedures set forth in Paragraph 53 and Attachment J (Notice and Penalty Payment Provisions).

72. Interest shall begin to accrue on any unpaid stipulated penalty balance beginning on the thirty-first (31st) day after a Defendant's receipt of demand for payment from the Plaintiff to whom the stipulated penalty payment is due. Interest on unpaid stipulated penalties shall accrue at the Current Value of Funds Rate established by the Secretary of the Treasury. Pursuant to 31 U.S.C. § 3717, an additional penalty of 6% per annum on any unpaid principal shall be assessed for any stipulated penalty payment which is overdue for ninety (90) or more days.

73. Should a Defendant dispute its obligation to pay part or all of a stipulated penalty, it may avoid the imposition of the stipulated penalty for failure to pay a penalty due to the United States and the Appropriate Plaintiffs by placing the

disputed amount demanded by the Appropriate Plaintiffs, not to exceed $50,500.00 for any given event or related series of events at any one facility, in a commercial escrow account pending resolution of the matter and by invoking the Dispute Resolution provisions of Section XII within the time provided in this Paragraph for payment of stipulated penalties. If the dispute is thereafter resolved in the Defendant's favor, the escrowed amount plus accrued interest shall be returned to the Defendant; otherwise the amount of stipulated penalties that was determined to be due by the Court, plus the interest accrued on such amount, which escrowed, shall be paid to the Appropriate Plaintiffs as provided in Paragraph 66, with the balance, if any, returned to the Defendant.

74. The Plaintiffs reserve the right to pursue any other remedies to which they may be entitled, including, but not limited to, additional injunctive relief for any Defendant's violations of this Consent Decree. Nothing in this Consent Decree shall prevent the Plaintiffs from pursuing a contempt action against any Defendant and requesting that the Court order specific performance of the terms of the Decree, or from seeking civil penalties for violations of the Decree that are also violations of any applicable statute or regulation.

75. The Plaintiffs shall not seek stipulated penalties under this Consent Decree and civil penalties in a separate action for the same violation of the Consent Decree.

X. RIGHT OF ENTRY

76. Any authorized representative of EPA or an appropriate federal, state or local air pollution control authority, including independent contractors, upon presentation of proper credentials, shall have a right of entry upon the premises of Defendants' facilities identified herein in Paragraphs 3, 7 and 8 at any reasonable time for the purpose of monitoring compliance with the provisions of this Consent Decree, including inspecting facility equipment, and inspecting and copying all records maintained by Defendants required by this Consent Decree. Nothing in this Consent Decree shall limit the authority of the Plaintiffs to conduct tests and inspections under Section 114 of the Act, 42 U.S.C. § 7414, and any other applicable federal or state law.

XI. FORCE MAJEURE

77.a. Notice. If any event occurs which causes or may cause a delay or impediment to performance in complying with any provision of this Consent Decree, the Appropriate Defendant shall notify the Appropriate Plaintiffs in writing as soon as practicable, but in any event no later than ten (10) business days of when the Appropriate Defendant first knew of the event or

should have known of the event by the exercise of due diligence. In this notice, the Appropriate Defendant shall specifically reference this Paragraph of this Consent 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 the Appropriate Defendant to prevent or minimize the delay and the schedule by which those measures shall be implemented. If the Appropriate Defendant contends that the event reported is a Force Majeure event as defined in Paragraph 77.b, the notice shall so state.

b. Force Majeure Claim. An event described in Paragraph 77.a is a "Force Majeure event" if the delay or impediment to performance has been or shall be caused by circumstances beyond the control of the Appropriate Defendant or any other Defendant, including any entity controlled by any of the Defendants. An Appropriate Defendant's financial inability to perform any obligation under this Consent Decree is not a Force Majeure event.

c. Minimizing Delays. The Appropriate Defendant shall adopt all reasonable measures to avoid or minimize delays in performance caused by any event described in Paragraph 77.a.

