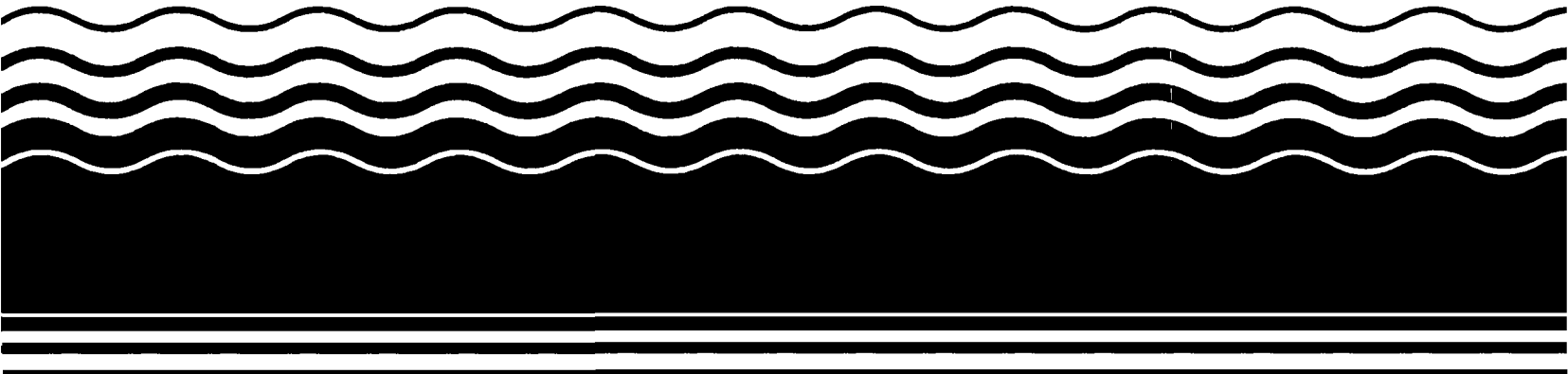


**PB95-964110  
EPA/ROD/R05-95/283  
March 1996**

**EPA Superfund  
Record of Decision:**

**Pine Bend Sanitary Landfill,  
Dakota County, MN  
9/28/1995**





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

**MEMORANDUM**

**SUBJECT: PINE BEND SANITARY LANDFILL CONCURRENCE  
CLARIFICATION**

**FROM:** William Muno, Director  
Superfund Division

A handwritten signature in black ink, appearing to read "William Muno", written over the "FROM:" line.

**TO:** John Smith  
Senior Process Manager, Pipeline Integration

The purpose of this memo is to provide clarification with respect to the Pine Bend Sanitary Landfill Site concurrence letter signed by Region V Administrator, Valdas V. Adamkus, on September 28, 1995.

The basis for U.S. EPA Region V concurrence is based on the following facts: (1) the human health and ecological risks lie in an acceptable range, refer to Section VI of the Decision Document; (2) the completion of Operable Unit #1, which involved a permanent connection of residences in the vicinity of the landfill to a municipal water supply, therefore, reducing the risk posed by contaminated groundwater, refer to Record of Decision for Operable Unit #1 signed June 1991 and Section IV of the Decision Document; (3) the accomplishment of the closure requirements stated in the existing operating permit (installation of a landfill cover, clay liner, etc.), refer to Section II of the Decision Document; and (4) the new solid waste operating permit, refer to Section II of the Decision Document. The human health and ecological risks lie in an acceptable range because of the full implementation of the remedy for Operable Unit #1. Due to the fact that the site is an active and permitted facility, there are closure requirements under the existing permit that the facility must meet. All of the closure requirements (capping, clay liner) have been completed. With respect to the new solid waste operating permit, it will address groundwater contamination based on the State's requirements, and not because it represents a risk to human health and the environment. At present, the contaminated groundwater does not represent any recognized risk to human health and the environment.

Based on the above explanation, U.S. EPA Region V concurs with the no further action under CERCLA alternative selected by Minnesota Pollution Control Agency

(MPCA). In addition, U.S. EPA and MPCA believe that the site meets all the requirements to qualify for inclusion on the site construction completion list since all construction at the site had been completed and there are no human health and environment risks associated with the site. If you have any questions regarding this matter, please contact Mr. Ramon Torres of my staff at (312) 886-3010.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

SEP 28 1995

REPLY TO THE ATTENTION OF

Mr. Charles W. Williams  
Commissioner  
Minnesota Pollution Control Agency  
520 Lafayette Road  
St. Paul, Minnesota 55155

Dear Mr. Williams:

In accordance with 40 CFR 300.515(e)(2)(i) and (ii), the United States Environmental Protection Agency (EPA) hereby concurs with the no-action alternative selected in the enclosed Decision Document prepared by the Minnesota Pollution Control Agency (MPCA) for the Pine Bend Sanitary Landfill Superfund Site.

The basis for EPA's concurrence is two-fold: (1) Further action to control the source of contamination (installation of a landfill cover, clay liner, leachate collection system, etc.) and to address contaminated groundwater will be conducted under the facility's MPCA operating permit, such that no further action under CERCLA is required. (2) Completion of operable unit #1, which involved connecting residents in the vicinity of the landfill to a municipal water supply, reduced the risk posed by contaminated groundwater.

While EPA endorses MPCA's no-action decision, EPA would like to clarify the statement in the Decision Document concerning the necessity of a five-year review. The Decision Document suggests that because annual data reviews are required under Minnesota rules, a formal five-year review in this case will not be necessary. EPA disagrees. A formal five-year review is an obligation imposed under section 121(c) of CERCLA, 42 U.S.C. § 9621(c). MPCA's annual data reviews may be used to complete a five-year review - no doubt, they will make composing a five-year review report quicker and easier; but they do not automatically fulfill the federal statutory requirement.

If you any questions regarding this matter, please contact Mr. Ramon Torres of my staff at (312) 886-3010. We look forward to continue working with MPCA.

Sincerely yours,

*Michelle J. Jordan*

Valdas V. Adamkus  
Regional Administrator

The MPCA has determined, and the USEPA concurs, that their response at the Site is complete and no further action under CERCLA is necessary at this Site. Therefore, the Site now qualifies for inclusion on the site construction completion list. The reason for this determination is that source control is being completed under a solid waste operating permit issued by MPCA, and the ground water contamination will be addressed under the same operating permit. Also, the remedial action disclosed in the Record of Decision (ROD June 1991) which is the extension of the existing city of Inver Grove Heights municipal water supply has been completed and actions required under the Response Order by Consent between the MPCA and Pine Bend Landfill, (1985, 1990) have eliminated potential exposure to source related contaminants. Continued monitoring of the Site and implementation of contingency actions are specified in the Pine Bend Landfill's operating permit.

Federal and State Concurrence:

The USEPA and the MPCA believe that the selected remedy is the best choice balancing of the evaluation criteria required by CERCLA.

for Charles W. Williams  
Charles W. Williams  
Commissioner  
Minnesota Pollution Control Agency

8/18/95  
Date

**Minnesota Decision Document  
Pine Bend Sanitary Landfill  
Operable Unit 2: Source Control**

**I. Site Name, Location and Description**

The Pine Bend Sanitary Landfill (PBSL) site is located in northeast Dakota County, on the periphery of the Minneapolis/St. Paul metropolitan area, in Sections 27, 28 and 33, Township 27 North, Range 22 West, city of Inver Grove Heights, Minnesota (Attachment 1). PBSL encompasses approximately 255 acres and is an open operating mixed municipal solid waste facility. Crosby American Demolition Landfill (CADL) is located immediately north of the PBSL (Attachment 2). The PBSL and CADL were operated as separate landfills under separate ownership. CADL encompasses approximately 52 acres and ceased accepting waste in 1989 and is inactive. CADL and PBSL are connected hydrogeologically in the surficial aquifer, with CADL being immediately down and sidegradient of PBSL, and PBSL being sidegradient of CADL.

