

CONSENT AGREEMENT

This Consent Agreement (the "Consent Agreement") is made and entered into this 23rd day of February, 1996, by and among (i) the State of Nevada, Department of Conservation and Natural Resources, Division of Environmental Protection (the "Division"), and (ii) Kerr-McGee Chemical Corporation, Montrose Chemical Corporation of California, Inc., Pioneer Chlor Alkali Company, Inc., Stauffer Management Company, Titanium Metals Corporation and Basic Management, Inc. (individually, a "Company" and collectively, the "Companies"). The Companies and the Division are referred to collectively herein as the "Parties."

WHEREAS, the Division is designated as the state water pollution control agency for Nevada and is empowered to administer and enforce the Nevada Water Pollution Control Law, Nevada Revised Statutes ("NRS") §§ 445.131 to 445.354, inclusive; and

WHEREAS, the Division is designated as the state agency for the regulation of hazardous waste and is empowered to administer and enforce the Nevada Hazardous Waste Disposal Law, NRS §§ 459.400 to 459.600, inclusive; and

WHEREAS, the Division has communicated to the Companies its intention to require the investigation, characterization and, if necessary, remediation of Releases at or associated with the Site

1 which may pose a threat to human health, welfare, or the
2 Environment resulting from industrial operations and
3 Environmental Contaminant management activities at or associated
4 with the Basic Management, Inc. Industrial Complex located in
5 Clark County, Nevada; and

6 WHEREAS, the Companies desire to cooperate fully with the
7 Division to investigate, characterize and, if necessary,
8 remediate in a prompt and satisfactory manner Releases at or
9 associated with the Site which may pose a threat to human health,
10 welfare, or the Environment; and

11 WHEREAS, on April 25, 1991, the Division and Chemstar, Inc.,
12 Kerr-McGee Chemical Corporation, Montrose Chemical Corporation of
13 California, Inc., Pioneer Chlor Alkali Company, Inc., Stauffer
14 Management Company and Titanium Metals Corporation entered into a
15 consent agreement ("Phase 1 Consent Agreement") regarding the
16 first phase of a contemplated phased approach to the assessment
17 and remediation, if necessary, of Environmental conditions at or
18 associated with the BMI Complex, consisting of the following
19 three phases: Phase 1 - the development of Phase 1 environmental
20 conditions assessment reports detailing information regarding the
21 BMI Complex; Phase 2 - if determined by the Division to be
22 necessary to protect human health, welfare, or the Environment,
23 the performance of environmental investigations to fill in any
24 data gaps identified by the Phase 1 reports; Phase 3 - if
25 determined by the Division to be necessary to protect human
26 health, welfare, or the Environment, identification and

1 implementation of appropriate remedial measures to address
2 environmental conditions identified in Phases 1 and 2; and

3 WHEREAS, pursuant to the Phase 1 Consent Agreement, the
4 Companies which signed the Phase I Consent Agreement submitted to
5 the Division on April 14, 1993: Phase I Environmental Conditions
6 Assessment for the Basic Management, Inc. Industrial Complex,
7 Clark County, Nevada ("Phase 1 Report"); and

8 WHEREAS, the Division has determined, based upon its review
9 of the Phase 1 Report, that additional work is necessary to
10 gather additional information and data concerning the Site.

11 Those areas or issues for which the Division requires the
12 Companies to evaluate and characterize the nature and extent of
13 Releases within or associated with the Site were finalized in a
14 Letter of Understanding dated August 15, 1994. Through this
15 Consent Agreement the Companies, if required by the Division,
16 shall commence the process of developing and evaluating
17 appropriate remedial alternatives; and

18 WHEREAS, the Division and the Companies have agreed to enter
19 into this Consent Agreement regarding such additional work.

20 NOW, THEREFORE, in consideration of and in exchange for the
21 mutual undertakings and covenants herein, and intending to be
22 legally bound hereby, the Division and the Companies agree as
23 follows:

I. DEFINITIONS

The following terms shall have the meanings specified for purposes of this Consent Agreement:

1. Administrator means the Administrator of the Nevada Division of Environmental Protection.
2. BMI means Basic Management, Inc.
3. BMI Company or BMI Companies means BMI, Kerr-McGee Chemical Corporation, Pioneer Chlor Alkali Company, Inc.^{1/}, and Titanium Metals Corporation, individually or collectively, respectively, or their respective successors or assigns with respect to ownership or operation of any portion of the Site or the BMI Complex.
4. BMI Complex means the Basic Management, Inc. Industrial Complex located in Clark County, Nevada, and includes all land, structures, other appurtenances, and improvements on the land owned or operated as of April 15, 1993 by the BMI Companies or any of them, or Montrose Chemical Corporation of California, Inc., except those properties identified in letters from BMI to the Division dated November 1, 1991 (acknowledged January 23, 1992), and April 9, 1992 (acknowledged June

^{1/} In 1988, Pioneer Chlor-Alkali Company, Inc. became the owner and operator of certain real property and improvements located at the BMI Complex which, during an earlier time period, had been owned and operated by Stauffer Chemical Company. Stauffer Management Company neither owns nor operates any real property or improvements located at the BMI Complex.

1 19, 1992), respectively, attached hereto as Attachment
2 C.

3 5. Consent Agreement means this Consent Agreement and
4 includes all attachments, Division-approved workplans
5 (including schedules and attachments), Division-
6 approved Deliverables, amendments, modifications and
7 items incorporated by reference as provided in Section
8 XXVIII.

9 6. Contractor means any entity or person, including any
10 contractor, subcontractor, consultant, firm or
11 laboratory, retained by the Companies or the Division
12 to conduct or monitor any portion of the work performed
13 pursuant to this Consent Agreement.

14 7. Deliverable means, without limitation, any workplan,
15 report, progress report, plan, data, document,
16 information, submittal, obligation or work which the
17 Companies are required to submit to the Division under
18 the terms of this Consent Agreement.

19 8. Division means the State of Nevada, Department of
20 Conservation and Natural Resources, Division of
21 Environmental Protection, or its successor department
22 or agency of the State of Nevada.

23 9. Effective Date means the date on which this Consent
24 Agreement becomes effective, as specified in Section
25 XXIX. The effective period of this Consent Agreement
26 means the period of time between the Effective Date and

1 the date upon which this Consent Agreement terminates
2 as specified in Section XXX.

3 10. Environment means air, land (including subsurface
4 strata), and water (including groundwater) or any
5 combination or part thereof.

6 11. Environmental Contaminant means any element, compound,
7 mixture, solution or substance, the Release of which
8 may present a substantial endangerment to human health,
9 welfare, or the Environment regulated by the Division
10 under any applicable Environmental Law including,
11 without limitation, any "solid waste," "hazardous
12 waste," "hazardous constituent," "hazardous substance,"
13 "regulated substance," "pollutant," "contaminant,"
14 "radioactive material," "air contaminant," "imminently
hazardous chemical substance or mixture," "hazardous
16 material," or other substance so defined by any
17 applicable Environmental Law.

18 12. Environmental Law means each federal and state law and
19 regulation relating in any way to Environmental
20 pollution or the protection of the Environment or the
21 Release of any Environmental Contaminant into the
22 Environment including, without limitation, the Nevada
23 Water Pollution Control Law, NRS §§ 445.131 to 445.354,
24 the Nevada Solid Waste Disposal Law, NRS §§ 444.440 to
25 444.650, the Nevada Hazardous Waste Disposal Law, NRS
26 §§ 459.400 to 459.600, the Nevada Air Pollution Control

1 Law, NRS §§ 445.401 to 445.710, the Nevada Underground
2 Storage Tank Law, NRS §§ 459.800 to 459.856, the Nevada
3 Radiation Control Law, NRS §§ 459.010 to 459.290, the
4 Clean Air Act, 42 U.S.C. §§ 7401-7671q, the Federal
5 Water Pollution Control Act, 33 U.S.C. §§ 1251-1387,
6 the Solid Waste Disposal Act, as amended by the
7 Resource Conservation and Recovery Act, 42 U.S.C. §§
8 6901-6992k, the Comprehensive Environmental Response,
9 Compensation, and Liability Act, 42 U.S.C. §§ 9601-
10 9675, and the Toxic Substances Control Act, 15 U.S.C.
11 §§ 2601-2692, each as may be amended from time to time,
12 and including the implementing regulations promulgated
13 respectively thereunder.

14 13. EPA means the United States Environmental Protection
15 Agency or its successor department or agency.

16 14. NAC means the Nevada Administrative Code or its
17 successor codification of rules and regulations.

18 15. NRS means the Nevada Revised Statutes or its successor
19 codification.

20 16. Receptor means any appropriate and representative
21 population, community or habitat of any biological
22 organism (including humans, animals and plants) which
23 is or may be affected by Releases of Environmental
24 Contaminants at or associated with the Site.

25 17. Release means any past or present spilling, leaking,
26 pumping, pouring, emitting, emptying, discharging,

1 injecting, escaping, leaching, migrating, dumping, or
2 disposing of any Environmental Contaminant into the
3 Environment (including the abandonment or discarding of
4 barrels, containers, and other closed receptacles
5 containing any Environmental Contaminant).

6 18. Site means all land, structures, other appurtenances,
7 and improvements on the land located at the BMI Complex
8 (except those properties identified in Attachment C),
9 as more particularly described in Attachment D, and
10 commonly known as the "BMI Common Areas."

11 19. State means the State of Nevada, including, as
12 appropriate, its agencies, departments, political
13 subdivisions, agents and employees.

14 20. Study Item means the location of each Release, waste
15 management unit or facility, Environmental Contaminant
16 source, or issue of concern at or associated with the
17 Site which is either identified in Attachment A as a
18 Study Item or an area of additional work under Section
19 IV(D) (Additional, Alternative or Accelerated Work).

20 II. STATEMENT OF PURPOSE

21 In entering into this Consent Agreement, the mutual
22 objectives of the Division and the Companies are: (1) to perform
23 an Environmental Conditions Investigation as described in Section
24 IV(A) and the approved Environmental Conditions Investigation
25 Workplan contained in Attachment B; (2) to address the post-

1 closure permitting requirements of the federal Solid Waste
2 Disposal Act, as amended by the Resource Conservation and
3 Recovery Act (42 U.S.C. §§ 6901-6992k) and Nevada Hazardous Waste
4 Disposal Law (NRS §§ 459.400 to 459.600), and the regulations
5 promulgated respectively thereunder, as required for a RCRA
6 regulated site; and (3) to perform such Remedial Alternative
7 Study(ies), Interim Remedial Measures or Additional Work as
8 provided in Section IV. The Parties intend that the work to be
9 performed in accordance with Section IV (including all approved
10 workplans), and accepted by the Division, will be consistent with
11 the National Contingency Plan, 40 C.F.R. § 300.1 et seq.

12 III. PARTIES BOUND

13 1. The provisions of this Consent Agreement shall apply to
14 and be binding upon the Division, including the Department of
15 Conservation and Natural Resources (the "Department"), and upon
16 the Companies, their successors and assigns.

17 2. Any change in ownership or corporate or partnership
18 status of the Companies and any conveyance of title, easement, or
19 other real property interest in the Site, or a portion of the
20 Site, shall in no way alter the Companies' responsibilities under
21 this Consent Agreement. In the event that any BMI Company
22 proposes to sell or transfer all or a portion of the Site, or any
23 real property subject to this Consent Agreement, such Company
24 shall, prior to such sale or transfer, provide written notice to
25 such purchaser or transferee of the existence and terms of this

1 Consent Agreement and any Environmental Conditions Investigation,
2 and shall provide written notice to the Division concerning the
3 sale or transfer not later than fifteen (15) days after such sale
4 or transfer. Such Company shall also obtain, and provide to the
5 Division a copy of, a written undertaking from any purchaser in
6 connection with such sale or transfer that said purchaser will
7 comply with the foregoing notice requirements in connection with
8 any subsequent transfer of such real property.

9 3. The Companies shall provide a copy of this Consent
10 Agreement to all Contractors retained by them to conduct or
11 monitor any portion of the work performed under this Consent
12 Agreement not more than fourteen (14) days after either the
13 Effective Date of this Consent Agreement or the date on which
14 such Contractor is retained, whichever is later. The Companies
15 shall use best efforts to cause such persons or entities to
16 comply with the terms of this Consent Agreement.

17 4. The Companies agree to undertake all actions required
18 by the terms and conditions of this Consent Agreement, including
19 any portions of this Consent Agreement that are incorporated by
20 reference and made enforceable hereunder as specified in Section
21 XXVIII.

22 5. The undersigned representative of each Party to this
23 Consent Agreement certifies that he or she is fully authorized by
24 the Party whom he or she represents to enter into the terms and
25 conditions of this Consent Agreement and to execute and legally
26 bind that Party to it.

1 6. Within thirty (30) days after the Effective Date, the
2 Companies shall cause to be recorded at the Clark County
3 Recorder's Office notices of obligation, as necessary, to provide
4 access under Section X and related covenants.

5 IV. WORK TO BE PERFORMED

6 The Companies agree to perform the work specified in this
7 Consent Agreement in the manner and by the dates specified herein
8 (including the attached Letter of Understanding and Environmental
9 Conditions Investigation workplan). All work undertaken pursuant
10 to this Consent Agreement by the Companies and/or their
11 Contractor(s) shall be performed pursuant to the Division-
12 approved workplans required hereunder, and in a manner consistent
13 with all applicable federal and Nevada statutes and their
14 implementing regulations, including all applicable Environmental
15 Laws. The Parties shall also consider applicable or relevant EPA
16 or Division guidance documents identified by the Division,
17 including the February 1996 guidance for a Remedial Alternatives
18 Study, and provided to the Companies by the Division.