78. Failure by the Appropriate Defendant to provide timely notice to the Appropriate Plaintiffs of an event which causes or may cause a delay or impediment to performance shall render this

Section XI voidable by the Plaintiffs as to the specific event for which the Appropriate Defendant has failed to comply with such notice requirement, and, if voided, this Section XI is of no effect as to the particular event involved.

79. The United States shall notify the Appropriate Defendant in writing regarding any Force Majeure claim as soon as practicable, but in any event within thirty (30) days of receipt of the Force Majeure claim under Paragraph 77. If the Appropriate Plaintiffs agree that the delay or impediment to performance has been or shall be caused by a Force Majeure event and that Defendants could not have prevented the delay by the exercise of due diligence, the parties shall stipulate to an extension of the required deadline(s) for all requirement(s) affected by the delay by a period equivalent to the delay actually caused by such circumstances. The Appropriate Defendant shall not be liable for stipulated penalties for the period of any such delay.

80. If the Appropriate Plaintiffs do not accept a claim by a Defendant that a delay or impediment to performance is caused by a Force Majeure event or the parties cannot agree on the duration of an extension for a Force Majeure event, to avoid payment of stipulated penalties, the Appropriate Defendant must submit the matter to this Court for resolution within twenty (20) business days after receiving written notice of the Plaintiffs'

position, by filing a petition for determination with this Court. Once the Appropriate Defendant has submitted this matter to this Court, the Appropriate Plaintiffs shall have twenty (20) business days to file their response to said petition. If the Appropriate Defendant submitted the matter to this Court for resolution and the Court determines that the delay or impediment to performance has been or will be caused by a Force Majeure event and that the Appropriate Defendant could not have prevented the delay by the exercise of due diligence, the Appropriate Defendant shall be excused as to that event(s) and delay (including stipulated penalties), for a period of time equivalent to the delay caused by such circumstances. In the event that the Appropriate Plaintiffs are unable to reach agreement among themselves with regard to a Defendant's force majeure claim, the position of the United States shall be the Appropriate Plaintiffs' final position.

81. The Appropriate Defendant shall bear the burden of proving that any delay of compliance with any requirement(s) of this Consent Decree was caused by or will be caused by circumstances beyond its control and beyond the control of any Defendant, including any entity controlled by any Defendant, and that the Appropriate Defendant could not have prevented the delay by the exercise of due diligence. The Appropriate Defendant shall also bear the burden of proving the duration and extent of

any delay(s) attributable to such circumstances. An extension of one compliance date based on a particular event may, but does not necessarily, result in an extension of a subsequent compliance date or dates.

82. Unanticipated or increased costs or expenses associated with the performance of a Defendant's obligations under this Consent Decree shall not constitute circumstances beyond the control of Defendants, or serve as a basis for an extension of time under this Section XI. However, failure of a permitting authority to issue a necessary permit or other required approval in a timely fashion is a Force Majeure event provided that the Appropriate Defendant can meet its burden of demonstrating that the Appropriate Defendant has taken all steps available to it to obtain the necessary permit or other required approval, including but not limited to:

a. submitting a timely and complete application;

b. fully and accurately responding to requests for additional information by the permitting authority in a timely fashion; and

c. prosecuting appeals of any disputed terms and conditions imposed by the permitting authority in an expeditious fashion.

83. Notwithstanding any other provision of this Consent Decree, this Court shall not draw any inferences nor establish any presumptions adverse to either party as a result of the

delivery of a notice of Force Majeure or the parties' inability to reach agreement.

84. As part of the resolution of any matter submitted to this Court under this Section XI, the Appropriate Plaintiffs and an Appropriate Defendant by agreement, or this Court, by order, may in appropriate circumstances extend or modify the schedule for completion of work under this Consent Decree to account for the delay in the work that occurred as a result of any delay or impediment to performance agreed to by the Appropriate Plaintiffs or approved by this Court. The Appropriate Defendant that receives such an extension shall be liable for stipulated penalties for its failure thereafter to complete the work in accordance with the extended or modified schedule, subject to its right to invoke Section XI (Force Majeure) and Section XII (Dispute Resolution) provisions of this Consent Decree.