The PBSL site is included on the Minnesota Permanent List of Priorities with a Hazard Ranking System Score of 52. PBSL is on the National Priority List (NPL) with a Hazard Ranking System Score of 52. The MPCA has considered the two landfills as one site because hydrogeologic data demonstrates that the ground water contamination plumes emanating from each landfill commingle east of their common border. The MPCA considers the Responsible Parties for both landfills jointly and severally liable for the commingled ground water contamination hydrogeologically down and sidegradient of the PBSL Site.

The PBSL site (the Site) is bordered on the south by industrial areas, to the east by residential and industrial areas, to the north by residential areas, and to the west by pasture and residential areas. The terrain is generally flat to gently rolling and possesses an immature natural surface drainage system resulting in numerous ponds and wetlands. The Mississippi River is located approximately one mile to the east of the Site.

The geology of the area in the vicinity of the Site consists of a thick sequence of glacial drift overlying approximately 700 feet of cambrian bedrock. The bedrock is generally flat lying but has been deeply eroded in some areas and subsequently filled with glacial drift. The axis of a pronounced buried bedrock valley trends west-northwest to east-southeast near the northeastern corner of the Site. The valley is nearly two miles wide and 450 feet or more deep in places, although there is no surface indication of its presence. The gradient flow of surficial ground water, supported by extensive hydrogeological data is found to be east-northeast running from south of PBSL, through PBSL, continuing in a northeasterly direction through CADL, then east along the buried bedrock valley to the Mississippi River (Attachment 3). The ground water contamination plume emanating from the Site is moving through the surficial aquifer in this area and it is believed that it will eventually discharge to the Mississippi River via springs in the river bottom.

## II. Site History and Enforcement Activities

The PBSL was first issued a permit (SW-045) to operate by the MPCA on September 7, 1971. Since then, it has operated as a sanitary landfill accepting mixed municipal solid waste (mmsw) and nonhazardous industrial waste. Pine Bend Landfill, Inc. (PBLI), a wholly-owned subsidiary of Browning Ferris Industries, is the owner and permittee of the PBSL.

In April 1985 under MERLA, Pine Bend Landfill, Inc. entered into a Response Order by Consent with the MPCA to carry out a Remedial Investigation (RI), Feasibility Study (FS) and Response Actions (RA). The Consent Order was amended on October 23, 1990. Pursuant to that Consent Order, PBLI has, among other things, conducted an RI (1986), conducted additional RI activities (1987), conducted a pump test (1989-90), submitted a Preliminary Alternatives Report (1989), undertaken an interim ground water monitoring program (1988-1994), submitted an MPCA approval final RI report in August 1991 and an MPCA approved Detailed Analysis Report in November 1994. PBSL has completed the operable unit for a permanent alternative water supply and now is addressing source control (OU2). The following work is being completed under MPCA operating permit:

Placement of final cover on portions of the landfill that are filled to final elevation, installation of a combustible gas collection system, installation of a clay liner and leachate collection system in an expansion area, and the installation of a surface drainage control system. The existing ground water contamination will be addressed through a compliance permit with Pine Bend Landfill. Browning Ferris Industries, Inc. by signing the Amended Order dated October 23, 1990, guarantees PBLI's performance of the obligations established in said Amended Order.

The CADL was permitted on September 15, 1970. In April 1985 under MERLA, Crosby American Properties, Inc. (CAPI) entered into a Consent Order to address ground water contamination including VOCs. Due to bankruptcy proceedings, CAPI claimed it could not carry out the terms of its Consent Order and suspended all activities at the CADL site. MPCA entered into a Settlement Agreement (Attachment 4) for the CADL site on September 28, 1992. In the Agreement, Amdura Corporation Agreed to implement the preferred remedy for the CADL site, with the exception that the MPCA will provide a portion of the materials for the engineered cover. PBLI and Amdura entered into a Settlement Agreement regarding environmental claims (No. 9226) on November 11, 1992.

## III. Highlights of Community Participation

The Superfund activities at the Site have been followed closely by the local community and press. To date, there have been public meetings, fact sheets, update letters and press releases regarding the activities at the Site. There is an active mailing list of local citizens interested in the activities at the Site. Notice of availability for the Proposed Plan for OU1 was published in the Sun Current (Inver Grove Heights Edition) Newspaper in the form of a display ad on May 1, 1991. This ad initiated a 30 day public comment period. The public comment period is consistent with CERCLA, Section 117 (a).

Notice of the public meeting held on May 15, 1991, was included. Additionally, a news release providing notification of the proposed remedy and public meeting was sent to interested parties and the press.

A public information repository has been established in the Wescott Branch Library, of the Dakota County Library System, in the neighboring city of Eagan, Minnesota. This is the closest public library to the Site. The Administrative Record for the Site is located at the main office of the MPCA in St. Paul, Minnesota. The Record includes the documents listed on Attachment 5.

Notice of availability for the Decision Document for this operable unit was published in the Dakota County Tribune (Inver Grove Heights Edition) Newspaper in the form of a display ad on June 22, 1995. This ad initiated a 30-day public comment period. The public comment period is consistent with CERCLA, Section 117 (a). Notice of the public meeting held on June 28, 1995, was included. Additionally, a news release providing notification of the proposed remedy and public meeting was sent to interested parties and the press.

#### IV. Scope and Role of Remedial Activities

The USEPA and MPCA initially agreed to divide the project into three operable units in order to facilitate progress toward remedial action at this Site. The three operable units were (OU1), (OU2) and ground water contamination (OU3). Since OU2 and OU3 essentially related to Source Control, USEPA staff recommended that OU2 and OU3 be combined for administrative and technical reasons. MPCA staff concurred with this recommendation. Subsequently, source control and the ground water contamination operable units were combined into one operable unit (OU2).

##### Alternative Selected for OU1 was a Permanent Alternative Water Supply

The work under this operable unit was completed in November 1994. The components of this selected remedy are:

- The extension of the existing city of Inver Grove Heights municipal water supply.
- The connection of impacted or potentially impacted premises to the municipal water supply.
- The permanent sealing of the private water supply wells which presently serve the premises that were connected to the municipal water supply.

##### Source Control and Ground Water Contamination (OU2)

The actions occurring at the Site are not being initiated under CERCLA authority but are being completed as a permit requirement. The unlined portion of the Pine Bend Landfill is being covered in accordance with current Minnesota Solid Waste Rules. Construction of the last stage of the final cover is planned for the summer of 1995. In addition to the landfill cover, the active landfill gas collection system operates to limit the migration of landfill gas, and secondly, has the benefit of removing substantial quantities of VOCs as demonstrated by the quantity and quality of condensate that is removed from the system. Minnesota Solid Waste Management Rules meet or exceed CERCLA requirements for source control.



The ground water contamination action recommended under Superfund for this portion of OU2 is a no action alternative. The existing ground water contamination will be addressed through an amended compliance permit with Pine Bend Landfill. These actions are necessary to address compliance with MPCA solid waste rules for an open operating sanitary landfill. In addition, PBLI is addressing ground water contamination from the CADL.