19 A. ENVIRONMENTAL CONDITIONS INVESTIGATION.

20 1. The Companies shall conduct the study described in the
21 approved Environmental Conditions Investigation workplan,
22 attached hereto, in accordance with the criteria and requirements
23 set forth therein and in this Consent Agreement.

24 2. The Environmental Conditions Investigation shall result
25 in data of adequate technical quality to support the development

1 and evaluation of remedial alternatives during a subsequent study
2 (including, without limitation, any Remedial Alternatives Study).

3 3. The Companies may submit a single Health and Safety
4 Plan that addresses all investigations and activities required
5 pursuant to this Consent Agreement. Notwithstanding any other
6 provision of this Consent Agreement, no Division approval,
7 disapproval, decision or determination (or the absence thereof)
8 rendered pursuant to this Consent Agreement on the matters
9 addressed herein shall constitute, or be deemed by any entity or
10 person to constitute, an express or implied approval,
11 endorsement, opinion or determination of or by the Division with
12 respect to any health or safety practice, standard or procedure
13 proposed, implemented or complied with by any person or entity
14 whatsoever in conjunction with any activities conducted pursuant
or in any way relating to this Consent Agreement.

16 **B. REMEDIAL ALTERNATIVES STUDY.**

17 1. Following Division approval of any portion of, or the
18 entirety of, the Environmental Conditions Investigation Report
19 pertaining to one or more Study Items, the Companies shall,
20 within 60 days following receipt of a written notice from the
21 Division specifying the reasons it believes a Remedial
22 Alternatives Study is necessary, submit to the Division for its
23 review and approval a Remedial Alternatives Study workplan
24 addressing each Study Item identified in the Division's notice.
25 Each Remedial Alternatives Study workplan so submitted is subject

1 to approval by the Division in accordance with Section VI
2 (Deliverables Requiring Division Approval).

3 2. A specific schedule for the implementation of all
4 Remedial Alternatives Study activities shall be included in each
5 Remedial Alternatives Study workplan. Such schedule shall
6 provide for the appropriate phasing of Remedial Alternatives
7 Study activities and Deliverable submissions so as to achieve the
8 efficient and timely completion of the Remedial Alternatives
9 Study in a manner consistent with appropriate Division oversight
10 and with appropriate consideration of the complexity and scope
11 of, and interrelationships among, specific Study Items.

12 3. Any determination made by the Division pursuant to this
13 Section IV.B and any work undertaken pursuant to an approved
14 Remedial Alternatives Study workplan shall be subject to the
15 other provisions of this Consent Agreement, including without
16 limitation, the provisions of Section XV (Dispute Resolution).
17 However, judgments, conclusions or recommendations included in
18 any Deliverable submitted by the Companies pursuant to a
19 Division-approved Remedial Alternatives Study workplan shall not
20 be subject to Division approval pursuant to Section VI herein.

21 **C. INTERIM REMEDIAL MEASURES.**

22 1. If, at any time during the effective period of this
23 Consent Agreement, the Division determines, based upon
24 consideration of any of the factors specified in paragraph 2
25 below, that any Release or threatened Release at or associated
26 with the Site may pose an imminent and substantial hazard to

1 human health, welfare, or the Environment, the Division may
2 notify the Companies in writing of the measure(s) the Division
3 has determined need to be developed and implemented by the
4 Companies to mitigate the imminent and substantial hazard
5 ("Interim Measure(s)"). If deemed appropriate by the Division,
6 the identification of such Interim Measure(s) may be deferred
7 pending the collection by the Companies of additional data or
8 information requested by the Division. Upon receiving such
9 written notice, the Division and the Companies shall negotiate in
10 good faith whether and to what extent such Interim Measures are
11 required.

12 2. The following factors may be considered by the
13 Division, *inter alia*, in determining whether any Interim
14 Measure(s) should be required:

- 15 a. the time required to develop and implement a final
16 remedial measure;
- 17 b. actual or potential exposure of nearby Receptors to
18 Environmental Contaminants;
- 19 c. actual or potential contamination of drinking water
20 supplies or sensitive ecosystems;
- 21 d. further degradation of the Environmental medium which
22 may occur if an Interim Measure is not implemented
23 expeditiously;
- 24 e. the presence of Environmental Contaminants in drums,
25 barrels, tanks, or other bulk storage or disposal
26 containers or facilities that may pose a threat of
27 Release;
- 28 f. weather conditions that may cause Environmental
29 Contaminants to be Released;
- 30 g. risks of fire or explosion, or potential for exposure
31 to Environmental Contaminants as a result of an

1 accident or failure of a container, facility, or
2 handling system; or

3 h. any other factor that may indicate the existence of a
4 threat to human health, welfare, or the Environment.

5 3. If, at any time during the effective period of this
6 Consent Agreement, the Companies determine that information or
7 data has been identified or developed indicating that any Release
8 or threatened Release at or associated with the Site poses a
9 potential threat to human health, welfare, or the Environment of
10 a degree as reasonably requires the prompt development and
11 implementation of an Interim Measure(s), the Companies shall so
12 notify the Division (1) orally within twenty-four (24) hours, and
13 (2) in writing within three (3) days following the making of such
14 determination, summarizing the immediacy and magnitude of the
15 potential threat.

16 4. Within sixty (60) days following any agreement by the
17 Division and the Companies regarding the proposed Interim
18 Measures that are the subject of a Division notification pursuant
19 to paragraph 1, the Companies shall submit to the Division a
20 workplan for the development and implementation of Interim
21 Measure(s) ("Interim Measure(s) Workplan") as identified in such
22 notification. Each Interim Measure(s) Workplan is subject to
23 approval by the Division. Each Interim Measure(s) Workplan shall
24 address, as appropriate and without limitation:

25 a. objectives of the Interim Measure(s);

26 b. technical approach;

- c. engineering design and planning (including Division approval of all design plans and specifications);
- d. schedule for development and implementation of the Interim Measure(s);
- e. qualifications of personnel performing the development or implementation of the Interim Measure(s), including Contractor personnel;
- f. health and safety planning;
- g. data collection quality assurance, strategy, management, and analysis;
- h. construction quality assurance, including inspection activities, sampling requirements, documentation and certification of construction consistent with Division-approved designs;
- i. operation and maintenance of the Interim Measure(s);
- j. document/data submittals for Division approval; and
- k. regular progress reporting during the development and implementation of the Interim Measure(s).

5. Interim Measure(s) shall, to the extent practicable, be consistent with the objectives of, and contribute to the performance of, any long term solution at the Site.

6. In the event that the Companies and the Division reach agreement with respect to an Interim Measure(s) Workplan, any work undertaken by the Companies pursuant thereto shall be governed by the other provisions of this Consent Agreement, including without limitation, the provisions of Section XV (Dispute Resolution). In the event that the Companies and the Division are unable to reach agreement with respect to the need for or contents of an Interim Measure(s) Study Workplan, the

1 Division and the Companies shall be entitled to exercise their
2 rights pursuant to Section XIX (Reservation of Rights).

3 D. ADDITIONAL, ALTERNATIVE OR ACCELERATED WORK.

4 1. The Companies may propose that certain response
5 actions, including, without limitation, investigatory or
6 characterization work, engineering evaluation, or
7 procedure/methodology modifications, are necessary in addition
8 to, in lieu of, or on an accelerated schedule relative to the
9 tasks, schedules and Deliverables required pursuant to this
10 Consent Agreement in order to address appropriately the
11 investigation, characterization, evaluation, abatement,
12 minimization, stabilization, mitigation, or elimination of
13 Environmental Contaminants at or associated with the Site or any
14 particular Study Item. If the Division agrees with the
15 Companies' additional, alternative or accelerated work proposal,
16 the Division will notify the Companies in writing. Thereafter,
17 the Companies shall perform the additional work according to a
18 workplan prepared by the Companies and approved by the Division
19 (or a modification to an existing Division-approved workplan).
20 All additional work performed by any Company under this paragraph
21 shall be performed in a manner consistent with this Consent
22 Agreement. Nothing in this Section shall affect the Parties'
23 reserved rights under Section XIX of this Consent Agreement.

24 2. If the Division determines that additional work,
25 including, without limitation, investigatory or characterization
26 work, engineering evaluation, or procedure/methodology

1 modifications, is necessary in order to address appropriately the
2 investigation, characterization, evaluation, abatement,
3 minimization, stabilization, mitigation, or elimination of
4 Environmental Contaminants at or associated with the Site or any
5 particular Study Item the Division shall notify the Companies in
6 writing of such work required to be performed by the Companies,
7 and shall provide an accompanying statement of the reasons and
8 determinations therefor. The Companies shall negotiate in good
9 faith with the Division regarding whether and to what extent such
10 additional work shall be undertaken.

11 3. In the event that the Companies and the Division reach
12 agreement with respect to any additional, alternative or
13 accelerated workplan, the work undertaken by the Companies
14 pursuant thereto shall be governed by the other relevant
15 provisions of this Consent Agreement, including without
16 limitation, the provisions of Section XV (Dispute Resolution).
17 In the event that the Companies and the Division are unable to
18 reach agreement with respect to the need for or contents of any
19 additional, alternative or accelerated workplan, the Division and
20 the Companies shall be entitled to exercise their rights pursuant
21 to Section XIX (Reservation of Rights).

22 **E. NO FURTHER ACTION.**

23 1. If at any time the Companies believe that sampling
24 results, the performance of other work or other circumstances
25 demonstrate that, with respect to any portion of the Site, no
26 further response actions are required or necessary to protect

1 public health and the environment, the Companies may propose that
2 such portion of the Site no longer be subject to the requirements
3 of this Consent Agreement. If the Division agrees, the Division
4 shall issue a written notice that the affected area is no longer
5 subject to the requirements of this Consent Agreement and may be
6 improved, sold, or otherwise conveyed without further adherence
/ to the requirements of this Consent Agreement. The Division's
8 disapproval of or failure to act upon (within a reasonable time)
9 a proposal made under this Section shall be subject to dispute
10 resolution under Section XV.

11 2. In making any determination hereunder, the Division may
12 consider within its statutory discretion any and all relevant
13 factors including, without limitation:

14 a. existing and potential or planned land uses for such
15 portion of the Site and environmental and human
16 exposure threats associated therewith;

17 b. whether the issuance of such written notice would
18 preclude or significantly and adversely affect the
19 investigation or remediation of Environmental
20 Contaminants at or associated with the BMI Complex,
21 including the Site;

22 c. the sampling data or other information and
23 circumstances relied upon by the Companies; and

24 d. applicable or relevant and appropriate environmental
25 cleanup standards (including, without limitation, any

1 Division policies regarding contaminated soil and
2 groundwater remediation).

3 The issuance by the Division of a written exclusion notice
4 hereunder shall not constitute or be construed as either: (1) a
5 release, covenant not to sue, or any other limitation whatsoever
6 on the authority of the Division to respond to existing or
7 subsequently-identified environmental conditions at or associated
8 with the Site; or (2) a determination, decision or opinion
9 regarding the suitability of any particular land use for the
10 Site.

11 V. PUBLIC PARTICIPATION

12 1. Subject to the provisions of Section XI (Confidential
13 Business Information), all Deliverables received by the Division
14 may be made available to the public in accordance with applicable
15 law. The Division may, at its discretion, conduct a public
16 notice or comment procedure with respect to any Environmental
17 Conditions Investigation Report or Remedial Alternatives Study
18 delivered pursuant to this Consent Agreement. The Division shall
19 notify the Companies in writing of its determination to provide
20 for, or legal requirement governing, public notice or comment
21 with respect to such document as well as the corresponding
22 adjustment that shall be made to any affected work or Deliverable
23 submittal or approval schedule. Following any such notice and
24 comment period, the Division may require the Companies to revise

1 the Deliverable and/or perform reasonable additional work
2 necessary to address appropriately any issue regarding such
3 document identified by the public during such comment period.

4 2. The Companies shall submit a Public Involvement Plan
5 for the dissemination of information to the interested public
6 regarding the activities to be conducted pursuant to this Consent
7 Agreement. The Companies may submit one Public Involvement Plan
8 in connection with the BMI Common Areas workplan that addresses
9 the entire Complex, in lieu of individual plans. Any such plan
10 shall, at a minimum, address the following:

- 11 a. provide for the periodic development and distribution
12 of fact sheets summarizing current and/or proposed
13 activities;
- 14 b. provide for the development of a mailing list for
15 distribution of the fact sheets;
- 16 c. provide for the establishment of an information and
17 document repository at or near the Site with public
18 access during business hours for inspection and copying
19 of such information and documents; and
- 20 d. identify a community liaison for the Companies with
21 respect to activities to be conducted pursuant to the
22 workplan.