XII. DISPUTE RESOLUTION

85. The dispute resolution procedure provided by this Section XII shall be available to resolve all disputes arising under this Consent Decree, except as otherwise provided in Section XI regarding Force Majeure.

86. The dispute resolution procedure required herein shall be invoked upon the giving of written notice by one of the parties to the Consent Decree. Notice shall be given, at a minimum, to the Appropriate Plaintiffs and the Appropriate

Defendant advising of a dispute pursuant to this Section XII. The notice shall describe the nature of the dispute, and shall state the noticing party's position with regard to such dispute. The parties receiving such a notice shall acknowledge receipt of the notice and the parties shall expeditiously schedule a meeting (which may occur in person or by telephone conference) to discuss the dispute informally not later than fourteen (14) days from the receipt of such notice.

87. Disputes submitted to dispute resolution shall, in the first instance, be the subject of informal negotiations among the Appropriate Plaintiffs and the Appropriate Defendant. Such period of informal negotiations shall not extend beyond thirty (30) calendar days from the date of the first meeting between representatives of the Appropriate Plaintiffs and the Appropriate Defendant, unless the parties' representatives agree to shorten or extend this period.

88. In the event that the parties are unable to reach agreement during such informal negotiation period, the Appropriate Plaintiffs shall provide the Appropriate Defendant with a written summary of their position regarding the dispute. The position advanced by the Appropriate Plaintiffs shall be considered binding unless, within forty-five (45) calendar days of the Appropriate Defendant's receipt of the written summary of the Appropriate Plaintiffs' position, the Appropriate Defendant

files with this Court a petition which describes the nature of the dispute, and includes a statement of the Appropriate Defendant's position and any supporting data, analysis, and documentation the Appropriate Defendant relies on. The Appropriate Plaintiffs shall respond to the petition within forty-five (45) calendar days of filing. The Appropriate Defendant shall comply with the Appropriate Plaintiffs' final position during the dispute resolution process unless otherwise ordered by the Court. In the event that the Appropriate Plaintiffs are unable to reach agreement among themselves with regard to the Appropriate Defendant's claim, the position of the United States shall be the Plaintiffs' final position. A dissenting Plaintiff-Intervenor may file such other pleadings expressing its position as allowed by the Court.

89. Where the nature of the dispute is such that a more timely resolution of the issue is required, the Court may shorten the time periods set out in this Section XII upon motion of one of the parties to the dispute.

90. Notwithstanding any other provision of this Consent Decree, in dispute resolution, this Court shall not draw any inferences nor establish any presumptions adverse to either party as a result of invocation of this Section XII or the parties' inability to reach agreement. The final position of the Appropriate Plaintiffs shall be upheld by the Court if supported

by substantial evidence in the record of the dispute as identified and agreed to by all the Parties.

91. As part of the resolution of any dispute submitted to dispute resolution, the Appropriate Plaintiffs and Appropriate Defendant, by agreement, or this Court, by order, may, in appropriate circumstances, extend or modify the schedule for completion of work under this Consent Decree to account for the delay in the work that occurred as a result of dispute resolution. The Appropriate Defendant shall be liable for stipulated penalties for its failure thereafter to complete the work in accordance with the extended or modified schedule subject to its rights to invoke Section XI (Force Majeure) and Section XII (Dispute Resolution) provisions of this Consent Decree.

XIII. GENERAL PROVISIONS

92. Effect of Settlement.

a. This Consent Decree is not a permit; compliance with its terms does not guarantee compliance with any applicable federal, state or local laws or regulations.

b. In determining whether a future modification will result in a significant net emissions increase under the Clean Air Act, Bunge shall not take credit for any emissions reductions required by the CTPs, as set forth in Attachments A through I, for netting purposes as defined by the applicable regulations implementing Part C and Part D of Title I of the Clean Air Act. In addition,

the emission reductions of PM, PM_{10}, NOx, SO_2, CO and VOC required under this Consent Decree, as set forth in Attachments A through I, may not be used for any emissions offset, banking, selling or trading program.

