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2600 Bull Street
Columbia, SC 29201-1708

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October 11, 1999

RECEIVED
OCT 13 1999
ENVIRONMENTAL PROTECTION DEPT.
WESTINGHOUSE SAVANNAH RIVER CO.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Don Gordon, Manager
Environmental Support Section
Environmental Protection Department
Westinghouse Savannah River Company LLC
Bldg. 742-A, Room 168
Aiken, SC 29808

Re: Consent Order 99-155-W
USDOE/Westinghouse Savannah River Company
NPDES Permit SC0000175
Aiken County

Dear Mr. Gordon:

Please find enclosed a copy of fully-executed Consent Order 99-155-W for USDOE/Westinghouse Savannah River Company. Please note the compliance schedules contatined on page three of the Order.

If you have any questions regarding this matter, please telephone me at (803) 898-4246.

Respectfully,

R. Keith Frost
Water Pollution Enforcement Section
Bureau of Water

Enclosure
cc: Sandra Hursey, w/o enclosure
Adrienne Wright, w/enclosure
Ann Regan Clark, w/o enclosure
Myra Reece, Lower Savannah EQC, w/enclosure

THE STATE OF SOUTH CAROLINA
BEFORE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

IN RE: UNITED STATES DEPARTMENT OF ENERGY and
WESTINGHOUSE SAVANNAH RIVER COMPANY
AIKEN, ALLENDALE AND BARNWELL COUNTIES

CONSENT ORDER
99-155-W

The United States Department of Energy (USDOE) owns and is responsible for the operation of wastewater treatment facilities (WWTFs) serving the manufacturing, administrative and production areas at the Savannah River Site (Site) located in Aiken, Allendale and Barnwell Counties, South Carolina. USDOE has contracted with Westinghouse Savannah River Company, LLC (WSRC) to provide daily operation and maintenance of the Site to include the WWTFs. Pursuant to discussions with both parties, it has been agreed that USDOE and WSRC will be signatories to this agreement and will be referred to collectively as "SRS" throughout the remainder of this Agreement.

Pursuant to discussions with SRS, the South Carolina Department of Health and Environmental Control (Department) has agreed to modify the permit compliance schedule for compliance with final limits at Outfall A01 to provide additional time for construction and implementation of necessary treatment facilities.

In accordance with approved procedures and based upon discussions with SRS, the parties have agreed to the issuance of this Order to include the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Effective October 1, 1996, the Department reissued NPDES Permit SC0000175 to USDOE allowing the discharge of treated wastewater into Upper Three Runs Creek, Tim's Branch, Beaver Dam Creek, Fourmile Branch, Crouch Branch, McQueen's Branch, Indian Grave Branch, L Lake, Par Pond, Savannah River Swamp and the Savannah River in strict compliance with the terms, conditions and requirements of the permit.

2. On April 2, 1996, SRS submitted a request to the Department for relocation of outfall A01 to below natural wetlands through which the discharge flows. This request was made pursuant to proposed metals limitations at outfall A01.

3. The NPDES Permit was reissued effective October 1, 1996, denying the request to relocate outfall A01. The permit also contained a compliance schedule to comply with final effluent limitations at outfall A01, including, chronic toxicity, copper, lead, mercury and total residual chlorine (TRC) by October 1, 1999.

4. Pursuant to continued discussions with SRS, the Department approved the relocation of outfall A01 by letter of November 23, 1998.

5. During a meeting with SRS on April 15, 1999, the Department agreed to provide additional time within the compliance schedule for outfall A01 commensurate with the time lapsed between issuance of the revised NPDES Permit in October 1996 and the Department's approval to relocate outfall A01.

6. During a meeting with the Department on September 1, 1999, SRS requested additional time, beyond the stipulated extension for compliance with the final limits, to comply with final limits for mercury at outfall A01. According to information submitted by SRS, the

treatment system proposed for compliance at outfall A01 may not be effective in achieving compliance with the mercury limits. Also, SRS submitted information that indicated a lack of available treatment technologies necessary to comply with the final limits. SRS requested additional time to review the effectiveness of the treatment system after start-up and pursue a permit modification for less stringent limits, if necessary.