23 VI. DELIVERABLES REQUIRING DIVISION APPROVAL

24 1. After review of any Deliverable which is required to be
25 submitted for approval pursuant to this Consent Agreement, the
26 Division shall: (1) approve, in whole or in part the
27 Deliverable; (2) approve the Deliverable upon specified
28 conditions; (3) modify the Deliverable to cure deficiencies and
29 approve the Deliverable as so modified; (4) disapprove, in whole

1 or in part, the Deliverable, directing that the Companies modify
2 the Deliverable; or (5) any combination of the above. The
3 Division will provide a written statement of reasons for any
4 approval with conditions, approval with modifications, or
5 disapproval. Notwithstanding any other provision of this Consent
6 Agreement and with respect solely to the first submission to the
7 Division by the Companies of a particular Deliverable, if the
8 Division either approves the Deliverable upon conditions or
9 modifies the Deliverable to cure deficiencies and approves the
10 Deliverable as so modified, then the Companies shall be deemed to
11 have submitted such Deliverable timely and adequately and no
12 stipulated penalties shall accrue.

13 2. In the event of approval, approval upon conditions, or
14 modification and approval by the Division pursuant to the
preceding paragraph, the Companies shall proceed to take any
16 action required by the Deliverable, as approved or modified and
17 approved by the Division, subject only to its right to invoke the
18 Dispute Resolution procedures set forth in Section XV (Dispute
19 Resolution) with respect to the modifications or conditions made
20 by the Division.

21 3. a. Upon receipt of a notice of disapproval pursuant
22 to paragraph 1 of this Section, the Companies shall, within
23 thirty (30) days, or such later time as may be specified in such
24 notice, correct the deficiencies in all material respects and
25 resubmit the Deliverable for approval. Any stipulated penalties
26 applicable to the Deliverable, as provided in Section XIV, shall

1 accrue during such thirty (30) day or otherwise specified period,
2 but shall not be payable unless the resubmitted Deliverable is
3 disapproved or modified and approved due to a material defect.

4 b. Notwithstanding the receipt of a notice of
5 disapproval pursuant to paragraph 1 of this Section, the
6 Companies shall proceed, at the written direction of the
7 Division, to take any action required by any nondeficient portion
8 of the Deliverable. Implementation of any nondeficient portion
9 of a Deliverable shall not negate the Division's right to seek
10 penalties for the deficient portion under Section XIV (Stipulated
11 Penalties).

12 4. In the event that a resubmitted Deliverable, or portion
13 thereof, is disapproved by the Division, the Division may again
14 require the Companies to correct the deficiencies in all material
15 respects, in accordance with the preceding paragraphs. The
16 Division also retains the right to amend or develop the
17 Deliverable. In the event that the Division modifies and
18 approves a resubmitted Deliverable to cure deficiencies pursuant
19 to the preceding paragraph such modification and approval shall
20 not negate the Division's right to seek penalties for the
21 deficiencies of the Deliverable as originally submitted as
22 provided in Section XIV (Stipulated Penalties). The Companies
23 shall implement any such Deliverable as amended or developed by
24 the Division, subject only to its right to invoke the procedures
25 set forth in Section XV (Dispute Resolution).

1 5. If upon resubmission, a Deliverable is disapproved or
2 modified and approved by the Division due to a material defect,
3 the Companies shall be deemed to have failed to submit such
4 Deliverable timely and adequately unless the Companies invoke the
5 dispute resolution procedures set forth in Section XV (Dispute
6 Resolution) and the Division's disapproval or modification is
7 overturned pursuant to that Section. The provisions of Section
8 XV (Dispute Resolution) and Section XIV (Stipulated Penalties)
9 shall govern the implementation of the required work and the
10 accrual and payment of any stipulated penalties during dispute
11 resolution. If the Division's disapproval or modification is
12 upheld, stipulated penalties shall accrue for such violation from
13 the date on which such Deliverable was required.

14 6. Notwithstanding any provision of this Consent Agreement
15 to the contrary, the Division may not assess any stipulated
16 penalty hereunder for any period of time associated with Division
17 review of any Deliverable (including resubmitted Deliverables) in
18 excess of thirty (30) days from the date such Deliverable was
19 submitted to the Division. Nothing in this paragraph shall
20 affect the Division's ability to assess stipulated penalties
21 hereunder for and to the extent any Deliverable (including
22 resubmitted Deliverables) is not timely submitted.

23 7. All Deliverables or portions thereof and other items
24 required to be submitted to the Division under this Consent
25 Agreement shall, upon approval or modification and approval by
26 the Division, be deemed incorporated into, and enforceable under,

1 this Consent Agreement as specified in Section XXVIII. In the
2 event that the Division approves or modifies and approves a
3 portion of a Deliverable required to be submitted to the Division
4 under this Consent Agreement, the approved or modified and
5 approved portion shall be enforceable under this Consent
6 Agreement as specified in Section XXVIII. Oral advice,
7 suggestions, or comments given by Division representatives will
8 not constitute an official approval, nor shall any oral approval
9 or oral assurance of approval be considered binding.

10 VII. DIVISION APPROVAL OF CONTRACTORS
11 AND CONSULTANTS

12 1. Except for work performed by employees of the
13 Companies, all work performed pursuant to the Consent Agreement
14 shall be under the direction and supervision of a professional
15 engineer, hydrologist, geologist or environmental scientist with
16 expertise in the investigation and remediation of Environmental
17 Contaminants who shall either be or work under the responsible
18 control of an environmental manager certified under Nevada law.
19 Work performed by employees of the Companies must be reviewed by
20 a third party consultant acceptable to the Division. Each of the
21 Companies' Contractors shall have the technical expertise
22 sufficient to adequately perform all aspects of the work for
23 which it is responsible. Within thirty (30) days following the
24 Effective Date of this Consent Agreement, and before the required
25 work begins, the Companies shall notify the Division's Project

1 Coordinator in writing of the names, titles and qualifications of
2 the engineer, hydrologist, geologist or environmental scientist
3 and of any Contractors and their personnel proposed to be used in
4 carrying out the terms of this Consent Agreement. The Companies
5 shall identify whether any Contractor is on the List of Parties
6 Excluded from Federal Procurement or Non-Procurement Programs
7 compiled and maintained by the U.S. General Services
8 Administration or on any analogous list compiled and maintained
9 by the State.

10 2. The qualifications of Key Project Personnel, including
11 the principal project manager and, if different, any Certified
12 Environmental Manager (CEM) undertaking the work for the
13 Companies shall be subject to the Division's review and approval,
14 for verification that such persons meet minimum technical
15 background and experience requirements. The Division reserves
16 the right to disapprove the Companies' Key Project Personnel for
17 good cause shown at any time during the effective period of this
18 Consent Agreement. If the Division disapproves any Key Project
19 Personnel proposed by the Companies to perform work pursuant to
20 this Consent Agreement, then the Companies shall, within thirty
21 (30) days after receipt from the Division of written notice of
22 such disapproval, notify the Division in writing of the name,
23 title and qualifications of any replacement. The Division's
24 disapproval under this Section shall be subject to review in
25 accordance with Section XV of this Consent Agreement.

1 3. During the effective period of this Consent Agreement,
2 the Companies shall notify the Division in writing of any changes
3 or additions in the Key Project Personnel used to carry out the
4 work required by the Consent Agreement, providing their names,
5 titles and qualifications. The Division shall have the same
6 right to approve changes and additions to such persons as it has
7 hereunder regarding the initial notification.

8 4. For the purposes of this Section, the term "Key Project
9 Personnel" shall mean those individuals who have primary
10 responsibility for the direction of employees or subcontract
11 personnel for major project tasks, outputs or Deliverables
12 including, but not limited to, data collection, data
13 interpretation and report writing.

14 5. For the purposes of this Section, the term "Company" as
15 it applies to Stauffer Management Company, shall also include
16 ZENECA Inc. or its successor in interest.

17 VIII. QUALITY ASSURANCE

18 1. The Companies shall follow EPA and Division guidance
19 for sampling and analysis. Workplans shall contain quality
20 assurance/quality control (QA/QC) and chain of custody procedures
21 for all sampling, monitoring, and analytical activities. Any
22 deviations from the QA/QC and chain of custody procedures in
23 approved workplans must be approved by the Division; must be
24 documented, including reasons for the deviations; and must be
25 reported in the applicable Deliverable.

1 2. The name(s), addresses, and telephone numbers of the
2 analytical laboratories the Companies propose to use must be
3 submitted to the Division for review and approval prior to work
4 being performed.

5 3. The Companies shall use best efforts to ensure that
6 high quality data is obtained by their Contractor or contract
7 laboratories. The Companies shall require that laboratories used
8 by the Companies for analysis perform such analysis according to
9 the latest approved edition of "Test Methods for Evaluating Solid
10 Waste, Physical/Chemical Methods" (SW-846) or other methods
11 deemed satisfactory by the Division. The Companies shall submit
12 any deviations from the protocols proposed in any workplan to the
13 Division for its approval thirty (30) days prior to the
14 commencement of analyses, except in extraordinary circumstances.
15 The Division may reject any data that does not meet the
16 requirements of the approved workplan or EPA analytical methods
17 and may require resampling and additional analysis.

18 4. The Companies shall ensure that laboratories they or
19 their Contractor(s) use for analyses participate in a QA/QC
20 program equivalent to that required by EPA under the Contract
21 Laboratory Program (CLP), unless another program is deemed
22 acceptable to the Division. As part of such a program, and upon
23 request by the Division, such laboratories shall perform analyses
24 of samples provided by the Division to demonstrate laboratory
25 performance and the quality of analytical data. If the audit
26 reveals deficiencies in a laboratory's performance or QA/QC,

1 resampling and additional analysis may be required by the
2 Division.

3 IX. SAMPLING AND DATA AVAILABILITY

4 1. All final results of sampling, tests, modeling and
5 other data (but not including raw data that has not been subject
6 to QA/QC procedures) generated by the Companies, or on the
7 Companies' behalf, pursuant to this Consent Agreement shall be
8 submitted to the Division in any progress report required by this
9 Consent Agreement. The Companies shall make all raw data
10 available to the Division for review on request, and shall submit
11 such data to the Division on written request. The Division will
12 provide to the Companies validated data generated by the Division
13 unless it is exempt from disclosure by any federal or state law
 or regulation.

15 2. The Companies shall notify the Division in writing at
16 least five (5) working days prior to conducting sampling
17 described in any workplan required by this Consent Agreement. If
18 the Companies believe they must commence emergency field
19 activities without delay, the Companies may seek emergency
20 telephone authorization from the Division Project Coordinator or,
21 if the Division Project Coordinator is unavailable, his/her
22 Bureau Chief, the Administrator, or the Deputy Administrator, to
23 commence such activities immediately. At the Division's oral or
24 written request, the Companies shall provide or allow the
25 Division or its authorized representative to take split or

1 duplicate samples of all samples collected by or on behalf of the
2 Companies pursuant to this Consent Agreement.

3 X. SITE ACCESS

4 1. At all reasonable times, upon reasonable notice and in
5 conformance with any health and safety requirements at the Site,
6 the Division, its Contractors, employees, and/or any duly
7 designated Division representatives carrying out the authority of
8 the Division shall have the authority to enter and freely move
9 about all property at the Site where work, if any, is being
10 performed pursuant to this Consent Agreement for the purposes of,
11 *inter alia*: (1) discussing the work being performed under this
12 Consent Agreement with relevant Company or Contractor personnel;
13 (2) inspecting conditions, activities, the results of activities,
14 records, operating logs, and contracts related to the Site or the
15 Companies and their Contractors pursuant to this Consent
16 Agreement; (3) reviewing the progress of the Companies in
17 carrying out the terms of this Consent Agreement; (4) conducting
18 such tests, sampling, or monitoring as the Division or its
19 authorized representatives deem necessary; (5) with the written
20 consent of the Companies, which shall not be unreasonably
21 withheld, using a camera, sound recording device or other
22 documentary type equipment; (6) verifying the reports and data
23 submitted to the Division by the Companies; and (7) inspecting
24 and copying all nonprivileged records, files, photographs,
25 documents, sampling and monitoring data, and other writings or

1 materials related to work undertaken in carrying out the
2 requirements of this Consent Agreement. Nothing herein shall be
3 interpreted as limiting, waiving or otherwise affecting (1) the
4 Division's right of entry or inspection under state or federal
5 laws; (2) any attorney-client, work-product or other privilege
6 with respect to any matter affecting the Companies, or (3) the
7 Companies' right to seek confidential treatment of any matter
8 pursuant to applicable law.

9 2. To the extent that the Site or any other property to
10 which access is required for the performance of work required
11 under this Consent Agreement is owned or controlled by persons or
12 entities other than the Companies, the Companies shall use best
13 efforts to obtain access to such property for the Companies, as
14 well as for the Division and its authorized representatives,
15 within thirty (30) working days after the date that the need for
16 access becomes known to the Companies. For purposes of this
17 paragraph, "best efforts" shall include, at a minimum, a
18 certified letter from the Companies to the present owners of such
19 property requesting access agreements to permit the Companies and
20 the Division, including its authorized representatives, to access
21 such property, and the payment of reasonable compensation in
22 consideration of granting access. Any such access agreement
23 shall be incorporated by reference into this Consent Agreement
24 upon execution. The Companies shall provide to the Division's
25 Project Coordinator a copy of each such access agreement. In the
26 event that any necessary agreement for access is not obtained

1 within thirty (30) days following approval of any workplan for
2 which access is required, or following the date that the need for
3 access became known to the Companies, the Companies shall notify
4 the Division thereafter regarding both the efforts undertaken to
5 obtain access and its failure to obtain such access agreement.
6 The Division shall cooperate with the Companies in obtaining
7 access, but the Companies shall pay any just compensation
8 required for access as described hereinabove. In the event that
9 the Division obtains access, the Companies shall undertake
10 Division approved work on such property.