93. Resolution of Claims. Satisfaction by each Defendant of all of the requirements of this Consent Decree applicable to it constitutes full settlement of and shall resolve (i) all past civil and administrative liability of each Defendant to the Plaintiffs for that Defendant's violations alleged in the Plaintiffs' Complaints (and any Notices of Violations referenced therein) and (ii) all civil and administrative liability of that Defendant, including any liability of Bunge East as a successor by merger to Bunge North America (East), Inc., formerly known as Central Soya Company, Inc., for any violations at its plants listed herein based on facts and events that occurred during the relevant time period, or other period of time specified in this Paragraph, under the following statutory and regulatory provisions:

a. New Source Performance Standards. NSPS, 40 C.F.R. Part 60, including Subparts Db, Dc, DD, Kb, and Y;

b. New Source Review. New Source Review requirements at Part C and Part D of the Act and the regulations promulgated thereunder at 40 C.F.R. § 52.21 and § 51.165, and the SIP

provisions which incorporate and implement these federal statutes and regulations;

c. State Implementation Plan Requirements. SIP requirements relating to (1) permitting of the construction and operation of new and modified stationary sources; (2) emission limits in permits issued for such construction and operation; (3) performance testing and emission monitoring; (4) data submission and notification requirements; (5) supplementation of permit applications; (6) hazardous air pollutants; (7) emission limits, control requirements, and standards of performance; and (8) payment of fees based on quantity of emissions;

d. Alabama Department of Environmental Management (ADEM) Admin. Code R. 335-3:

1. June 2005 installation of two new meal grinders at the Decatur, Alabama facility within ten days of submitting air permit applications for the grinders, thereby violating ADEM Admin. Code R. 335-3-14-.01(1)(a); and

2. June 2005 operation of two new meal grinders at the Decatur, Alabama facility prior to receiving an air permit, thereby violating ADEM Admin. Code 335-3-14-.01(1)(b);

e. Release notification requirements at 42 U.S.C. §§ 9603 and 11004, and regulations promulgated thereunder, based on the emission of hexane discharged into the environment through an open process safety vent valve during soybean extraction

operations, beginning February 8 through February 13, 2006, at Bunge Milling's Danville, Illinois facility;

f. Section 9(a) of the Illinois Environmental Protection Act, 415 ILCS 5/9(a), and 35 Ill. Adm. Code 201.141 based on the emission of hexane discharged into the environment through an open process safety vent valve during soybean extraction operations, beginning February 8 through February 13, 2006, at Bunge Milling's Danville, Illinois facility;

g. State of Louisiana Air Quality Permit No. 2520-00010-02 issued August 27, 1996:

1. Exceedances of VOC limit for Fugitive Hexane Losses (Emission Point No. 13-91);

2. Exceedances of VOC limit for Desolventizer Toaster/Drier Cooler (Emission Point No. 8-91); and

3. Failure to report noncomplying emissions within five (5) days as required by General Condition No. XI;

h. Bunge's satisfaction of all of the requirements of this Consent Decree applicable to Bunge also constitutes full settlement of and shall resolve all civil and administrative liability of Bunge to the Appropriate Plaintiffs for violations of State of Louisiana Air Quality Permit No. 2520-00010-02 issued August 27, 1996 as listed in sub-Paragraph 93.g. based on facts and events that may occur from the date of lodging of this Consent Decree through the date of issuance of the Part 70 Air

Operating Permit to the Destrehan, Louisiana facility, except for liability for any such violations that occur after lodging of this Consent Decree based upon one or more of the following events, should they occur:

1. Exceedances of an interim VOC limit of 409.2 tons per year (tpy) for Fugitive Hexane Losses (Emission Point No. 13-91);

2. Exceedances of an interim VOC limit of 198.9 tpy for the Desolventizer Toaster/Drier Cooler (Emission Point No. 8-91); and

3. In the event of an exceedance of one of the above interim limits, failure to report noncomplying emissions within five (5) days as required by General Condition No. XI of the Destrehan facility's existing Permit No. 2520-00010-02.