V. Summary of Site Characteristics

The work at the Site involved determining the nature and extent of the contamination associated with the Site and conducting a Human Health and Ecological Risk Assessment. The Remedial Investigation concluded in part that:

The problem of primary concern is the VOC contamination in ground water due to leachate migrating from the Site. The Site is the only known source of the contamination of ground water in the impacted area east of the Site.

Ground water was the only medium found to be contaminated off Site that could be attributable to the Site. With the exception of benzene and the chlorinated fluoromethanes, all of these substances identified may be related to the transformation of certain chemicals to vinyl chloride through both chemical and biological processes. These substances are found at locations both outside and within the boundaries of the Site. The ground water contamination is most likely the result of precipitation infiltrating through the permeable landfill cover material and coming in contact with the buried waste. Specific compounds may also result from the degradation of waste products. The compounds of concern can be classified as to carcinogenicity (the likelihood that they may cause cancer in humans). A "Group A compound" means that sufficient information exists to classify it as a human carcinogen. "Group B compounds" are classified as probable human carcinogens because sufficient epidemiological evidence does not exist, but there is sufficient evidence from animal studies to support the classification of "probable" human carcinogen. "Group C compounds" are possible carcinogens. "Group D compounds" are not classifiable as to human carcinogenicity. The classes of the compounds of concern are as follows:

Chemical	Oral Group	Inhalation Group
Benzene	A	A
1, 1 Dichloroethane	C	C
1, 1 Dichloroethylene	C	C
1, 2 Dichloropropane	B	B
Methylene Chloride	B	B
Tetrachloroethylene	B	B
Trichloroethylene	B	B
Vinyl Chloride	A	A

All other VOC contaminants that have been found in on and off Site wells are classified as Group D compounds.

## VI. Summary of Site Risk

Part of the Remedial Investigation for the Site involved conducting a baseline risk assessment, which is intended to measure the potential current and future risks posed by chemicals of concern at the Site. The risk assessment evaluates both human health and environmental risks.

### Human Health Risk

The baseline risk assessment indicated that current exposure to residents and workers was acceptable. An excess lifetime cancer risk (ELCR) of  $10^{-4}$  (1 in 10,000) is used as a benchmark by the USEPA for sites warranting remediation (USEPA 1991 b.). For non-carcinogens, a hazard index (HI) of less than 1 is considered acceptable by the USEPA. The ELCR for residents was  $2 \times 10^{-4}$  and the HI was 0.4. The ELCR for site workers was  $3 \times 10^{-9}$  and the HI was 0.000005.

Future exposure to residents resulted in an ELCR OF  $5 \times 10^{-3}$ . The HI was 1.3 and equals the guidance value when rounded to one significant figure. Vinyl chloride was responsible for more than 90 percent of the ELCR, and cis-1,2-dichloroethene was responsible for more than 75 percent of the HI. Future risk estimates for the Site worker were identical to the current risk estimates. Therefore, future hypothetical exposure to vinyl chloride in ground water was identified as potentially posing an unacceptable risk to residents. The likelihood that the shallow ground water will be utilized as a potable water source in the foreseeable future has been reduced, however, by the extension of the municipal water supply. In the absence of future potable use of the shallow ground water, the future hypothetical risks associated with VOCs are eliminated.

Current data obtained from the Detail Analysis Report (October 1994) indicate that vinyl chloride is degrading at rates comparable to formation rates in the shallow ground water. Based on these data, degradation of higher chlorinated ethane and ethene derivatives to vinyl chloride will not result in increasing vinyl chloride concentrations at the Site. Risk estimates based on a lognormal distribution of the data, a 30-year exposure period, and calculated constituent-specific permeability constants (PCs) are shown in Table 1. The ELCR was  $1 \times 10^{-4}$  when vinyl chloride was included and  $5 \times 10^{-5}$  when vinyl chloride was factored out. These alternate risk estimates meet the regulatory guidance of  $1 \times 10^{-4}$ .

### Ecological Risk

The ecological risk associated with the Pine Bend and Crosby American Landfills was qualitatively assessed by comparing the level of each contaminant of concern with the identified criteria or toxicological value. If the concentration of a given contaminant is lower than the respective criteria or value, then the potential risk was determined to be unlikely. Likewise, if the concentration of a given contaminant is greater than the respective criteria or value, then the potential risk was determined to be likely. If no criteria or toxicological value are available in the literature, then the risk was not characterized.

Based on the available data, there are not any cases in which the concentration of a given contaminant exceeds the selected criteria or toxicity value. Thus, no likely ecological risks were identified in association with the release of contaminants from the PBSL site.

Based on the findings in the Remedial Investigation and the Health and Ecological Risk Assessments, the continuation of action under Superfund is not necessary. The low potential for Site impacts can be adequately addressed under the Minnesota Solid Waste Rules for landfills. The Site is an open operation landfill permitted by the MPCA. The permit requires continued monitoring, long-term care and contingency actions.

Continued monitoring to insure compliance with Minnesota Solid Waste Rules will adequately protect human health and the environment. Annual reviews of the data collected are a current requirement under the Rules and thus a formal five-year review will not be necessary to ensure that the selected no action alternative remains protective.

This decision document presents the selection of the no-action remedial alternative for the PBSL Superfund Site. The selected remedial alternative was chosen in accordance with CERCLA; as amended by SARA, and to the extent practicable the NCP. Also, the selection is consistent with MERLA. This no-action alternative is the same as the preferred remedy presented at the public meeting for the Site on June 28, 1995, at the Inver Grove Heights City Hall.

This decision is based upon the reports, information and public comments, which constitute the Administrative Record for the Site.

The USEPA concurs with the selected no-action alternative for the PBSL Superfund Site.