11 3. The Companies agree to indemnify, defend and hold
12 harmless the Division as provided in Section XVIII
13 (Indemnification), for any and all claims arising from the
14 Companies', or their officers', employees', agents' or
Contractors' activities on such property.

16 4. Nothing in this Section or any other provision of this
17 Consent Agreement shall be construed to limit or otherwise affect
18 the Companies' liability and obligations with respect to any
19 Release at or associated with the Site.

20 5. Notwithstanding any other paragraph in this Section,
21 upon receipt of a written request from the Division specifying
22 the need for access, each Company shall grant any other Company
23 identified in such request which is performing Phase II work with
24 respect to the BMI Complex, including its Contractors and other
25 authorized representatives, the authority to enter and move about
26 the Site at all reasonable times for the purpose of conducting

1 such testing, sampling, monitoring or other work required to be
2 performed by such Company pursuant to such other agreement as has
3 been entered into between the Division and such Company. No
4 Company shall require payment of compensation in consideration of
5 granting such access. However, granting access may be
6 conditioned upon receiving from any Company seeking access
7 hereunder written assurances that: such access will be
8 reasonable in scope and will be at the sole risk and expense of
9 the Party seeking access; the Party seeking access will comply
10 with the granting Company's safety rules and regulations and will
11 have (and make reasonable efforts to ensure its Contractors have)
12 reasonable levels of liability insurance in place and will agree
13 to hold the granting Company harmless from loss, damage or injury
14 caused by its entry.

15 XI. CONFIDENTIAL BUSINESS INFORMATION

16 1. All information required by this Consent Agreement will
17 be deemed public information upon submittal to the Division
18 unless the Companies request in writing at the time of submittal
19 that specific information be treated as confidential business
20 information in accordance with NRS § 459.555 or 445.311 and the
21 Division grants the request. Pending such determination and any
22 appeals thereof, the Division shall treat such information as
23 confidential. Any assertion of confidentiality shall be
24 adequately substantiated in writing by the Companies when the
25 request is made.

1 2. The Companies agree not to assert any confidentiality
2 claims with respect to any data related to Site conditions,
3 sampling, or monitoring except in those instances where a Company
4 official certifies in writing at the time such data is submitted
5 to the Division that specific data related to Site conditions is
6 entitled to protection as a "trade secret" pursuant to the
7 standards set forth in NRS 459.3846(3)(a)-(d). The Division
8 shall treat such data as confidential if the Companies have
9 established to the satisfaction of the Division at the time of
10 the certification submittal that the data is entitled to
11 protection as a "trade secret" and pending such determination and
12 any timely appeals thereof.

13 XII. RECORD PRESERVATION

14 1. The Companies shall retain, during the effective period
15 of this Consent Agreement and for a minimum of ten (10) years
16 following termination of this Consent Agreement, all data,
17 records, documents, and Deliverables (but excluding drafts,
18 duplicates and privileged materials) which they now have in their
19 respective possession or control or which come into their
20 respective possession or control, which relate in any way to this
21 Consent Agreement and to the management and/or disposal of
22 Environmental Contaminants at the Site as they relate to this
23 Consent Agreement. Information within the possession or control
24 of the Companies shall include all data, documents and records in
25 the possession of their respective divisions, officers,

1 directors, employees, agents, successors and assigns. After the
2 expiration of such ten-year period, the Companies shall notify
3 the Division, or its successor, at least ninety (90) days prior
4 to the scheduled destruction of such data, records, documents or
5 Deliverables and shall provide the Division or its successor with
6 the opportunity to take possession of such materials. Such
7 written notification shall reference the effective date and
8 caption of this Consent Agreement and shall be addressed to:

9 Nevada Division of Environmental Protection

10 333 W. Nye Lane

11 Carson City, Nevada 89710

12 ATTENTION: Chief, Bureau of Corrective Actions

13 2. The Companies further agree that within thirty (30)
14 days after retaining or employing any Contractor for the purpose
15 of carrying out the terms of this Consent Agreement, the
16 Companies shall enter into an agreement with such Contractor
17 which requires such Contractor to provide the Companies with a
18 copy of all Deliverables prepared or produced pursuant to this
19 Consent Agreement.

20 3. All documents and data required to be maintained by
21 paragraph 1, other than those documents required for the
22 operations of any Companies, shall be stored by the Companies in
23 a centralized location in the State of Nevada and the Companies
24 shall provide access to such nonprivileged documents and data to
25 the Division and its authorized representatives.

1 XIII. REPORTING AND DOCUMENT CERTIFICATION

2 1. Beginning with the first full month following the
3 Effective Date, and throughout the effective period of this
4 Consent Agreement, the Companies shall provide the Division with
5 quarterly progress reports. Each progress report shall be filed
6 with the Division no later than fifteen (15) days after the
7 conclusion of the quarter for which the report provides
8 information. Progress reports shall conform to requirements in
9 the approved workplan.

10 2. An original and three (3) copies of all Deliverables
11 concerning the activities performed pursuant to the terms and
12 conditions of this Consent Agreement, shall be hand delivered;
13 sent by certified mail, return receipt requested; sent by
14 overnight parcel delivery service; or sent by verified facsimile
15 transmission to the Project Coordinator at the following address:

16 a. Deliverables or other materials to be submitted to
17 the Division should be sent to:

18 Nevada Division of Environmental Protection

19 333 W. Nye Lane

20 Carson City, Nevada 89710

21 ATTENTION: Chief, Bureau of Corrective Actions

1 3. Deliverables or other materials to be submitted to the
2 Companies should be sent to:

3 Susan Stewart
4 Chair, Technical Subcommittee
5 Titanium Metals Corp.
6 West Lake Mead & Atlantic (89015)
7 P.O. Box 2128
8 Henderson, Nevada 89009

9 Other addresses also may be designated or approved by the
10 Division Project Coordinator.

11 4. Any final report prepared pursuant to an approved
12 workplan (other than progress reports) submitted by the Companies
13 pursuant to this Consent Agreement shall be certified by a
14 * responsible corporate officer of each Company. A responsible
15 corporate officer means: a president, secretary, treasurer,
16 general manager, or vice-president of the corporation in charge
17 of a principal business function, or any other person who
18 performs similar policy or decision making functions for the
19 corporation.

20 5. The certification required by paragraph 4 above, shall
21 be executed before and notarized by a notary public and shall be
22 in the following form:

23 "I certify that this document and all attachments were
24 prepared under the direction or supervision of the Henderson
25 Industrial Site Steering Committee (HISSC) in accordance
26 with a system designed to evaluate the information
27 submitted. I certify that to the best of my knowledge and

1 belief, formed after due and appropriate inquiry and
2 investigation, the information contained in or accompanying
3 this submittal and provided by the Company that I represent
4 is true, accurate, and complete in all material respects. I
5 certify that this submittal and all attachments were
6 prepared in accordance with procedures designed to assure
7 that qualified personnel properly gathered and evaluated the
8 information submitted. Based on my inquiry of the person or
9 persons who manage the system, or those directly responsible
10 for gathering the information, or the immediate supervisor
11 of such person(s), the information submitted and provided by
12 the Company that I represent is, to the best of my knowledge
13 and belief, true, accurate, and complete in all material
14 respects. I am aware that there are significant penalties
15 for submitting false information, including the possibility
16 of fine and imprisonment for knowing violations."

17 Signature: _____
18 Name: _____
19 Title: _____
20 Company: _____
21 Date: _____

22 XIV. STIPULATED PENALTIES

1. Unless there has been a written modification by the
24 Division of a compliance date, a written modification by the
25 Division of an approved workplan condition, or excusable delay as
26 defined in Section XVI (Force Majeure) of this Consent Agreement,
27 if the Companies fail to comply with any term or condition set
28 forth in this Consent Agreement in the time or manner specified
29 herein, the Division may assess stipulated penalties against the
30 Companies as set forth hereinbelow. All penalty amounts set
31 forth herein are maximum amounts. Nothing in this Consent
32 Agreement shall be construed to limit in any manner (except as
33 set forth herein) the Division's prosecutorial discretion with
34 respect to whether to take enforcement action or to assess less

1 than the maximum penalty associated with any alleged violation of
2 the requirements of this Consent Agreement. Any stipulated
3 penalties assessed pursuant to this Consent Agreement shall be
4 the sole penalties assessable by the Division hereunder against
5 the Companies for noncompliance with this Consent Agreement.

a. For failure to submit any Deliverable requiring
7 Division approval on a timely basis as required by this
8 Consent Agreement or any approved workplan:

9	<u>Continuous Period of Noncompliance</u>	<u>Maximum Penalty Per Day</u>
10	1st - 7th day	\$500
11	8th - 21st day	\$2500
12	22nd day and thereafter	\$5000

b. For failure to comply with any other provision of
14 this Consent Agreement, including without limitation,
15 failure to (i) commence, perform, and/or complete field work
16 in a manner acceptable to the Division or at the time
17 required pursuant to this Consent Agreement or any approved
18 workplan; (ii) complete and submit to the Division any
19 required workplans, reports or other written submittals
20 (other than progress reports) requiring Division approval in
21 a manner acceptable to the Division as required by this
22 Consent Agreement or any approved workplan; or (iii) comply
23 with Section IV.C.3.

1 Continuous Period of Noncompliance Maximum Penalty Per Day

2 1st - 7th day	\$500
3 8th - 21st day	\$2500
4 22nd day and thereafter	\$5000

6 Solely with respect to violations described in this
7 subparagraph 1.b for which the Companies (or any of them)
8 have invoked rights to dispute resolution pursuant to
9 Section XV, the maximum penalty assessable for any
10 particular continuous period of noncompliance under this
11 subparagraph 1.b shall be \$253,500.

12 2. Except as otherwise provided herein, all stipulated
13 penalties shall begin to accrue on the day after complete
14 performance is due or the day a violation occurs, and shall
15 continue to accrue through the day that performance is completed
16 or the violation is corrected. A "continuous period of
17 noncompliance," for purposes of subparagraphs 1.a and 1.b, means
18 any continuous period during which one or more of the violations
19 described respectively therein remain uncorrected. The Division
20 may assess separate stipulated penalties for separate violations
21 of this Consent Agreement. The stipulated penalties set forth in
22 the preceding paragraph shall be in addition to any other non-
23 monetary remedies or sanctions which may be available to the
24 Division by reason of the Companies' failure to comply with the
25 requirements of this Consent Agreement.

1 3. Following any Division determination that the Companies
2 have failed to comply with the requirements of this Consent
3 Agreement, the Division may give the Companies written
4 notification of the same and describe the noncompliance. Said
5 notice shall also indicate the amount of penalties due.

6 4. All penalties owed to the Division under this Section
7 shall be payable to the State within thirty (30) days after the
8 Companies' receipt from the Division of the notification of
9 noncompliance, unless the Companies invoke the dispute resolution
10 procedures under Section XV (Dispute Resolution). Penalties
11 shall continue to accrue during any dispute resolution period,
12 except that the accrual of such penalties shall be suspended
13 during any period of time in excess of the 30-day period set
14 forth in Section XV.5 for the Division to render its decision on
15 any dispute. Penalties assessed under this Section need not be
16 paid until thirty (30) days following the resolution of the
17 dispute pursuant to Section XV if the Division prevails.
18 Interest shall begin to accrue on any unpaid balance at the end
19 of the thirty (30) day period following notification of
20 noncompliance. The Companies shall pay interest to the Division
21 as follows: interest shall accrue at the Current Value of Funds
22 Rate established by the Secretary of the United States Treasury.
23 An additional penalty of 6 per cent per annum on any unpaid
24 principal shall be paid to the Division for any stipulated
25 penalty payment which is overdue for ninety (90) or more days.

1 5. All penalties, including interest, shall be made
2 payable by certified or cashier's check to the State of Nevada
3 and shall be remitted to:

4 Nevada Division of Environmental Protection

5 333 W. Nye Lane

6 Carson City, Nevada 89710

7 ATTENTION: Chief, Bureau of Corrective Actions

8 All such checks shall reference the name of the Site and the
9 Company's name and address. Copies of all such checks and
10 letters forwarding the checks shall be sent simultaneously to the
11 Division Project Coordinator.

12 6. Neither the initiation of dispute resolution
13 proceedings nor the payment of stipulated penalties shall alter
14 in any way the Companies' obligation to comply with the terms and
15 conditions of this Consent Agreement and the attachments hereto.
16 Without modifying Paragraph 4 of Section XIV, the Parties do not
17 intend the preceding sentence to require the Companies, during
18 the pendency of any good faith dispute, to take actions that
19 would have the effect of mootng the subject of the dispute.

20 7. If the Companies fail to pay stipulated penalties, the
21 Division may institute proceedings to collect the penalties.

22 8. Except with respect to violations for which penalties
23 are assessable under subsection 1.a of this Section XIV, no
24 penalties shall accrue until the Companies receive a written
25 notice from the Division identifying the violation, the basis for

1 the violation, and a reasonable time within which the Companies
2 are required to correct the violation.

3 XV. DISPUTE RESOLUTION

4 1. The Parties shall use their best efforts informally and
in good faith to resolve all disputes or differences of opinion.
6 The Parties agree that the procedures contained in this Section
7 are the sole and exclusive procedures for resolving disputes
8 arising under this Consent Agreement. If the Companies fail to
9 follow any of the requirements contained in this Section, then
10 they shall have waived their right to further consideration of
11 the disputed issue.