The parties understand and acknowledge that the emission limits contained in the Part 70 Air Operating Permit to be issued to the Destrehan facility may be different from the interim emission limits above and/or the limits proposed in Bunge's pending permit application. The parties further understand and acknowledge that once the Part 70 Air Operating Permit becomes effective, the provisions of sub-Paragraph 93.h.(1-3) will no longer apply to the Destrehan facility.

94. Relevant Time Period. For purposes of this Consent Decree, the "relevant time period" shall mean the period

beginning when the Plaintiffs' claims under the above statutes and regulations accrued through the date of lodging of this Consent Decree. During the effective period of the Consent Decree, all emission units at the plants covered by this Consent Decree shall be on a compliance schedule, and any modification (as defined in 40 C.F.R. § 52.21 and § 51) to any emission unit within these plants which is not required by this Consent Decree is beyond the scope of this resolution of claims.

95. Reservation of Specific Claims. The release of liability granted by this Consent Decree under Paragraph 93 specifically excludes the following claims, and Plaintiffs expressly reserve their rights to proceed with claims for NSPS, 40 C.F.R. Part 60, for those units that fit the categories of Subparts Db, Dc, DD, K, Ka, Kb, Y, but for which the Appropriate Defendant does not accept applicability for the unit under NSPS, as set forth in Paragraph 43 and 44.

96. Other Laws. Except as specifically provided by this Consent Decree, nothing in this Consent Decree shall relieve the Appropriate Defendant of its obligation to comply with all applicable federal, state and local laws and regulations. Except as specifically provided in this Consent Decree, nothing in this Consent Decree shall be construed to prevent or limit the Plaintiffs' rights to obtain penalties or injunctive relief under the Act or other federal, state or local statutes or regulations,

including but not limited to, Section 303 of the Act, 42 U.S.C. § 7603.

97. Third Parties. Except as otherwise provided by law, this Consent Decree does not limit, enlarge or affect the rights of any party to this Consent Decree as against any third parties. Nothing in this Consent Decree shall be construed to create any rights, or grant any cause of action, to any person not a party to this Consent Decree.

98. Costs. Each party to this Consent Decree shall bear its own costs and attorneys' fees through the date of entry of this Consent Decree.

99. Public Documents. All information and documents submitted by Defendants to the Plaintiffs pursuant to this Consent Decree shall be subject to public inspection, unless subject to legal privileges or protection or identified and supported as confidential business information by Defendants in accordance with 40 C.F.R. Part 2 and applicable state law.

100.a. Public Comments-Federal Approval. The parties agree and acknowledge that final approval by the United States and entry of this Consent Decree are subject to the requirements of 28 C.F.R. § 50.7, which provides for notice of the lodging of this Consent Decree in the Federal Register, an opportunity for public comment, and consideration of any comments. The United States reserves the right to withdraw or withhold consent if the

comments regarding this Consent Decree disclose facts or considerations which indicate that this Consent Decree is inappropriate, improper or inadequate. Subject to the provisions of Paragraph 100.b. with respect to the State of Louisiana, Defendants and the Plaintiff-Intervenors consent to the entry of this Consent Decree.

b. Public Comments-Louisiana Approval. The parties acknowledge and agree that final approval by the State of Louisiana, Department of Environmental Quality, and entry of this Consent Decree are subject to the requirements of La. R.S. 30:2050.7, which provides for public notice of this Consent Decree in newspapers of general circulation and the official journals of the parish in which Bunge's facility is located, and an opportunity for public comment, consideration of any comments, and concurrence by the State Attorney General. The State of Louisiana reserves the right to withdraw or withhold consent if the comments regarding this Consent Decree disclose facts or considerations which indicate that this Consent Decree is inappropriate, improper or inadequate.