THEREFORE IT IS AGREED that SRS shall:

1. By August 1, 2000, submit to the Department plans and specifications for the compliance activities described in the preliminary engineering report (PER) previously submitted for outfall A01. The plans and specifications shall be prepared in accordance with Department Regulation 61-67 and contain all necessary applications for a construction permit to be issued.

2. Comply with final effluent limits for chronic toxicity, copper, lead, and TRC at outfall A01 by October 1, 2001.

3. Comply with final effluent limits for Mercury at outfall A01 by April 1, 2002, provided however, that the Department will re-open this Order for the purpose of giving consideration to extending the compliance date for meeting the Mercury limit if SRS is unable to meet the final limits for Mercury and can demonstrate that it constructed the treatment facilities at outfall A01 using the best technology available at the time.

THEREFORE IT IS FURTHER AGREED that if any event occurs which causes or may cause a delay in meeting any of the above scheduled dates for completion of any specified activity, SRS shall notify the Department in writing at least one (1) week before the scheduled date, describing in detail the anticipated length of the delay, the precise cause or causes of delay, if

ascertainable, the measures taken or to be taken to prevent or minimize the delay, and the timetable by which those measures will be implemented.

The Department shall provide written notice as soon as practicable that a specified extension of time has been granted or that no extension has been granted. An extension shall be granted for any scheduled activity delayed by an event of *force majeure*, which shall mean any event arising from causes beyond the control of SRS that causes a delay in or prevents the performance of any of the conditions under this Consent Order including, but not limited to: a) acts of God, fire, war, insurrection, civil disturbance, explosion; b) adverse weather condition that could not be reasonably anticipated causing unusual delay in transportation and/or field work activities, c) restraint by court order or order of public authority; d) inability to obtain, after exercise of reasonable diligence and timely submittal of all applicable applications, any necessary authorizations, approvals, permits, or licenses due to action or inaction of any governmental agency or authority; and e) delays caused by compliance with applicable statutes or regulations governing contracting, procurement or acquisition procedures, despite the exercise of reasonable diligence by SRS.

Events which are not *force majeure* include by example, but are not limited to, unanticipated or increased costs of performance, changed economic circumstances, normal precipitation events, or any person's failure to exercise due diligence in obtaining governmental permits of fulfilling contractual duties. Such determination will be made in the sole discretion of the Department. Any extension shall be incorporated by reference as an enforceable part of this Consent Order and thereafter be referred to as an attachment to the Consent Order.

IT IS FURTHER AGREED that this Order shall terminate upon completion of the

requirements set forth above; or as otherwise agreed upon by the parties.

IT IS FURTHER AGREED that no provision of this Order shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. Section 1341.

PURSUANT TO THIS ORDER, all requirements to be submitted to the Department shall be addressed as follows:

R. Keith Frost
Bureau of Water-Enforcement Division
S.C. Department of Health and Environmental Control
2600 Bull Street
Columbia, S.C. 29201

SRS shall confirm, in writing, completion of Order requirements to the above address within five (5) days of completion.

IT IS FURTHER ORDERED AND AGREED that failure to comply with any provision of this Order shall be grounds for further enforcement action pursuant to §§ 48-1-10 *et seq.*, (1976, as amended), to include the assessment of civil penalties.

THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

Douglas E. Bryant
Douglas E. Bryant
Commissioner

DATE: 10/11/99

Chester G. Sansbury
for **Alton C. Boozer, Chief**
Bureau of Water

DATE: 10-08-99

WE CONSENT:

Judith Louise Bostock

United States Department of Energy
Judith Louise Bostock
Assistant Manager for Science and Technology

DATE: Oct 7, 1999

Westinghouse - Savannah River Company LLC
C. M. Hammond
Vice President and General Manager, Technical Services

(MPC) for CMH 10/7/99

DATE: 10/6/99

Attorney for Department

DATE: 10/8/99

for **Valerie A. Betterton, Director**
Water Enforcement Division

DATE: 10-08-99