12 2. If the Companies disagree, in whole or in part, with
13 any written determination by the Division pursuant to this
14 Consent Agreement, the Companies' Project Coordinator shall
15 notify the Division Project Coordinator in writing of the dispute
16 ("Notice of Dispute").

17 3. Any dispute which arises under or with respect to this
18 Consent Agreement shall in the first instance be the subject of
19 informal negotiations among the Parties. The period for informal
20 negotiations shall not exceed thirty (30) days following the date
21 the dispute arises, unless such period is extended by written
22 agreement of the Parties. The dispute shall be considered to
23 have arisen when the Division receives a written Notice of
24 Dispute.

1 4. In the event that the Parties cannot resolve a dispute
2 by informal negotiations under the preceding paragraph, then the
3 position advanced by the Division shall be considered binding
4 unless, within thirty (30) days after the conclusion of the
5 informal negotiation period, the Companies invoke the formal
6 dispute resolution procedures of this Section by serving on the
7 Division Administrator a written Statement of Position which
8 shall set forth the specific points of the dispute, the position
9 the Companies claim should be adopted as consistent with the
10 requirements of this Consent Agreement, the basis for the
11 Companies' position, any factual data, analysis or opinion
12 supporting that position, any supporting documentation relied
13 upon by the Companies, and any matters which they consider
14 necessary for the Administrator's determination. The Statement
15 of Position also may include a request for an opportunity to make
16 an oral presentation of factual data, supporting documentation
17 and expert testimony to the Administrator and to answer questions
18 that the Administrator may pose. It is within the sole
19 discretion of the Administrator to grant or deny a request for an
20 oral presentation.

21 5. Within thirty (30) days following receipt of a
22 Statement of Position, or by such later date within thirty (30)
23 days after any oral presentation by the Companies as the
24 Administrator may deem appropriate to adequately address such
25 oral presentation, the Administrator shall issue his/her decision
26 which shall be binding on the Companies and unappealable unless,

1 within twenty (20) days after receipt of the decision, the
2 Companies exercise their rights as stated in paragraph 6 of this
3 Section. The Administrator's written decision shall include a
4 response to the Companies' arguments and evidence. The written
5 decision of the Administrator shall be incorporated into and
6 become an enforceable element of this Consent Agreement, and
7 shall be considered the Division's final decision as provided in
8 paragraph 6 of this Section.

9 6. As to any final Division decision, the Companies may
10 pursue the dispute before the State Environmental Commission
11 ("SEC") as a "contested case" pursuant to NRS §§ 233B.010 et seq.
12 and NAC §§ 445.988 - 445.995, and shall be entitled to both
13 administrative and judicial review as provided therein.

14 7. Except as provided in Section XIV (Stipulated
15 Penalties), the existence of a dispute as defined in this Section
16 and the Administrator's consideration of matters placed into
17 dispute shall not excuse, toll, or suspend any compliance
18 obligation or deadline required of the Companies under this
19 Consent Agreement during the pendency of the dispute resolution
20 process. Without modifying Paragraph 4 of Section XIV, the
21 Parties do not intend the preceding sentence to require the
22 Companies, during the pendency of any good faith dispute, to take
23 actions that would have the effect of mooted the subject of the
24 dispute.

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1 2. If any event occurs or has occurred that may delay the
2 performance of the Companies' obligation under this Consent
3 Agreement, whether or not caused by a *force majeure* event, the
4 Companies' Project Coordinator or, in his or her absence, a
5 responsible corporate official, shall notify orally the
6 Division's Project Coordinator or, in his or her absence, the
7 Administrator or Deputy Administrator, as the case may be, within
8 two (2) business days of when the Companies first knew or should
9 have known that the event might cause a delay. If the Companies
10 wish to claim a *force majeure* event, then within ten (10) days
11 thereafter, the Companies shall provide to the Division a written
12 explanation and description of the obligation(s) delayed or
13 affected by the *force majeure* event; the reasons for the delay;
14 the anticipated duration of the delay; all actions taken or to be
15 taken to prevent or minimize the delay; a schedule for
16 implementation of any measures to be taken to prevent or mitigate
17 the delay or the effect of the delay; the Companies' rationale
18 for attributing such delay to a *force majeure* event; and a
19 statement as to whether, in the opinion of the Companies, such
20 event may cause or contribute to an imminent and substantial
21 hazard to human health, welfare, or the Environment. The
22 Companies shall include with any notice all available
23 documentation supporting its claim that the delay was
24 attributable to a *force majeure*. Failure to comply with the
25 above requirements shall preclude the Companies from asserting
26 any claim of *force majeure* for that event.

1 3. The Division shall notify the Companies in writing of
2 its *force majeure* determination within fifteen (15) days after
3 receipt of the notice from the Companies. If the Division
4 determines that the delay has been or will be caused by
5 circumstances constituting a *force majeure* event, the time for
6 performance of the obligations under this Consent Agreement that
7 are affected by the *force majeure* event will be extended by the
8 Division in writing for such time as the Division determines is
9 necessary to complete those obligations. An extension of the
10 time for performance of the obligations affected by the *force*
11 *majeure* event shall not, of itself, extend the time for
12 performance of any other obligation, unless the Companies can
13 demonstrate to the Division's satisfaction that more than one
14 obligation was affected by the *force majeure* event.

15 4. In the event that the Division and the Companies cannot
16 agree that any delay or failure has been or will be caused by
17 circumstances constituting a *force majeure*, or if there is no
18 agreement on the length of the extension, the dispute shall be
19 resolved in accordance with the dispute resolution provisions set
20 forth in Section XV of this Consent Agreement.

21 XVII. REIMBURSEMENT OF DIVISION OVERSIGHT COSTS

22 1. Following the Effective Date and for the effective
23 period of this Consent Agreement, the Companies shall reimburse
24 the Division for costs reasonably incurred for oversight of the
25 Consent Agreements with all of the Companies. The Companies

1 shall advance the Division \$50,000 within thirty (30) days after
2 the effective date of this Consent Agreement, and shall remit to
3 the Division payment on a quarterly basis the amount necessary to
4 restore the advanced funds to \$50,000. Amounts due hereunder
5 shall be paid within fifteen (15) days after the end of each
6 calendar quarter. Such payments shall cover costs incurred by
7 the Division in overseeing and administering the Companies'
8 implementation of the requirements of the Consent Agreements,
9 monies reasonably expended by the Division to fund its
10 participation, including but not limited to, Division Contractors
11 or consultants, with respect to such oversight and
12 administration, time and travel costs of Division personnel and
13 associated indirect costs, compliance monitoring (including the
14 collection and analysis of split samples) costs, Site visit
15 costs, costs associated with conducting discussions regarding
16 disputes that may arise under this Consent Agreement, and costs
17 associated with Division review and approval, modification and
18 approval, disapproval or preparation of Deliverables required
19 hereunder.

20 2. The Division shall submit to the Companies copies of
21 all invoices on a monthly basis, commencing with the first full
22 calendar month after the effective date of this Consent
23 Agreement. Submittals shall be made promptly after the
24 Division's internal review. Such invoices shall contain
25 sufficient detail, with respect to consultants or Contractors, to
26 identify individual daily time entries, reasonable detail

1 regarding the work performed on a daily basis, time entries in
2 one-quarter of an hour, and all invoices or cost details for
3 administrative and vendor expenses (such as travel, equipment
4 rentals, photocopying expense and similar items). To the extent
5 practicable, the Division will, and will require its consultants
6 and Contractors to, identify the costs and expenses incurred by
7 the task (including with respect to a particular Company)
8 pursuant to which such items were incurred. The Companies may
9 dispute a particular invoiced cost if they determine that the
10 Division has made an accounting error or if they allege that the
11 particular cost is not reimbursable pursuant to the preceding
12 paragraph 1. In the event of any such dispute, the Companies
13 shall pay in a timely fashion the undisputed costs. With respect
14 to the disputed cost, the Companies may pay such amount under
15 protest and without prejudice to recovery of all or any portion
16 thereof at the conclusion of any dispute resolution timely
17 commenced pursuant to Section XV.

18 3. All payments due by the Companies hereunder shall be by
19 a check payable to the State of Nevada for the full amount due
20 and owing to:

21 Nevada Division of Environmental Protection

22 333 W. Nye Lane

23 Carson City, Nevada 89710

24 ATTENTION: Chief, Bureau of Corrective Actions

1 All such checks shall reference the name of the Site and the
2 Companies' name and address. Copies of all such checks and
3 letters forwarding the checks shall be sent simultaneously to the
4 Division Project Coordinator. Any failure by the Companies to
5 timely make any payment required under this Section shall be
6 subject to the interest rate specified in Section XIV.

7 4. Upon the termination of this Consent Agreement in
8 accordance with Section XXX, any remaining monies advanced to the
9 Division under paragraph 1 against which no invoiced costs are
10 chargeable under paragraph 2 of this Section shall be refunded to
11 the Companies within forty-five (45) days after such termination.

12 XVIII. INDEMNIFICATION

13 The Companies agree to indemnify, defend, save and hold
14 harmless the Division, its Contractors, agents and employees from
15 any and all claims or causes of action arising from or on account
16 of acts or omissions of the Companies or their officers,
17 employees, agents or Contractors in carrying out the activities
18 required by or otherwise pursuant to this Consent Agreement.

19 XIX. RESERVATION OF RIGHTS

20 1. The Division reserves all of its statutory and
21 regulatory powers, authorities, rights, and remedies, both legal
22 and equitable, which may pertain to the Companies' failure to
23 comply with any of the requirements of this Consent Agreement or
24 of any requirement of federal or state laws, regulations, or

1 permit conditions. Except as provided in Section XXI (Other
2 Claims; Covenant Not to Sue), this Consent Agreement shall not be
3 construed as a covenant not to sue, release, waiver, or
4 limitation of any rights, remedies, powers, and/or authorities,
5 civil or criminal, which the Division has under any applicable
6 Environmental Law or common law authority of the State. This
7 Consent Agreement in no way relieves the Companies of their
8 responsibility to comply with any federal, state or local law or
9 regulation.

10 2. The Division reserves the right to disapprove work
11 performed by the Companies pursuant to this Consent Agreement
12 subject to Dispute Resolution under Section XV.

13 3. The Division reserves any and all legal rights and
14 equitable remedies available to enforce (1) the provisions of
15 this Consent Agreement, or (2) any applicable provision of state
16 or federal Law.

17 4. If the Division determines that activities in
18 compliance or noncompliance with this Consent Agreement have
19 caused a Release of Environmental Contaminant that may present an
20 imminent and substantial hazard to human health, welfare, and/or
21 the Environment, the Division may order the Companies to stop
22 further implementation of this Consent Agreement for such period
23 of time as the Division determines may be needed to abate any
24 such Release and/or to undertake any action which the Division
25 determines is necessary to abate such Release.

1 5. This Consent Agreement is neither a permit nor a
2 modification of a permit. The Parties acknowledge and agree that
3 the Division's approval of any workplan hereunder does not
4 constitute a warranty or representation that the workplan will
5 achieve the required or appropriate investigatory or performance
6 standards.

7 6. Notwithstanding any other provision of this Consent
8 Agreement and except as provided in Section XV (Dispute
9 Resolution), no action or decision by the Division pursuant to
10 this Consent Agreement including, without limitation, decisions
11 by the Administrator, shall constitute final agency action giving
12 rise to any right of judicial review prior to the Division's
13 initiation of a judicial action to enforce this Consent
14 Agreement, including an action to collect penalties or an action
15 to compel the Companies' compliance with the terms and conditions
16 of this Consent Agreement.

17 7. The Companies reserve all rights, claims and/or defenses
18 they may have in any action brought or taken by the Division, the
19 EPA or any third party pursuant to applicable law, with respect
20 to the specific claims that can be asserted at the Site.

21 8. In any subsequent administrative or judicial proceeding
22 initiated by the State for injunctive or other appropriate relief
23 relating to the Site, the Companies shall not assert, and may not
24 maintain, any defense or claim based upon the principles of
25 waiver, claim-splitting, or other defenses based upon any
26 contention that the claims raised by the State of Nevada in the

1 subsequent proceeding were or should have been raised in this
2 agreement.

3 9. Nothing in this Agreement shall be construed as an
4 admission of liability by any Company.

XX. COOPERATION IN REVIEW

6 With respect to any action by the Companies or the Division
7 contemplated by this Agreement (including without limitation the
8 provisions of Article IV) for which a time period is not
9 specified herein or in any relevant workplan, the Companies and
10 the Division agree to perform such actions within a reasonable
11 time under the circumstances, so as not to prejudice the other
12 party.

XXI. OTHER CLAIMS; COVENANT NOT TO SUE

13 1. Nothing in this Consent Agreement shall constitute or
14 be construed as a release from, or covenant not to sue with
15 respect to, any claim, cause of action, demand or defense in law
16 or equity, against any person, firm, partnership, or corporation
17 for, or in respect of, any liability it may have arising out of
18 or relating in any way to the generation, storage, treatment,
19 handling, management, transportation, Release, threatened
20 Release, or disposal of any Environmental Contaminant at or
21 otherwise associated with the Site.