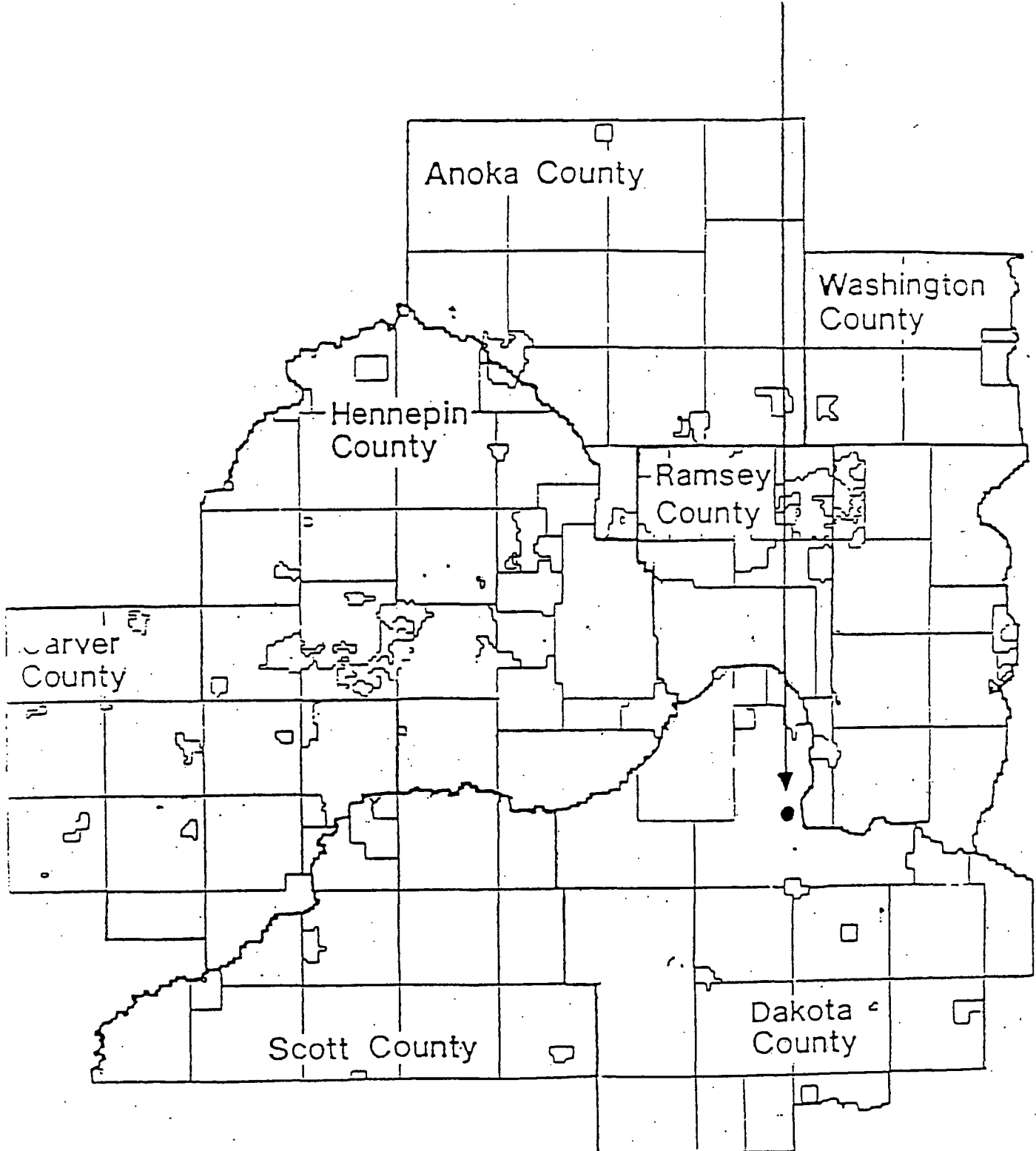
Table 1. Excess Lifetime Cancer Risk Estimates based on a 30-Year Exposure Period, and the 95 Percent Upper Confidence Limit of the Geometric Mean Groundwater Concentration, Pine Bend and Crosby American Landfills, Inver Grove Heights, Minnesota.

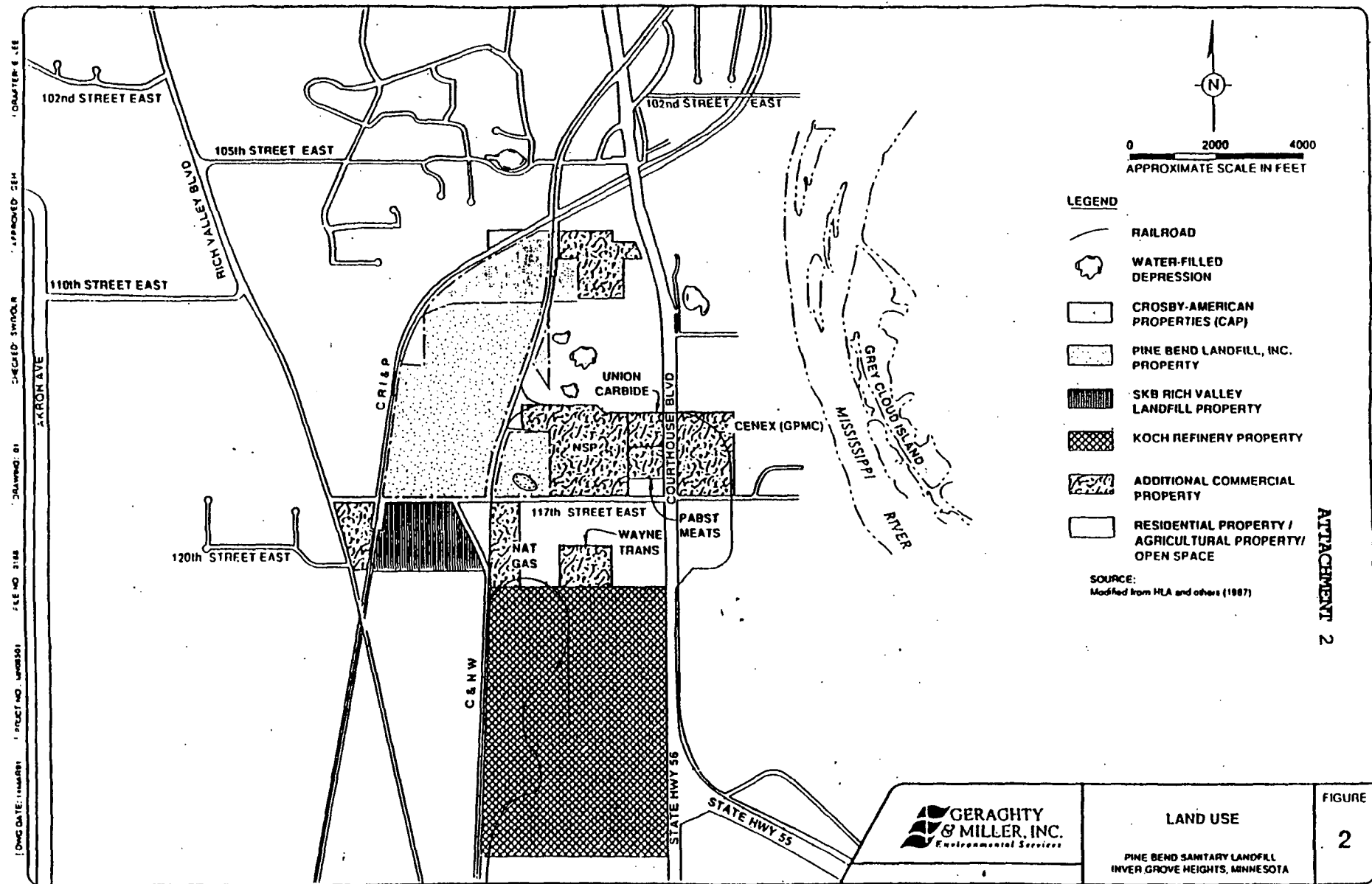
Constituents	Cgw	PC	CSFo	CSFi	ELCR				ELCR
					Ingestion	Dermal	Shower	Household	
Inorganics									
Arsenic	0.0018	0.001	1.8	15	3.8E-05	1.7E-08	NS	NS	3.8E-05
VOCs									
Benzene	0.0015	0.0204	0.029	0.029	5.1E-07	4.7E-09	1.6E-07	5.0E-06	5.7E-06
1,2-Dichloroethane	0.00026	0.0053	0.091	0.091	2.8E-07	6.7E-10	8.6E-08	2.7E-06	3.1E-06
1,2-Dichloropropane	0.00062	0.0103	0.068	NA	5.0E-07	2.3E-09	-	-	5.0E-07
Tetrachloroethene	0.0023	0.013	0.051	0.0018	1.4E-06	8.1E-09	1.5E-08	4.8E-07	1.9E-06
Trichloroethene	0.0015	0.0147	0.011	0.017	1.9E-07	1.3E-09	9.3E-08	3.0E-06	3.2E-06
Vinyl chloride	0.0015	0.0076	1.9	0.29	3.3E-05	1.2E-07	1.6E-06	5.0E-05	8.6E-05
Total ELCR					7.4E-05	1.5E-07	1.9E-06	6.2E-05	1E-04
Total (minus vinyl chloride)					4.1E-05	3.4E-08	3.5E-07	1.1E-05	5E-05

Cgw Concentration in ground water (milligrams per liter).  
 PC Permeability constant (centimeters per hour).  
 CSFo Oral cancer slope factor.  
 CSFi Inhalation cancer slope factor.  
 ELCR Excess lifetime cancer risk.  
 NS Not a significant exposure route.