101. Notice. Unless otherwise provided herein, notifications to or communications with the Appropriate Plaintiffs or Appropriate Defendants shall be deemed submitted on the date they are postmarked and sent either by overnight receipt mail service or by certified or registered mail, return receipt

requested. Except as otherwise provided herein, written notification to or communication with the Appropriate Plaintiffs or Appropriate Defendants shall be in accordance with Attachment J (Notice and Penalty Payment Provisions).

102. Change of Notice Recipient. Any party may change either the notice recipient or the address for providing notices to it by serving all other parties with a notice setting forth such new notice recipient or address.

103. Modification. There shall be no modification of this Consent Decree without written agreement of the Appropriate Plaintiffs and the Appropriate Defendant(s). There shall be no material modification of this Consent Decree without the written agreement of the Appropriate Plaintiffs and the Appropriate Defendant(s) and by Order of the Court.

104. Continuing Jurisdiction. The Court retains jurisdiction of this case after entry of this Consent Decree to enforce compliance with the terms and conditions of this Consent Decree and to take any action necessary or appropriate for its interpretation, construction, execution, or modification, and/or to resolve disputes between the parties as provided in Section XI (Force Majeure) and Section XII (Dispute Resolution) provisions of this Consent Decree. During the term of this Consent Decree, any party may apply to the Court for any relief necessary to construe or effectuate this Consent Decree.

105. Authority. Each undersigned representative of a Defendant - Bunge North America, Inc.; Bunge North America (East), L.L.C.; Bunge North America (OPD West), Inc.; and Bunge Milling, Inc. - certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind such Defendant to this document. The undersigned Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice and each of the undersigned representatives of a Plaintiff-Intervenor to this Consent Decree certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind the party he or she represents to this document.

XIV. TERMINATION

106. This Consent Decree shall be subject to termination upon motion by any party after all of the Defendants have: paid all civil penalties as required in Section VII; paid any stipulated penalties assessed in accordance with Section IX; completed all SEPs, including SEP Completion Reports, as required in Section VIII; completed all facility-specific projects as set forth in Section IV.B. and the applicable CTPs; set final SLR limits as set forth in Section IV.C.; demonstrated compliance with final SLR limits as set forth in Section IV.D.; complied with NSPS requirements as set forth in Section V; made all

emission limits, operational requirements and monitoring and recordkeeping requirements federally enforceable as set forth in Section IV.E; and submitted all reports as set forth in Section VI. At such time as Defendants believe that they are in compliance with the Consent Decree requirements identified in this Paragraph, Defendants shall so certify to Plaintiffs. Unless the Plaintiffs object in writing with specific reasons within forty-five (45) days of receipt of the certification, the Court shall order that this Consent Decree be terminated on Defendants' motion. If the Plaintiffs object to Defendants' certification, then the matter shall be submitted to the Court for resolution under Section XII ("Dispute Resolution") of this Consent Decree. In such case, Defendants shall bear the burden of proving that this Consent Decree should be terminated.

So entered in accordance with the foregoing this 16th day of January, ~~2006~~ 2007.

s/ Michael P. McCuskey

United States District Court Judge
Central District of Illinois

FOR PLAINTIFF, UNITED STATES OF AMERICA:

Date: 10-25-06

SUE ELLEN WOOLDRIDGE
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice
901 Constitution Avenue, N.W.
Washington, DC 20530

Date: 10-25-06

STEVE C. GOLD
Senior Attorney
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
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RODGER HEATON
United States Attorney
Central District of Illinois

Date: 10-26-06

DAVID H. HOFF
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Central District of Illinois
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(217) 373-5875

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:

Granta Y. Nakayama

Date July 24, 2006

GRANTA NAKAYAMA
Assistant Administrator
Office of Enforcement and Compliance Assurance
United States Environmental
Protection Agency
1200 Pennsylvania Ave, N.W.
Washington, DC 20460