23 2. Notwithstanding any provision of this Consent Agreement
24 to the contrary, the Division covenants not to sue the Companies

1 for oversight costs incurred by the Division under this Consent
2 Agreement in excess of the amounts specified in Section XVII. In
3 the event the Division undertakes to perform any work required of
4 the Companies under this Consent Agreement, or to issue an order
5 to the Companies to complete such work, the Division covenants
6 not to sue the Companies for any stipulated penalties accruing or
7 accruable after the date of such undertaking or issuance.

8 XXII. OTHER APPLICABLE LAWS

9 All actions required to be taken pursuant to this Consent
10 Agreement shall be undertaken in accordance with the requirements
11 of all applicable local, state, and federal laws and regulations.
12 The Companies shall obtain or cause their representative(s) to
13 obtain all permits and approvals necessary under such laws and
14 regulations.

15 XXIII. PROJECT COORDINATORS

16 1. Within thirty (30) days following the Effective Date,
17 the Division and the Companies each shall designate a Project
18 Coordinator and shall notify each other in writing of the Project
19 Coordinator selected. Each Project Coordinator shall be
20 responsible for overseeing the implementation of this Consent
21 Agreement and for designating a person to act in his/her absence.
22 The Division Project Coordinator will be the Division's
23 designated representative for the Site. To the maximum extent
24 practicable, all communications between the Companies and the

1 Division, and all Deliverables, documents, reports, approvals,
2 and other correspondence concerning the activities performed
3 pursuant to this Consent Agreement, shall be in writing and shall
4 be directed to the appropriate Project Coordinator.

5 2. The Parties shall provide at least seven (7) days
written notice prior to changing Project Coordinators.

7 3. The absence of the Division Project Coordinator from
8 the Site shall not be cause for the stoppage of work.

9 XXIV. COMPUTATION OF TIME

10 For purposes of computing due dates set forth in this
11 Consent Agreement, the Effective Date, or the day of the act,
12 event, or default from which the designated period of time begins
to run, shall be designated and counted as Day zero (0).

14 Calendar days shall be utilized in computing due dates. The last
15 day of the period so computed shall be included, unless it is a
16 Saturday, Sunday, or legal state or federal holiday, in which
17 event the period runs until the end of the next day which is not
18 one of the aforementioned days.

19 XXV. GOVERNING LAW

20 The provisions and interpretation of this Consent Agreement
21 shall be governed by the law of the State of Nevada.

1 XXVII. SEVERABILITY

2 If any provision or authority of this Consent Agreement or
3 the application of this Consent Agreement to any Party or
4 circumstances is held by any judicial or administrative authority
5 to be invalid, and such holding does not result in a material
6 change in the rights or obligations of the Parties, the
7 application of such provisions to other Parties or circumstances
8 and the remainder of the Consent Agreement shall remain in force
9 and shall not be affected thereby.

10 XXVIII. INCORPORATION AND ENFORCEABILITY OF
11 REFERENCED MATERIALS

12 The following attachments are incorporated into, and made
13 fully enforceable under this Consent Agreement as if fully set
14 forth herein: Attachment A (Letter of Understanding); Attachment
15 B (Environmental Conditions Investigation Workplan); Attachment C
16 (Properties Previously Excluded); and Attachment D (Description
17 of BMI Complex). Any and all Consent Agreement amendment(s) or
18 modification(s), workplan(s) (including each schedule contained
19 therein and attachments thereto), and Deliverable(s) required
20 hereunder shall, upon execution or Division approval as submitted
21 or modified, be deemed incorporated into and made fully
22 enforceable under this Consent Agreement as if fully set forth
23 herein.

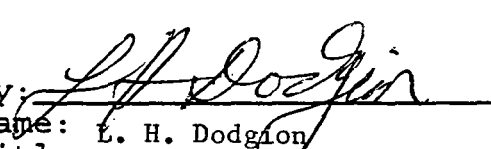
XXXI. MERGER

This Consent Agreement is the final and complete agreement between the Division and the Companies. This final Consent Agreement is the result of extensive negotiations between the Parties over each provision contained herein. Each provision shall therefore be construed to have been mutually drafted and none of the Parties shall be deemed to have solely drafted this entire Consent Agreement or any single provision herein.

IN WITNESS WHEREOF, the Division and the Companies execute this Consent Agreement by their duly authorized representatives on this 23rd day of February, 1996.

THE STATE OF NEVADA
DIVISION OF ENVIRONMENTAL
PROTECTION

KERR-MCGEE CHEMICAL CORP.

By: 
Name: L. H. Dodgion
Title: Administrator

By: _____
Name: _____
Title: _____

PIONEER CHLOR ALKALI
COMPANY, INC.

MONTROSE CHEMICAL CORP. OF
CALIFORNIA

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

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IN WITNESS WHEREOF, the Division and the Companies execute this Consent Agreement by their duly authorized representatives on this 23rd day of February, 1996.

KERR-MCGEE CHEMICAL CORP.

By: George D. Christiansen
Name: George D. Christiansen
Title: Vice President

MONTROSE CHEMICAL CORP. OF
CALIFORNIA

By: _____
Name: _____
Title: _____

1 XXXI. MERGER

2 This Consent Agreement is the final and complete agreement
3 between the Division and the Companies. This final Consent
4 Agreement is the result of extensive negotiations between the
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12 THE STATE OF NEVADA
13 DIVISION OF ENVIRONMENTAL
14 PROTECTION

KERR-MCGEE CHEMICAL CORP.

15 By: _____
16 Name:
17 Title:

By: _____
Name:
Title:

18 PIONEER CHLOR ALKALI
19 COMPANY, INC.

MONTROSE CHEMICAL CORP. OF
CALIFORNIA

20 By: Paul J. Kienholz
21 Name: PAUL J. KIENHOLZ
22 Title: PRESIDENT

By: _____
Name:
Title:

XXXI. MERGER

This Consent Agreement is the final and complete agreement between the Division and the Companies. This final Consent Agreement is the result of extensive negotiations between the Parties over each provision contained herein. Each provision shall therefore be construed to have been mutually drafted and none of the Parties shall be deemed to have solely drafted this entire Consent Agreement or any single provision herein.

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THE STATE OF NEVADA
DIVISION OF ENVIRONMENTAL
PROTECTION

KERR-MCGEE CHEMICAL CORP.

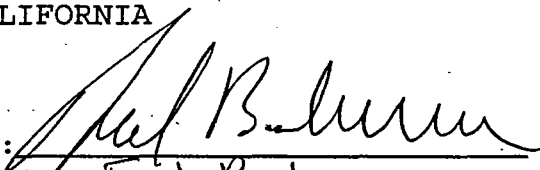
By: _____
Name:
Title:

By: _____
Name:
Title:

PIONEER CHLOR ALKALI
COMPANY, INC.


MONTROSE CHEMICAL CORP. OF
CALIFORNIA

By: _____
Name:
Title:

By: 
Name: Frank Bachman
Title: President

1 STAUFFER MANAGEMENT COMPANY

BASIC MANAGEMENT, INC.

2 By: 
3 Name: Joseph C. Kelly
4 Title: Vice President and
General Counsel

By: _____
Name: _____
Title: _____

5 TITANIUM METALS CORP.

6 By: _____
7 Name: _____
8 Title: _____

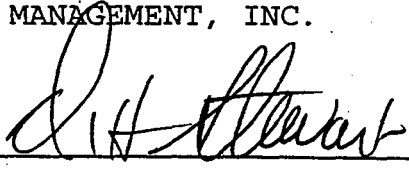
By: _____
Name: _____
Title: _____

9 APPROVED AS TO FORM ONLY this ____ day of February, 1996
10 ATTORNEY GENERAL

1 STAUFFER MANAGEMENT COMPANY

BASIC MANAGEMENT, INC.

2 By: _____
3 Name:
4 Title:

By: 
Name: Dan H. Stewart
Title: President and CEO

5 TITANIUM METALS CORP.

6 By: _____
7 Name:
8 Title:

By: _____
Name:
Title:

9 APPROVED AS TO FORM ONLY this ___ day of February, 1996
10 ATTORNEY GENERAL


1 STAUFFER MANAGEMENT COMPANY

BASIC MANAGEMENT, INC.

2 By: _____
3 Name: _____
4 Title: _____

By: _____
Name: _____
Title: _____

5 TITANIUM METALS CORP.

6 By: 
7 Name: Thomas A. Buck
8 Title: Vice President,
Manufacturing

By: _____
Name: _____
Title: _____

9 APPROVED AS TO FORM ONLY this ____ day of February, 1996
10 ATTORNEY GENERAL

1 STAUFFER MANAGEMENT COMPANY

BASIC MANAGEMENT, INC.

2 By: _____
3 Name: _____
4 Title: _____

By: _____
Name: _____
Title: _____

5 TITANIUM METALS CORP.

6 By: _____
7 Name: _____
8 Title: _____

By: _____
Name: _____
Title: _____

9 APPROVED AS TO FORM ONLY this 26th day of February, 1996

10 ATTORNEY GENERAL

by Kent B. Han

ATTACHMENT A

L. H. DODGION
Administrator

Administration:
(702) 687-4670
Fax 687-5856

Air Quality
Mining Regulation and Reclamation
Water Quality Planning
Water Pollution Control

STATE OF NEVADA
BOB MILLER
Governor



PETER G. MORROS
Director

Fax (702) 885-0868
TDD 687-4678

Waste Management
Corrective Actions
Federal Facilities

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION

Capitol Complex
333 W. Nye Lane
Carson City, Nevada 89710

August 15, 1994

Ms. Susan Stewart
Henderson Industrial Site
Steering Committee (Interim) Chairman
c/o Titanium Metals Corporation
P.O. Box 2128
Henderson, Nevada 89009

Subject: Letter of Understanding (LOU) Between NDEP and the Henderson Industrial Site
Steering Committee (HISSC)

Dear Ms. Stewart:

It is the understanding of the Nevada Division of Environmental Protection that, based upon our meetings, discussions, and correspondence with representatives of Basic Management, Inc. (BMI), Stauffer Management Company, Montrose Chemical Company of California, Pioneer Chlor-Alkali, Kerr-McGee Chemical Corporation, Titanium Metals Corporation, and Chemical Lime Group (Chemstar), the Henderson Industrial Site Steering Committee, of which all the preceding companies are members, agrees to perform the following environmental assessment and information gathering activities at or pertaining to the BMI Complex Common Area properties and facilities in Henderson, Nevada. The numbering of the particular items to be addressed follows the convention used in NDEP's recommendations (dated December 16, 1992) based upon the Phase I ECA report.

1) Montrose Demolition Debris Disposal Area:

It is understood and agreed that this area will be addressed in the Phase II report of Montrose Chemical Corporation of California. This area shall therefore be removed from further consideration as a "Common Areas" issue at this time.

Ms. Susan Stewart
Henderson Industrial Site
Steering Committee (Interim) Chairman
August 15, 1994
Page 2

2) U.S. Vanadium Corporation Site:

HISSC will provide NDEP with additional information regarding the past operations of U.S. Vanadium at the BMI Complex which may be reasonably available, including facility locations, products, waste streams, and waste disposal. HISSC and NDEP will then determine what additional investigatory work is necessary, based upon the identified information concerning the activities of U.S. Vanadium at the BMI Complex.

3) Caustic Evaporation Ponds, and Associated Piping:

It is understood and agreed that the issue of these impoundments which correspond to Stauffer Chemical Company's former Wastewater Ponds 1 & 2 and which have been succeeded by CAPD Ponds 7 and 8 of Pioneer Chlor-Alkali, will be dealt with in the context of the letter of understanding between Stauffer Management Company/Pioneer Chlor-Alkali, and the Division. This area shall therefore be removed from further consideration as a "Common Areas" issue at this time.

4) Trade Effluent Disposal Ponds, and Associated Piping:

HISSC will conduct an evaluation of the French drain system and adjacent overflow area north of these former impoundments. The intent of this evaluation being to determine whether the French drain structure has or does act to facilitate the migration of compounds of concern from the Trade Effluent ponds or from subsequently constructed waste management units or activities which have occurred in the pond areas since the end of U.S. Government operations.

HISSC will also conduct an evaluation of the waste conveyance system associated with these former impoundments to determine whether potential leakage from these systems may have significantly impacted the subsurface soils and, if so, whether such residual contamination (if present) may act as a continuing source of ground water contamination.

It is understood that characterization of the two eastern most Trade Effluent Ponds (i.e. those ponds currently on Kerr-McGee property) shall be dealt with in the context of the letter of understanding between Kerr-McGee Chemical Company and the Division. This area shall therefore be removed from further consideration as a "Common Areas" issue at this time. Evaluation/characterization of the two western most ponds, the majority of which are covered by the closed BMI Landfill, will be addressed in conjunction with the evaluation/characterization of that landfill. See item 6.

Ms. Susan Stewart
Henderson Industrial Site
Steering Committee (Interim) Chairman
August 15, 1994
Page 3

5) "Storm Drain System", "Acid Drain System", "Caustic Drain System":

It is understood and agreed that these systems will be addressed by the individual BMI companies in the context of the Phase II reports for each of the companies. These systems shall, therefore, be removed from further consideration as "Common Areas" issues at this time.

6) BMI Landfill:

HISSC will provide all available information regarding the specific identity, nature, and volume of wastes disposed to this landfill.

HISSC will provide all available information regarding the engineering design of the landfill cap.

HISSC will provide a technical evaluation of the appropriateness of the placement and design criteria for wells used to monitor potential contaminant migration from the landfill. The list of analytes shall be evaluated in light of known wastes disposed and expanded if necessary. The ground water quality both up gradient and down gradient of the landfill will be characterized.