11MN0065002\04R\BFRISK.WQ1

PINE SEND SANITARY LANDFILL/CROSBY AMERICAN DEMOLITION LANDFILL





ATTACHMENT 2



UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF COLORADO

In Re:	§	CHAPTER 11
	§	
AMDURA CORPORATION;	§	CASE NO. 90 B 03811 E
AMDURA NATIONAL DISTRIBUTION	§	CASE NO. 90 B 03813 E
COMPANY, f/k/a/ FOK;	§	
COASTAMERICA CORPORATION;	§	CASE NO. 90 B 03813 E
COAST TO COST HOLDINGS, INC.;	§	CASE NO. 90 B 03814 E
COAST TO COST STORES, INC.;	§	CASE NO. 90 B 03815 E
and INTERTRADE CARGO, INC.;	§	CASE NO. 90 B 03816 E
	§	
Debtors.	§	Jointly Administered Under
	§	Case No. 90 B 03811 E

SETTLEMENT AGREEMENT  
REGARDING ENVIRONMENTAL CLAIMS (NOS. 8963, 8964,  
8965, 8966) OF THE MINNESOTA POLLUTION CONTROL AGENCY

This Settlement Agreement (the "Agreement") is entered into this 28<sup>th</sup> day of September, 1992, by and between Amdura Corporation, Reorganized Amdura, Crosby American Properties, Inc., the Trustee for the Amdura Liquidating Trust, and the Minnesota Pollution Control Agency.

RECITALS

WHEREAS, on April 2, 1990, Amdura Corporation ("Amdura") filed its voluntary petition for relief under Chapter 11 of the Bankruptcy Code, 11 U.S.C. Section 101 et seq. in the above-captioned action (the Amdura bankruptcy proceeding) in the United States Bankruptcy Court for the District of Colorado; and

WHEREAS, the Minnesota Pollution Control Agency ("MPCA") is an administrative agency of the state of Minnesota created by

EXHIBIT

A



Minnesota Statutes §116.02 (1990), acting for and on behalf of the State of Minnesota.

WHEREAS, on January 9, 1991, the MPCA properly filed, in the Amdura bankruptcy proceeding Proofs of Claim Nos. 8963, 8964, 8965 and 8966 on behalf of the MPCA and the State of Minnesota, related to releases or threatened releases of hazardous substances, pollutants or contaminants at or from three facilities located in the State of Minnesota specifically the CAP Site, the Roberts Street Site and the WDE Site; and

WHEREAS, the claims of the MPCA in the Amdura Bankruptcy Proceedings arise under or are related to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq. (CERCLA), the Minnesota Environmental Response and Liability Act, Minn. Stat. §§ 115B.01 to 115B.24 (MERLA), and the United States Bankruptcy Code; and

WHEREAS, the claims of the MPCA involve or are related to the effect of releases or threatened releases of hazardous substances, pollutants or contaminants at or from the three facilities; and

WHEREAS, the MPCA is authorized by law to investigate, remove or remedy releases or threatened releases of hazardous substances, pollutants or contaminants at or from the three facilities, and recover costs so incurred solely from any or all responsible parties, including Amdura and the Reorganized Amdura, if found responsible; and

WHEREAS, one or more responsible parties have agreed to undertake or have undertaken remedies affecting releases at or from two of the three facilities in lieu of the MPCA taking such action and seeking to recover its costs from those parties; and

WHEREAS, on May 22, 1991, Amdura filed Objections to Proofs of Claim Nos. 8963, 8965, and 8966, and on July 11, 1991, filed an Objection to Proof of Claim 8964; and

WHEREAS, MPCA filed its responses to Amdura's Objections to Proofs of Claim Nos. 8963, 8965, and 8966 on June 5, 1991, and its Response to Amdura's Objection to Proof of Claim No. 8964 on July 25, 1991; and

WHEREAS, pursuant to the Order of the Bankruptcy Court dated June 5, 1991, establishing a procedure for the resolution of claims objections, the MPCA filed a written statement with Amdura explaining the basis for its claims and the reason for responding to Amdura's objections; and

WHEREAS, on September 19, 1991, the Bankruptcy Court entered an Order confirming Amdura's Fifth Amended Joint Plan of Reorganization; and

WHEREAS, pursuant to the confirmed Amdura Reorganization Plan, Amdura has become the Reorganized Amdura, and the Amdura Liquidating Trust has been established to hold property to be used by the Trustee to pay general unsecured claims in the Amdura bankruptcy proceeding; and

WHEREAS, in accordance with the Orders of the Bankruptcy Court establishing procedures for resolution of claims objections, the MPCA, Reorganized Amdura and the Trustee have engaged in good faith discussions of settlement of the MPCA's claims and, pursuant to those discussions, have reached an agreement to compromise and fully and finally settle those claims and to resolve all of the settlors' liability with respect to the CAP site, the Roberts Street site, and the WDE site; and

WHEREAS, this Agreement has been approved by the Board of the MPCA after public notice and opportunity for public comment at a meeting held on September 22, 1992; and

WHEREAS, the parties to this Agreement believe that the settlement of the MPCA claims as provided in this Agreement is fair and reasonable, and is in the public interest.

NOW, THEREFORE, in consideration of the recitals and the mutual covenants contained herein, and the mutual benefits to be derived therefrom, the receipt and sufficiency of which is hereby acknowledged, the Parties do STIPULATE AND AGREE as follows:

#### I. JURISDICTION AND VENUE

This Court has jurisdiction over the subject matter of this action and over the Parties to this Agreement pursuant to 28 U.S.C. §§ 1334, 157(a) and 157(b), and General Procedural Order 1984-3 of the United States District Court for the District of Colorado.

## II. PARTIES

This Agreement shall apply to and be binding upon the following Parties, who shall not contest its validity in any subsequent proceeding:

- A. Amdura, Reorganized Amdura, and their predecessors, successors and assigns;
- B. Crosby American Properties, Inc.;
- C. the Trustee on behalf of the Amdura Liquidating Trust; and
- D. the MPCA, its successors or assigns.

## III. DEFINITIONS

1. "Agreement" means this Settlement Agreement by and between Amdura, Reorganized Amdura, Crosby American Properties, Inc., the Trustee and the MPCA in the Amdura bankruptcy proceeding.

2. "Amdura" is Amdura Corporation, a Delaware Corporation as defined in the Fifth Amended Joint Plan of Reorganization, As Modified, With Respect to Amdura, as confirmed by Order of the Bankruptcy Court on September 19, 1991.

3. "Amdura Liquidating Trust" is the Amdura Liquidating Trust as defined in the Fifth Amended Joint Plan of Reorganization, As Modified, With Respect to Amdura, as confirmed by Order of the Bankruptcy Court on September 19, 1991.