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:

J. I. PALMER, JR.
Regional Administrator
United States Environmental
Protection Agency, Region 4
61 Forsyth Street
Atlanta, GA 30303

Date JUL 1 2 2006

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:

_____ Date June 9, 06

BHARAT MATHUR
Acting Regional Administrator
United States Environmental
Protection Agency, Region 5
77 W. Jackson Blvd
Chicago, IL 60604

_____ Date June 06, 2006

BERTRAM C. FREY
Acting Regional Counsel
United States Environmental
Protection Agency, Region 5
77 W. Jackson Blvd
Chicago, IL 60604

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:

FOR _____ Date 6/23/06

RICHARD E. GREENE
Regional Administrator
United States Environmental
Protection Agency, Region 6
1445 Ross Avenue
Suite 1200
Dallas, Texas 75202

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:

for- William Rice

Date 7/7/06

JAMES B. GULLIFORD
Regional Administrator
United States Environmental
Protection Agency, Region 7
901 N. 5th Street
Kansas City, Kansas 66101

for Becky Ingrum Doerr

Date 7/3/06

MARTHA R. STEINCAMP
Regional Counsel
United States Environmental
Protection Agency, Region 7
901 N. 5th Street
Kansas City, Kansas 66101

FOR THE STATE OF ALABAMA:

Olivia H. Rowell, General Counsel and
Assistant Attorney General
Alabama Department of Environmental Management
P.O. Box 301463
Montgomery, Alabama 36130-1463

Ronald W. Gore, Chief
Air Division
Alabama Department of Environmental Management
P.O. Box 301463
Montgomery, Alabama 36130-1463

FOR THE PLAINTIFF-INTERVENOR, THE STATE OF ILLINOIS:

FOR THE STATE OF ILLINOIS
PEOPLE OF THE STATE OF ILLINOIS *ex rel.*

LISA MADIGAN
Attorney General of the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement Division/Asbestos
Litigation Division

BY: _____ Date 6/15/06

THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General
(217)782-7968

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

BY: _____ Date 6/30/06

ROBERT A. MESSINA
Chief Legal Counsel
(217) 782-5544

FOR THE PLAINTIFF-INTERVENOR, THE STATE OF INDIANA:

Date 8/4/2006

THOMAS W. EASTERLY
Commissioner
Indiana Department of
Environmental Management

Approve as to form and legality:

STEVE CARTER
Indiana Attorney General

Date 8/10/06

CHARLES J. TODD
Chief Operating Officer
Office of the Attorney General
Indiana Government Center South
5th Floor
302 West Washington Street
Indianapolis, IN 46204
(317) 232-6201

FOR THE PLAINTIFF-INTERVENOR, THE STATE OF IOWA:

THOMAS J. MILLER
Attorney General of Iowa

9/26/06
Date

DAVID R. SHERIDAN, #AT0007176
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Date: 8/7/2006

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Topeka, Kansas 66612-1368

Date: 8-7-06

Ronald F. Hammerschmidt
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Nicole Candelora Date 8/25/06

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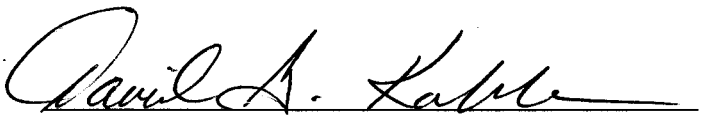
Bunge North America, Inc.

Date July 7, 2006

[NAME] David G. Kabbes
[TITLE] Vice President & Secretary

Bunge North America (East), L.L.C.



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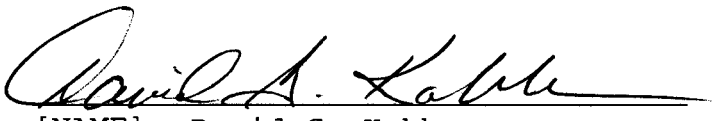
Bunge North America (OPD West), Inc.



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