It is understood that NDEP may, after reviewing the results of the above evaluations, require invasive sampling/characterization of the landfill.

7) BMI Tailings Ponds:

HISSC will provide further information regarding the methods by which wastes were spatially and temporally distributed among the various "cells" which make up the upper and lower ponds.

HISSC will develop a comprehensive work plan for characterization of the upper and lower ponds excluding the areas currently owned by the City of Henderson. This characterization shall include surface soils, subsurface soils, ground water, and where appropriate, surface water (i.e. those areas where ground water discharge to the surface is occurring or is known to occur seasonally or periodically). For the purpose of this letter of understanding, either the HISSC's or TIMET's work plan shall address characterization of historic waste disposal in the area currently owned by TIMET, but in any event, the HISSC (including TIMET) agrees to undertake such characterization.

It is understood that BMI is currently in the process of having the upper and lower ponds fenced to prevent unauthorized access to these areas.

Ms. Susan Stewart
Henderson Industrial Site
Steering Committee (Interim) Chairman
August 15, 1994
Page 4

- 8) Beta Ditch, Alpha Ditch, Western Drainage Ditch (Stauffer Effluent Ditch), Northwest Drainage Ditch:

HISSC will provide a comprehensive work plan for the characterization of surface and subsurface soils along these conveyances and their tributaries. Based upon previous negotiations with TIMET, Kerr-McGee, and Stauffer/Pioneer, this characterization shall include the pond at the BMI siphon on TIMET property, the "unnamed" drainage (actually the NW Drainage Ditch) on Kerr-McGee property, and those portions of the Western Drainage Ditch and Beta Ditch extension which are located on the former Stauffer/current Pioneer property.

It is understood that dependant upon the findings of the above characterizations, NDEP may require the characterization of ground water in one or more of the conveyance areas.

The tasks outlined above will be incorporated (as an attachment) into the forthcoming Phase II Consent Agreement to be negotiated with HISSC. That document will provide the specific framework wherein these tasks shall be accomplished.

Should you have any questions or comments regarding any of the items, please contact either Allen Biaggi or myself at (702) 687-4670, extensions 3021 and 3017, respectively.

Sincerely,



Edward L. Basham
Environmental Management Specialist
Remediation Branch
Bureau of Corrective Actions

ELB:kmf

cc: See attached list

Ms. Susan Stewart
Henderson Industrial Site
Steering Committee (Interim) Chairman
August 15, 1994
Page 5

cc: Verrill Norwood, Vice President, Environmental Affairs, Pioneer Chlor-Alkali Company, Inc., 121 Blueberry Hill, Cleveland, Tennessee 37312

Susan Crowley, Kerr-McGee Chemical Corporation, P.O. Box 55, Henderson, Nevada 89009-7000

Mr. Joel H. Mack, Latham & Watkins, 701 "B" Street, Suite 2100, San Diego, California 92101

David W. Tunderman, Parsons, Behle & Latimer, P.O. Box 11898, Salt Lake City, Utah 84147-0898

Mr. David R. Christiansen, Environmental, Health and Safety Manager, Chemical Lime Group, Technical Development Center, 3724 Hulen Street, Fort Worth, Texas 76107-6816

Barry Conaty, Esq., Cutler & Stanfield, 700 Fourteenth Street, N.W., Washington, D.C. 20005

L.H. Dodgion, Administrator

Verne Rosse, Deputy Administrator

Kent Hanson, Deputy Attorney General, NDEP

Robert Kelso, NDEP

Allen Biaggi, NDEP

Jeff Denison, NDEP

ATTACHMENT B

*Project Workplan
BMI Common Areas
Environmental Conditions Investigation
Henderson, Nevada*

Prepared For:

Henderson Industrial Site Steering Committee

Prepared by:



ERM

ERM-West, Inc.
1777 Botelho Drive, Suite 260
Walnut Creek, CA 94596

February 1996

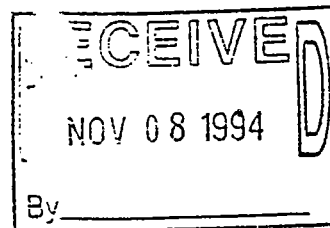
ATTACHMENT C

L. H. DODGION
Administrator

Administration:
(702) 687-4670
Fax 687-5856

Air Quality
Mining Regulation and Reclamation
Water Quality Planning
Water Pollution Control

STATE OF NEVADA
BOB MILLER
Governor



PETER G. MORROS
Director

Fax (702) 885-0868
TDD 687-4678

Waste Management
Corrective Actions
Federal Facilities

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION

Capitol Complex
333 W. Nye Lane
Carson City, Nevada 89710

November 2, 1994

Mr. Gregory W. Schlink
Director of Community Development
Basic Management, Inc.
P.O. Box 2065
Henderson, Nevada 89009

Subject: South Valley Ranch Storm Channel Easement

Dear Mr. Schlink:

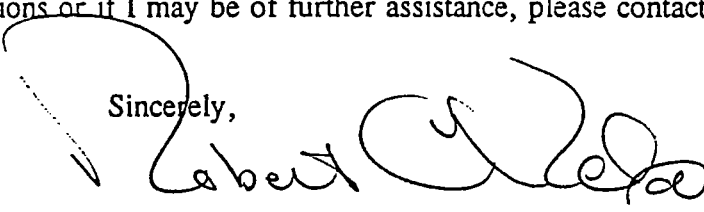
The NDEP has reviewed the additional material submitted on September 14, 1994, regarding your request to exclude parcel 1A from the HISSC-NDEP consent agreement.

Based on the submitted material, the portions of parcel 1A to the south and east of the proposed easement will require further evaluation of the presence of contamination in the soils due to the location of the Western and Northwestern Drainage Ditches and the proximity of the lower tailings ponds.

The Storm Channel Easement and portions of parcel 1A to the west of the easement appear to be sufficiently removed from possible sources of contamination and require no further examination at this time.

If you have any questions or if I may be of further assistance, please contact me at (702) 687-4670, extensions 3020.

Sincerely,


Robert C. Kelso
Environmental Engineer
Bureau of Corrective Actions

BK:dmb

cc: Ms. Susan Stewart, HISSC, c/o Titanium Metals Corporation, P.O. Box 2128,
Henderson, NV 89009
Mr. Barry Conaty, Esq., Cutler & Stanfield, 700 Fourteenth Street, N.W., Washington,
D.C. 20005
Mr. Philip Speight, City Manager, 240 Water Street, Henderson, NV 89015

RECEIVED JUN 26 1992

PETER G. MORROS
Director

STATE OF NEVADA
BOB MILLER
Governor

L. H. DODGION
Administrator

Administration (702) 687-4670
Air Quality 687-5065
Mining Regulation and Reclamation 687-4670
Waste Management 687-5872
Federal Facilities 687-3880



Chemical Hazards Management 687-5872
Water Pollution Control 687-4670
Water Quality Planning 687-4670
FAX 885-0868

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION

333 W. Nye Lane
Carson City, Nevada 89710

June 19, 1992

Mr. T. Mark Paris, President
Basic Management, Inc.
P.O. Box 2065
Henderson, NV 89015

RE: Exclusion of Certain BMI Properties from Consent Agreement.

Dear Mr. Paris:

Enclosed please find a signed copy of your request dated April 9, 1992 to exclude BMI properties west of Interstate 95 from the Consent Agreement as described. The Division acknowledges this exclusion based on information heretofore provided by the BMI Companies and other agency sources. Exclusion of these properties from the Consent Agreement is premised on the understanding that the Division retains sufficient statutory authority to require the performance of an environmental investigation at these sites in the future if deemed necessary by the development of additional information.

If you have questions in this regard, please contact me at (702) 687-5872.

Sincerely,

A handwritten signature in cursive script, reading "Jeffrey C. Denison".

Jeffrey C. Denison
Supervisor
RCRA Facility Management Branch
Bureau of Waste Management

JCD:klh



"Good Neighbors. Good Business."

P.O. Box 2065
Henderson, Nevada
89015
702 • 565 • 6485
fax 702 • 565 • 9489

APR 14 92

April 9, 1992

Mr. Verne Rosse, P.E.
Deputy Director
NEVADA DIVISION OF ENVIRONMENTAL PROTECTION
123 West Nye Lane
Carson City, Nevada 89710

Re: Basic Management, Inc.

Dear Mr. Rosse:

Thank you for meeting with Pat Corbett, David Tundermann and me on April 1, 1992, to discuss possible exclusion of certain BMI properties from further study under the Consent Agreement ("Consent Agreement"), dated April 25, 1991 concerning the BMI Industrial Complex in Clark County, Nevada. At the meeting, BMI advised you that to its knowledge, the BMI properties located west of Interstate 95 in Sections 10, 11, 14, and 15, Township 22 South, Range 62 East, MDB&M, as identified in Appendix A of the Consent Agreement, have not been used for industrial activities or waste disposal. Further, the draft Phase I environmental conditions assessment reports submitted by the parties to the Consent Decree to the NDEP on March 17, 1992, identify no waste storage, treatment or disposal on these properties. Accordingly, BMI requests these properties be excluded from any further environmental conditions assessment or other work under the Consent Agreement.

It is BMI's understanding that the NDEP will consider this request concurrently with its review of the draft Phase I reports. BMI shall advise the City of Henderson and the parties to the Consent Agreement of this request.

I would appreciate your acknowledging that the BMI properties identified in this letter are hereafter excluded from the Consent Agreement. Please sign a copy of this letter and return to me. Thank you very much for your cooperation.

Mr. Verne Rosse, P.E.
April 9, 1992
Page 2

Very truly yours,

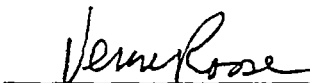
BASIC MANAGEMENT, INC.



T. Mark Paris
President and CEO

TMP:kst

The Nevada Division of Environmental Protection acknowledges the exclusion of BMI properties west of Interstate 95 in Sections 10, 11, 14 and 15, T. 22 S., R. 62 E., MDB&M, from the Consent Agreement dated April 25, 1991.


VERNE ROSSE, Deputy ~~Director~~ Administrator

DATED 6/17/92

TMP:kst

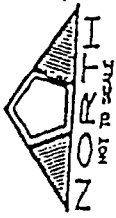
Enclosure

cc: Patrick S. Corbett
David W. Tundermann
Alan J. Gaddy
Michael Bourque

THENCE NORTH 89°36'45" EAST, 2270.17 FEET TO THE NORTHEAST CORNER OF SAID SECTION 5; THENCE SOUTH 00°14'24" EAST ALONG THE EAST LINE OF SAID SECTION 5, 417.15 FEET TO A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF LAKE MEAD DRIVE - STATE ROUTE 147 (400.00 FEET WIDE); THENCE ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE THE FOLLOWING TWO (2) COURSES: FROM A TANGENT WHICH BEARS SOUTH 28°39'28" WEST CURVING TO THE LEFT ALONG A 5200.00 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY, THROUGH A CENTRAL ANGLE OF 0°11'29", AN ARC LENGTH OF 17.37 FEET; THENCE SOUTH 28°27'59" WEST, 7845.09 FEET; THENCE DEPARTING SAID NORTHWESTERLY RIGHT-OF-WAY LINE CURVING TO THE RIGHT ALONG A 25.00 FOOT RADIUS CURVE CONCAVE NORTHERLY, THROUGH A CENTRAL ANGLE OF 90°00'35", AN ARC LENGTH OF 39.27 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF WARM SPRINGS ROAD (100.00 FEET WIDE); THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE THE FOLLOWING TWO (2) COURSES: NORTH 61°31'26" WEST, 782.45 FEET; THENCE CURVING TO THE LEFT ALONG A 3050.00 FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY, THROUGH A CENTRAL ANGLE OF 15°19'36", AN ARC LENGTH OF 815.88 FEET TO A POINT OF REVERSE CURVATURE; THENCE CURVING TO THE RIGHT ALONG THE ARC OF A 25.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY, THROUGH A CENTRAL ANGLE OF 76°34'26", AN ARC LENGTH OF 33.41 FEET; THENCE NORTH 00°16'36" WEST, 59.05 FEET; THENCE SOUTH 89°39'42" WEST, 10.01 FEET TO A POINT ON THE EAST LINE OF SAID SECTION 7; THENCE NORTH 00°16'36" WEST ALONG SAID EAST LINE A DISTANCE OF 1100.00 FEET TO THE NORTHEAST CORNER OF SAID SECTION 7; THENCE SOUTH 89°21'55" WEST ALONG THE NORTH LINE OF SAID SECTION 7 A DISTANCE OF 900.57 FEET TO AN ANGLE POINT IN THE NORTHERLY LINE OF A PARCEL DESCRIBED BY A DEED TO THE CITY OF HENDERSON RECORDED JULY 7, 1972, AS INSTRUMENT NO 204229 IN BOOK 245, OFFICIAL RECORDS, CLARK COUNTY NEVADA; THENCE ALONG THE NORTHERLY LINE OF SAID PARCEL THE FOLLOWING TWO (2) COURSES: SOUTH 68°13'19" WEST, 909.99 FEET; THENCE SOUTH 18°16'36" EAST, 60.90 FEET TO A POINT ON THE NORTHERLY LINE OF THE ADJUSTED BOUNDARY LINE OF THE AFOREMENTIONED CITY OF HENDERSON PARCEL; THENCE ALONG SAID ADJUSTED BOUNDARY LINE THE FOLLOWING SEVEN (7) COURSES: SOUTH 62°24'46" WEST, 120.61 FEET; THENCE SOUTH 66°04'14" WEST, 516.73 FEET; THENCE SOUTH 65°11'05" WEST, 739.46 FEET; THENCE SOUTH 00°38'48" EAST, 265.72 FEET TO THE NORTHERLY LINE OF A 200.00 FOOT WIDE NEVADA POWER COMPANY EASEMENT DESCRIBED AS PARCEL "P" IN A DOCUMENT RECORDED 10 OCTOBER 1950 IN BOOK 63, PAGE 41 OF DEEDS, DOCUMENT NO. 352472, OFFICIAL RECORDS, CLARK COUNTY, NEVADA; THENCE ALONG THE NORTHERLY LINE OF SAID PARCEL "P", SOUTH 42°27'37" EAST, 141.93 FEET TO THE NORTH LINE OF THE SOUTH HALF (S1/2) OF THE NORTHWEST QUARTER (NW1/4) OF SAID SECTION 7; THENCE NORTH 89°21'36" EAST ALONG SAID NORTH LINE, 243.09 FEET; THENCE NORTH 89°21'15" EAST ALONG THE NORTH LINE OF THE SOUTH HALF (S1/2) OF THE NORTHEAST QUARTER (NE1/4)