4. "Bankruptcy Court" or "Court" means the United States Bankruptcy Court for the District of Colorado.

5. "Amdura Bankruptcy Proceedings" means all matters, actions and proceedings in In re: Amdura Corporation, No. 90 B 03811E; Amdura National Distribution Company, f/k/a FOK, No. 90 B 03812A; Coast America Corporation, No. 90 B 03813D; Coast to Coast Holdings, Inc., No. 90 B 03814D; Coast to Coast Stores, Inc., No. 90 B 03815J; and Intertrade Cargo, Inc., No. 90 B 03816E, filed in the United States Bankruptcy Court for the District of Colorado.

6. "CAP Administrative Claim" means Proof of Claim No. 8965 filed by the MPCA in the Amdura Bankruptcy Proceedings and any and all claims or causes of action the MPCA has or may have, whether known or unknown, that could have been made or set forth in the Amdura Bankruptcy Proceedings, including but not limited to those under § 107(a) of CERCLA, §§ 115B.03, 115B.04, 115B.17 or 115B.18 of MERLA, or § 7003 of the Resource Conservation and Recovery Act, that directly or indirectly arise from or are in any way related to transactions (including but not limited to any such claims made through or on behalf of the MPCA) or occurrences (including but not limited to releases or threatened releases of hazardous substances, pollutants or contaminants and the effects thereof) involving, connected to, or in any way related to the CAP site or the PBSL/CAP site.

7. "CAP Site" is that part of the PBSL/CAP site consisting of the Crosby American Properties, Inc. Landfill, in the City of Inver Grove Heights, Dakota County, Minnesota owned by Crosby

American Properties, Inc., a wholly owned subsidiary of Amdura, which MPCA, in Proof of Claim No. 8965, alleges to be the alter ego of Amdura.

8. "CAP Unsecured Claim" means Proof of Claim No. 8966 filed by the MPCA in the Amdura Bankruptcy Proceedings and any and all claims or causes of action the MPCA has or may have, whether known or unknown, that could have been made or set forth in the Amdura Bankruptcy Proceedings, including but not limited to those under § 107(a) of CERCLA, §§ 115B.03, 115B.04, 115B.17 or 115B.18 of MERLA, or § 7003 of the Resource Conservation and Recovery Act, that directly or indirectly arise from or are in any way related to transactions (including but not limited to any such claims made through or on behalf of the MPCA) or occurrences (including but not limited to releases or threatened releases of hazardous substances, pollutants or contaminants and the effects thereof) involving, connected to, or in any way related to the CAP site or the PBSL/CAP site.

9. "Consent Order" is the "Response Order by Consent in the Matter of the Crosby American Properties, Inc. Landfill," attached to this Settlement Agreement as Exhibit "A."

10. "Crosby American Properties, Inc." means the Minnesota corporation that is a wholly owned subsidiary of Amdura.

11. "MPCA Claims" means the CAP Administrative Claim, the CAP Unsecured Claim, the Roberts Street Claim, and the WDE Claim.

12. "Parties" means Amdura, Reorganized Amdura, Crosby American Properties, Inc., the Trustee, and the MPCA.

13. "Pine Bend Sanitary Landfill/Crosby American Properties, Inc. Demolition Landfill Site" or "PBSL/CAP Site", is a site listed on the Minnesota Permanent List of Priorities under MERLA.

14. "Reorganized Amdura" is the Reorganized Amdura, a Delaware Corporation, as defined in the Fifth Amended Joint Plan of Reorganization, As Modified, With Respect to Amdura, as confirmed by Order of the Bankruptcy Court on September 19, 1991..

15. "Roberts Street Claim" means Proof of Claim No. 8963 filed by the MPCA in the Amdura Bankruptcy Proceedings and any and all claims or causes of action the MPCA has or may have, whether known or unknown, that could have been made or set forth in the Amdura Bankruptcy Proceedings, including but not limited to those under § 107(a) of CERCLA, §§ 115B.03, 115B.04, 115B.17 or 115B.18 of MERLA, or § 7003 of the Resource Conservation and Recovery Act, that either directly or indirectly arise from or are in any way related to transactions (including but not limited to any such claims made through or on behalf of the MPCA) or occurrences (including but not limited to releases or threatened releases of hazardous substance, pollutants or contaminants and the effects thereof) involving, connected to, or in any way related to the Roberts Street Site.

16. "Roberts Street Site" means the property formerly owned and operated by Amdura as a hoist and derrick manufacturing facility located on South Roberts Street in the City of St. Paul, Ramsey County, Minnesota.

17. "Settlors" means Amdura, the Reorganized Amdura, Crosby American Properties, Inc. and the Trustee on behalf of the Amdura Liquidating Trust.

18. The "Trustee" or the "Trustee on behalf of the Amdura Liquidating Trust" is the Amdura Trustee as defined in the Fifth Amended Joint Plan of Reorganization, As Modified, With Respect to Amdura, as confirmed by Order of the Bankruptcy Court on September 19, 1991.

19. "WDE Claim" means Proof of Claim No. 8964 filed by the MPCA in the Amdura Bankruptcy Proceedings and any and all claims or causes of action the MPCA has or may have, whether known or unknown, that could have been made or set forth in the Amdura Bankruptcy Proceedings, including but not limited to those under § 107(a) of CERCLA, §§ 115B.03, 115B.04, 115B.17 or 115B.18 of MERLA, or § 7003 of the Resource Conservation and Recovery Act, that either directly or indirectly arise from or are in any way related to transactions (including but not limited to any such claims made through or on behalf of the MPCA) or occurrences (including but not limited to releases or threatened releases of hazardous substance, pollutants or contaminants and the effects



thereof) involving, connected to, or in any way related to the WDE Site.

20. "WDE Site" means the Waste Disposal Engineering Landfill Site, in the City of Andover, Anoka County, Minnesota, at which MPCA alleges that Amdura arranged for the disposal, or the transport for disposal, of certain hazardous substances.

#### IV. AGREEMENTS

##### A. Settlers' Obligations

1. Reorganized Amdura shall have executed the Consent Order a copy of which is attached as Exhibit "A", prior to submitting the Agreement to the Court for approval.

2. The Trustee hereby allows the claim of the MPCA for costs to respond to releases or threatened releases of hazardous substances, pollutants or contaminants at the Roberts Street Site, designated as Proof of Claim No. 8963, in the amount of \$944,817.18, and such claim shall be paid in the same time and manner as all other allowed general unsecured claims pursuant to Article IV, Section 4.5 of the Fifth Amended Joint Plan of Reorganization, as modified, with respect to Amdura, as confirmed by order of the Bankruptcy Court on September 19, 1991, and not later than 11 days after entry of an order of the Court approving this Settlement Agreement, the Trustee shall execute an agreed order that allows the claim as a general, unsecured claim in the amount of \$944,817.18, and that states substantially that the MPCA is prohibited from ever reasserting Claim No. 8963 and is

prohibited from ever commencing or pursuing any administrative, legal or equitable action against Amdura based in whole or in part on the claims or causes of action asserted in Claim No. 8963.

3. The Trustee hereby allows the claim of the MPCA for costs to respond to releases or threatened releases of hazardous substances, pollutants or contaminants at the WDE site, designated as Proof of Claim No. 8964, in the amount of \$218,118.00, and such amount shall be paid in the same time and manner as all other allowed general unsecured claims pursuant to Article IV, Section 4.5 of the Fifth Amended Joint Plan of Reorganization, as modified, with respect to Amdura, as confirmed by order of the bankruptcy court on September 19, 1991, and not later than 11 days after entry of an order of the Court approving this Settlement Agreement, the Trustee shall execute an agreed order that allows the claim as a general unsecured claim in that amount, and that states substantially that the MPCA is prohibited from ever reasserting Claim No. 8964 and is prohibited from ever commencing or pursuing any administrative, legal or equitable action against Amdura based in whole or in part on the claims or causes of action asserted in Claim No. 8964.

4. The Settlers hereby release and waive the right to assert any claims or causes of action against the MPCA, its members or employees, arising from or related to the release or threatened release of any hazardous substance, pollutant or

contaminant at the CAP Site, Roberts Street Site or WDE Site. Nothing in this paragraph shall waive any right of the Settlers to enforce the terms and conditions of this Agreement or of the Reorganized Amdura to enforce the terms and conditions of the Consent Order.

B. MPCA's Obligations

1. Upon receipt of the agreed orders executed by the Trustee as described herein, the MPCA shall execute the agreed orders allowing the Roberts Street Claim in the amount of \$944,817.18, and allowing the WDE Claim in the amount of \$212,532.15, and shall submit them to the Court. The MPCA hereby withdraws with prejudice both the CAP Administrative Claim and the CAP Unsecured Claim, and is prohibited from ever reasserting Claim Nos. 8965 and 8966 and is prohibited from commencing or pursuing any administrative, legal or equitable action against Amdura based in whole or in part on the claims and causes of action asserted in Claim Nos. 8965 and 8966, provided however, that the MPCA has reserved its rights to seek enforcement of the Consent Order attached as Exhibit A to this Settlement Agreement. The MPCA shall execute an order that withdraws the CAP Administrative Claim and the CAP Unsecured Claim with prejudice. The order shall further provide that in the event the order approving this Settlement Agreement is vacated or otherwise rendered ineffective, Claim Nos. 8965 and 8966 shall be deemed

not to have been withdrawn and the MPCA may pursue the claims in the Amdura Bankruptcy Proceedings.

2. The MPCA shall not directly or indirectly commence or pursue in the Bankruptcy Proceedings any action regarding or any appeal of any order concerning Proofs of Claim Nos. 8963, 8965, 8966 and 8964 as resolved under this Agreement.

3. The MPCA shall not directly or indirectly commence or pursue any administrative, legal or equitable action (including but not limited to an action to recover civil penalties, or past or future response costs incurred) against the Settlers based in whole or in part, on the MPCA Claims, provided, however, that the MPCA reserves the right to seek enforcement of the Consent Order.

C. General Conditions

1. The Parties agree that this Agreement embodies a "settlement," as that term is used in Section 113(f)(2) of CERCLA, 42 U.S.C. Section 9613(f)(2), as amended, and the Settlers are entitled, with respect to the CAP Site, the PBSL/CAP Site, the Roberts Street Site and the WDE Site, to contribution protection and to contribution from any person not a party to this Agreement to the extent provided by Section 113(f)(2) and (3) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and (3) for matters addressed in this Agreement.

2. Nothing in this Agreement is intended to nor shall be construed to release any claims, prevent the commencement of any causes of actions, or bar any demands in law or equity which may

be made by the MPCA against any person, firm, partnership, corporation or other entity that is not a party to this Agreement or expressly bound by its terms for any liability arising out of the release or threatened release of any hazardous substances, pollutants or contaminants at or from the PBSL/CAP Site, the Roberts Street Site or the WDE Site.

3. Nothing in this Agreement shall be construed to prevent the enforcement of the Consent Order in a court other than this Court, to the extent that such enforcement is provided by the terms of the Consent Order.

4. Reorganized Amdura and the MPCA may amend the Consent Order by execution of a written amendment in accordance with the provisions of the Consent Order, and such amendment shall not require the approval of this Court.

5. This agreement was entered into to compromise disputed claims. The Settlers by entering into this Agreement do not intend to make any admission concerning facts or law, but only wish to avoid the expense of preparing for litigation concerning the MPCA Claims. Settlers do not admit any allegation in any of the MPCA's proofs of claim nor in the Consent Order. This Agreement and the Consent Order shall not be admissible in evidence in any proceeding other than a proceeding for enforcement of this Agreement or the Consent Order. The Settlers by executing this Agreement are not admitting or confessing to the allegations, conclusions or inferences contained in any proof

of claim the MPCA has filed in the Amdura Bankruptcy Proceedings or in the Consent Order which allegations, conclusions or inferences the Settlers have always strongly denied. Neither this Agreement nor the Consent Order shall constitute adjudication of fact or law, an admission, a judicial admission, an admission against interest or otherwise, and shall not be admitted against any party hereto in any legal proceeding except in an action by a Party to enforce the terms and provisions of this Agreement or the Consent Order.

6. The originals of all documents or instruments pertaining to any distribution by the Trustee on account of the MPCA claims shall be sent to: Commissioner, Minnesota Pollution Control Agency, 520 Lafayette Road, St. Paul, Minnesota 55155, with a copy to the Minnesota Attorney General's Office, Environmental Protection Division, Suite 200, 520 Lafayette Road, St. Paul, Minnesota 55155.. Transmission of any funds in payment on the MPCA claims shall be in the form of a check payable to the Commissioner of the Minnesota Pollution Control Agency and such check shall reference which site is involved.

7. Except for paragraph 8 below, this Agreement and the Consent Order shall not be binding upon the Parties hereto until the Agreement has been duly approved by the Court. Upon approval by the Court, this Agreement and the Consent Order shall be binding on the Parties hereto. Following such approval, Reorganized Amdura shall fulfill its obligations under the

Consent Order consistent with the schedule set forth in the Consent Order, unless the order approving this Agreement is subsequently stayed, vacated, or otherwise rendered ineffective.

8. Within ten days after execution of this Agreement, Reorganized Amdura and the Trustee shall cause to be submitted to the Court a motion for approval of this Agreement, shall provide proper notice of this motion to all interested parties as required by the Rules of Bankruptcy Procedure or by order of the Court, and shall prosecute that motion with due diligence.

9. To the extent there is any conflict between the Consent Order and the order confirming Amdura's Fifth Amended Joint Plan of Reorganization, the Consent Order shall control. In all other respects the Order of Confirmation shall remain in full force and effect.

10. By their signatures to this Agreement, each of the undersigned certifies that he or she is fully authorized to execute this Agreement and to bind the respective Parties to it.

WHEREFORE THE PARTIES TO THE SETTLEMENT AGREEMENT HAVE EXECUTED THIS SETTLEMENT AGREEMENT INTENDING TO BE BOUND THEREBY:

For Amdura and the Reorganized Amdura

By: *Lawrence P. Amdura*  
Title: V. P. Amdura

9-2-92  
Date

For The Amdura Liquidating Trust

By: *T.S. Curry*  
Trustee

Date *7/27/92*

For Crosby American Properties, Inc.