OF SAID SECTION 7, A DISTANCE OF 2641.50 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER (NW1/4) OF THE NORTHWEST QUARTER (NW1/4) OF SAID SECTION 8; THENCE NORTH 00°16'36" WEST ALONG THE WEST LINE OF SAID SECTION 8, A DISTANCE OF 39.95 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID WARM SPRINGS ROAD; THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE THE FOLLOWING THREE (3) COURSES: FROM A TANGENT WHICH BEARS SOUTH 76°58'12" EAST, CURVING TO THE RIGHT ALONG A 2950.00 FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY, THROUGH A CENTRAL ANGLE OF 15°26'46", AN ARC LENGTH OF 795.28 FEET; THENCE SOUTH 61°31'26" EAST, 782.48 FEET; THENCE CURVING TO THE RIGHT ALONG THE ARC OF A 25.00 FOOT RADIUS CURVE CONCAVE WESTERLY, THROUGH A CENTRAL ANGLE OF 89°59'25", AN ARC LENGTH OF 39.27 FEET TO THE NORTHWESTERLY RIGHT-OF-WAY LINE OF LAKE MEAD DRIVE - STATE ROUTE 147 (400.00 FEET WIDE); THENCE SOUTH 28°27'59" WEST ALONG SAID RIGHT-OF-WAY LINE, 140.28 FEET TO THE NORTHEASTERLY RIGHT-OF-WAY LINE OF BALLERINA STREET (60.00 FEET WIDE); THENCE NORTH 61°32'01" WEST ALONG SAID RIGHT-OF-WAY LINE, 1356.33 FEET; THENCE SOUTH 47°12'59" WEST, 485.78 FEET; THENCE SOUTH 61°32'01" EAST, 1512.48 FEET TO THE AFOREMENTIONED NORTHWESTERLY RIGHT-OF-WAY LINE OF LAKE MEAD DRIVE; THENCE ALONG SAID RIGHT-OF-WAY LINE THE FOLLOWING TWO (2) COURSES: SOUTH 28°27'59" WEST, 64.95 FEET; THENCE CURVING TO THE RIGHT ALONG THE ARC OF A 9800.00 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY, THROUGH A CENTRAL ANGLE OF 01°57'43", AN ARC LENGTH OF 335.57 FEET TO THE MOST EASTERLY CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN A DEED TO B.P.O.E. LODGE NO. 1956, RECORDED 13 JANUARY 1982 AS DOCUMENT NO. 93338, OFFICIAL RECORDS, CLARK COUNTY, NEVADA, A RADIAL LINE TO SAID POINT BEARS SOUTH 59°34'18" EAST; THENCE ALONG THE NORTHERLY AND WESTERLY LINES OF SAID B.P.O.E. PARCEL THE FOLLOWING TWO (2) COURSES: NORTH 61°31'46" WEST, 245.00 FEET; THENCE SOUTH 28°28'25" WEST, 335.00 FEET TO THE NORTHERLY LINE OF PARCEL 1 AS SAID PARCEL 1 IS DELINEATED ON THAT CERTAIN PARCEL MAP ON FILE IN THE CLARK COUNTY RECORDER'S OFFICE AS FILE 43, PAGE 81 OF PARCEL MAPS; THENCE ALONG THE NORTHERLY, WESTERLY AND SOUTHERLY LINES OF PARCELS 1 AND 2 OF SAID PARCEL MAP THE FOLLOWING FIVE (5) COURSES: NORTH 65°45'15" WEST, 264.17 FEET; THENCE NORTH 37°51'35" WEST, 504.90 FEET; THENCE SOUTH 52°08'06" WEST, 788.61 FEET; THENCE SOUTH 41°42'25" EAST, 1.94 FEET; THENCE SOUTH 52°08'04" WEST, 480.20 FEET; THENCE SOUTH 42°26'05" EAST, 637.96 FEET TO THE MOST NORTHERLY CORNER OF PARCEL 1 AS SAID PARCEL 1 IS DELINEATED ON THAT CERTAIN PARCEL MAP ON FILE IN THE CLARK COUNTY RECORDER'S OFFICE AS FILE 71, PAGE 63 OF PARCEL MAPS ; THENCE ALONG THE NORTHWESTERLY AND SOUTHWESTERLY LINES OF SAID PARCEL 1 THE FOLLOWING TWO (2) COURSES: SOUTH 47°33'55" WEST, 100.00 FEET; THENCE SOUTH 42°26'05" EAST, 8.25 FEET; THENCE SOUTH 47°14'04" WEST, 292.64 FEET TO A POINT IN THE NORTHEASTERLY LINE OF MANGANESE PARK SUBDIVISION, THE PLAT OF SAID SUBDIVISION BEING ON FILE IN THE CLARK COUNTY RECORDER'S OFFICE AS

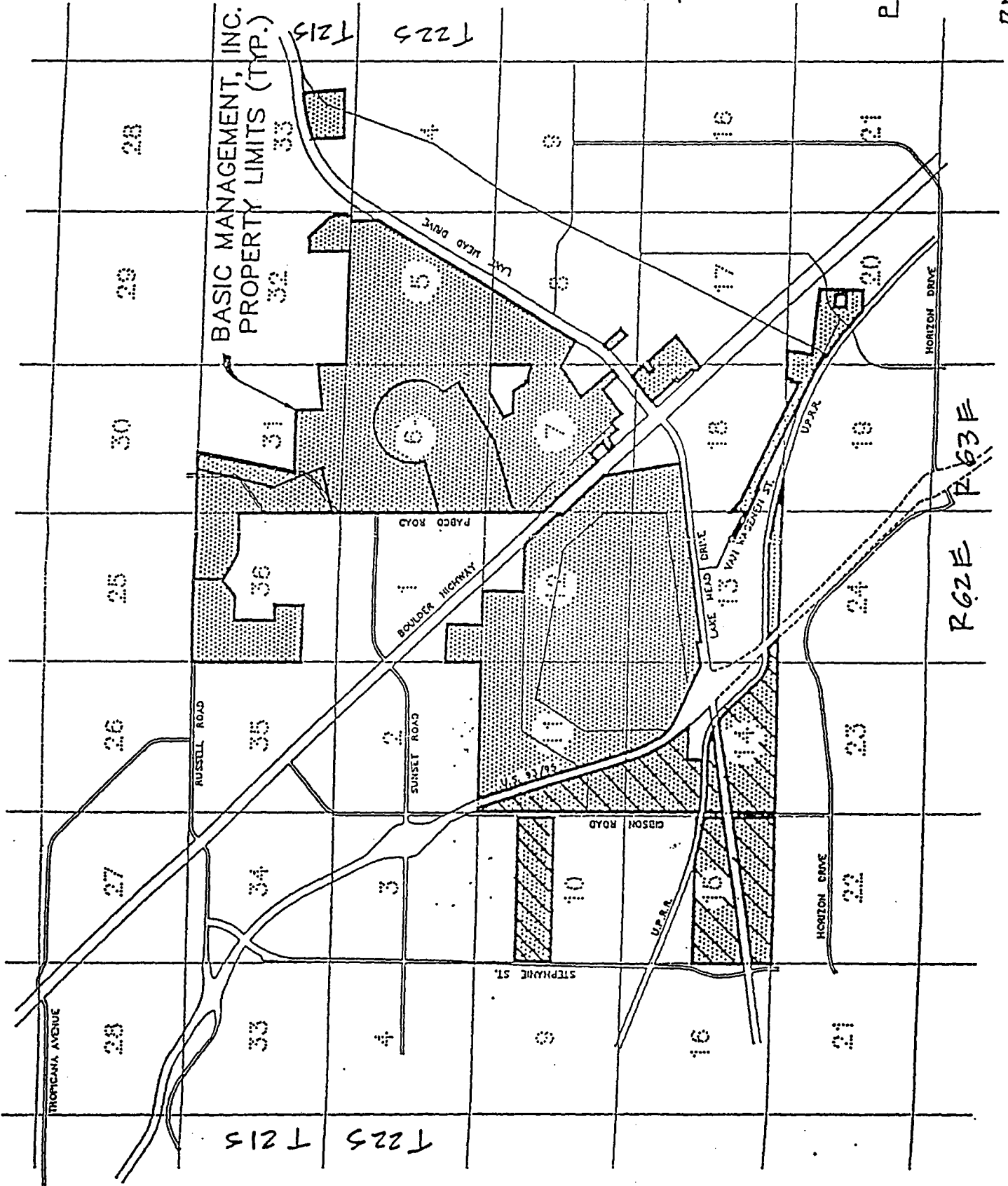
ATTACHMENT D



AREA OF
EXCLUSION
SECTION 10, 11, 14

PENTACOR
Engineering Inc.

BMI 6/19/97

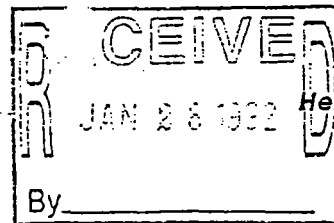




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RECEIVED
DIRECTOR
PROTECTION

NOV -4 91



P.O. Box 2065

Henderson, Nevada

89015

702 • 565 • 6485

fax 702 • 565 • 9489

November 1, 1991

Mr. Verne Rosse, P.E.
Chief, Waste Management Branch
NEVADA DIVISION OF ENVIRONMENTAL PROTECTION
123 West Nye Lane
Carson City, NV 89710

Re: BASIC MANAGEMENT, INC.

Dear Mr. Rosse:

Thank you for meeting with David Tundermann, Lee Kapaloski and me on September 25, 1991 to discuss the applicability of the Consent Agreement ("Consent Agreement"), dated April 25, 1991, concerning the BMI industrial complex in Clark County, Nevada to certain BMI properties which are geographically outside the BMI Complex. At the meeting, BMI advised you that to its knowledge these peripheral properties, including Victory Village, the Henderson Water Treatment Plant and other properties have not been used for industrial activities or waste disposal. You agreed that these properties are outside the "BMI Complex" as defined in the Consent Agreement and thus are not subject to it. This letter confirms our discussion and identifies each of these excluded properties more specifically in the attached exhibits. In addition to the two properties mentioned above, and as we discussed, I have also included other miscellaneous properties owned by BMI which are also clearly outside the BMI complex.

The identifying exhibits herewith are arranged as follows:

- | | |
|---------------------|------------------------------|
| 1. Intake Station | 5. Victory Village |
| 2. Booster Plant #1 | 6. Water Treatment Plant |
| 3. Booster Plant #2 | and Power Easements |
| 4. Plat #19 | 7. A Section of Major Avenue |
| | 8. Opportunity Village |

The larger scale map included will help with orientation for all but the Intake and Booster Plant #1 which are out on Lake Mead. Incidentally, the land which BMI is donating to Opportunity Village is north of Lake Mead Drive. But, as you can see from the Plat Map, it is not near any suspect land. We would not like to see this worthwhile 'gift' held up.

0138.0300/32
FILE:0032LG13
JULY 5, 1995
BY: R.D.F.
CKD. BY:F.W.O.

EXPLANATION: THIS LEGAL DESCRIBES THAT PORTION OF B.M.I. VILLAGE EAST WITHIN SECTION 31, TOWNSHIP 21 SOUTH, RANGE 63 EAST, M.D.M., GENERALLY LOCATED IN THE NORTHERLY QUADRANT OF BOULDER HIGHWAY AND LAKE MEAD DRIVE.

DO NOT RECORD ABOVE THIS LINE

LEGAL DESCRIPTION

BEING A PORTION OF SECTION 31 , TOWNSHIP 21 SOUTH, RANGE 63 EAST, M.D.M., CITY OF HENDERSON, CLARK COUNTY, NEVADA, DESCRIBED AS FOLLOWS:

LOTS 1, 2 AND 3 AS SHOWN ON A MAP ON FILE IN THE CLARK COUNTY, NEVADA RECORDER'S OFFICE AS FILE 55, PAGE 48 OF PARCEL MAPS

CONTAINING 322.85 ACRES NET.