By: *T.S. Curry Trustee*  
Title

Date *9/22/92*

For Minnesota Pollution Control  
Agency

By: *Charles W. Williams*  
Charles W. Williams, Commissioner  
Minnesota Pollution Control Agency

Date *9/6/92*

By: *Daniel D. Foley*  
Daniel D. Foley, M.D.,  
Chairman  
Minnesota Pollution Control Agency

Date *9/25/92*

And Hubert H. Humphrey, III  
Attorney General  
State of Minnesota

By: *Alan C. Williams*  
SAAG

Date *9-28-92*

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## PINE BEND ADMINISTRATIVE RECORD

### **SUPERFUND DOCUMENTS:**

- REMEDIAL INVESTIGATION WORK PLAN  
HARDING LAWSON ASSOCIATES/PACE LABORATORIES, INC./SUNDE ENGINEERING
- RESPONSE ORDER BY CONSENT  
MINNESOTA POLLUTION CONTROL AGENCY  
APRIL 23, 1985
- REMEDIAL INVESTIGATION AND FEASIBILITY STUDY: EVALUATION REPORT/  
ALTERNATIVE RESPONSE ACTIONS/REMEDIAL INVESTIGATION WORK PLAN/  
QUALITY ASSURANCE PROJECT PLAN  
BFI WASTE SYSTEMS  
JULY 1985
- POSSIBLE ALTERNATIVE RESPONSE ACTIONS  
HARDING LAWSON ASSOCIATES  
JULY 22, 1985
- REVISION PAGES TO THE STATEMENT OF WORK FOR ORGANICS ANALYSIS MULTI-  
MEDIA MULTI-CONCENTRATION  
ROCKY MOUNTAIN ANALYTICAL LABORATORY  
MAY 1984, REVISED JANUARY 1986
- QUALITY ASSURANCE PROJECT PLAN FOR 465.B VOLATILE ORGANICS  
PACE LABORATORIES, INC.  
RECEIVED APRIL 14, 1986
- QUALITY ASSURANCE PROJECT PLAN FOR PRIORITY POLLUTANT METALS AND  
CYANIDE  
PACE LABORATORIES, INC.  
RECEIVED APRIL 14, 1986
- QUALITY ASSURANCE PROJECT PLAN SUBMITTALS  
PACE LABORATORIES, INC.  
APRIL 8, 1985 - APRIL 29, 1987
- REMEDIAL INVESTIGATION VOLUME I  
BFI WASTE SYSTEMS  
NOVEMBER 1987
- REMEDIAL INVESTIGATION VOLUME II (PART I)  
BFI WASTE SYSTEMS  
NOVEMBER 1987
- REMEDIAL INVESTIGATION VOLUME II (PART 2)  
BFI WASTE SYSTEMS  
NOVEMBER 1987

- FEASIBILITY STUDY ALTERNATIVES REPORT: DOWNGRAIDENT WATER USER OPERABLE UNIT  
HARDING LAWSON ASSOCIATES/SUNDE ENGINEERING, INC.  
JANUARY 1989

- FEASIBILITY STUDY: SOUTHERN WATER SYSTEM  
PROGRESSIVE CONSULTING ENGINEERS, INC.  
OCTOBER 1990

- AMENDED RESPONSE ORDER BY CONSENT  
MINNESOTA POLLUTION CONTROL AGENCY  
OCTOBER 23, 1990

- ADDENDUM 1 TO THE FEASIBILITY STUDY: SOUTHERN WATER SYSTEM  
PROGRESSIVE CONSULTING ENGINEERS, INC.  
NOVEMBER 1990

- ADDENDUM 2 TO THE FEASIBILITY STUDY: SOUTHERN WATER SYSTEM  
PROGRESSIVE CONSULTING ENGINEERS, INC.  
APRIL 1991

- PUBLIC MEETING ON THE FEASIBILITY STUDY/PROPOSED PLAN FOR AN ALTERNATIVE WATER SUPPLY FOR RESIDENTS AFFECTED BY PINE BEND/  
CROSBY AMERICAN PROPERTIES LANDFILLS  
MAY 15, 1991

- QUESTIONNAIRES TO IMPACTED CITIZENS REGARDING ALTERNATE WATER SUPPLY  
RECEIVED JUNE - JULY 1991

- UPDATED REMEDIAL INVESTIGATION FINAL REPORT VOLUME 1 OF 2  
GERAGHTY & MILLER, INC.  
AUGUST 1991

- UPDATED REMEDIAL INVESTIGATION FINAL REPORT VOLUME 2 OF 2  
GERAGHTY & MILLER, INC.  
AUGUST 1991

- UPDATE TO THE FEASIBILITY STUDY: SOUTHERN WATER SYSTEM  
PROGRESSIVE CONSULTING ENGINEERS, INC.  
JUNE 1992

- DETAILED ANALYSIS REPORT VOLUME 1 OF 2  
GERAGHTY & MILLER, INC.  
JUNE 17, 1994

- DETAILED ANALYSIS REPORT VOLUME 2 OF 2  
GERAGHTY & MILLER, INC.  
JUNE 17, 1994

- PERMIT APPLICATION  
JUNE 6, 1995

- PUBLIC INFORMATION MEETING  
JUNE 28, 1995

#### **GUIDANCE DOCUMENTS:**

- COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980 (CERCLA)  
1980
- MINNESOTA ENVIRONMENTAL RESPONSE AND LIABILITY ACT (MERLA)  
1983
- THE SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT OF 1986 (SARA - WITHIN CERCLA)  
1986
- PERFORMANCE OF RCRA METHOD 8280 FOR THE ANALYSIS OF DIBENZO-P-DIOXINS AND DIBENZOFURANS IN HAZARDOUS WASTE SAMPLES  
ENVIRONMENTAL PROTECTION AGENCY  
APRIL 1986
- DRAFT RCRA METHOD 8280 WITH REVISIONS BASED ON MULTI-LABORATORY TESTING: METHOD OF ANALYSIS FOR POLYCHLORINATED DIBENZO-P-DIOXINS AND POLYCHLORINATED DIBENZOFURANS  
JUNE 12, 1986
- GUIDANCE ON PREPARING SUPERFUND DECISION DOCUMENTS: THE PROPOSED PLAN, THE RECORD OF DECISION, EXPLANATION OF SIGNIFICANT DIFFERENCES, THE RECORD OF DECISION AMENDMENT, INTERIM FINAL  
OFFICE OF EMERGENCY AND REMEDIAL RESPONSE/EPA  
JULY 1988
- GUIDANCE FOR CONDUCTING REMEDIAL INVESTIGATIONS AND FEASIBILITY STUDIES UNDER CERCLA, INTERIM FINAL  
OFFICE OF EMERGENCY AND REMEDIAL RESPONSE/EPA  
OCTOBER 1988
- MINNESOTA SUPERFUND FACT SHEETS 1-9  
MINNESOTA POLLUTION CONTROL AGENCY  
MAY 1 AND NOVEMBER 1, 1989
- DETERMINING SOIL RESPONSE ACTION LEVELS BASED ON POTENTIAL CONTAMINANT MIGRATION TO GROUND WATER: A COMPENDIUM OF EXAMPLES  
OFFICE OF EMERGENCY AND REMEDIAL RESPONSE/EPA  
OCTOBER 1989
- NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN, FINAL RULE (NATIONAL CONTINGENCY PLAN)  
ENVIRONMENTAL PROTECTION AGENCY  
MARCH 8, 1990

- CONDUCTING REMEDIAL INVESTIGATION/FEASIBILITY STUDIES FOR CERCLA  
MUNICIPAL LANDFILL SITES  
OFFICE OF EMERGENCY AND REMEDIAL RESPONSE/EPA  
FEBRUARY 1991

- SUPERFUND PERMANENT LIST OF PRIORITIES  
MINNESOTA POLLUTION CONTROL AGENCY  
PUBLISHED ANNUALLY

UPDATED AUGUST 3, 1995