

**UNITED STATES**

**ENVIRONMENTAL PROTECTION AGENCY**

**REGION III**

IN THE MATTER OF:

Chevron U.S.A. Inc.  
2300 Windy Ridge Pkwy  
Suite 800  
Atlanta, Ga 30339

RESPONDENT

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) U.S. EPA Docket Number:  
) RCRA-03-2003-0006th  
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)  
) Proceeding under Section  
) 7003 of the Resource  
) Conservation and Recovery  
) Act, as amended, 42 U.S.C.  
) § 6973.

**ADMINISTRATIVE ORDER**

This Administrative Order ("Order"), is issued to Chevron U.S.A. Inc. ("Chevron" or "Respondent").

**I. JURISDICTION**

- A. This Order is issued pursuant to the authority vested in the Administrator of EPA by Section 7003 of the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as "RCRA"), 42 U.S.C. § 6973. The authority vested in the Administrator has been delegated to the Regional Administrators by EPA Delegation No. 8-22-B dated March 20, 1985, and further delegated to the Director of the Waste and Chemicals Management Division on September 1, 1998.
- B. Maryland has been given notice of the issuance of this Order pursuant to Section 7003(a) of RCRA, 42 U.S.C. § 6973(a).

- C. The District of Columbia has been given notice of the issuance of this Order pursuant to Section 7003(a) of RCRA, 42 U.S.C. § 6973(a).
- D. This Order is issued to Chevron (“Respondent”), the former owner and/or operator of a gasoline service station located at 5801 Riggs Road, Chillum, Maryland, hereafter referred to as the “Service Station”. The Service Station is included in the definition of “Site” set forth in Section IV. H. below.

## **II. PARTIES BOUND**

- A. This Order shall apply to and be binding upon EPA, Respondent and its agents, successors and assigns.
- B. No change in ownership of any property covered by this Order, or in the corporate or partnership status of Respondent, shall in any way alter, diminish, or otherwise affect Respondent’s obligations and responsibilities under this Order.
- C. Respondent shall provide a copy of this Order to the current owner of the gasoline service station located at 5801 Riggs Road, Chillum, Maryland, within seven (7) calendar days of the effective date of this Order.
- D. Respondent shall provide a copy of this Order to all supervisory personnel, contractors, laboratories, and consultants retained to conduct or monitor any portion of the work performed pursuant to this Order within seven (7) calendar days of the effective date of this Order or date of such retention, whichever is later. Respondent shall require such persons to conduct or monitor the work in accordance with the requirements of this Order. Nothing stated in this paragraph II.D. shall relieve Respondent from its obligation to comply with the terms and conditions of this Order in the time and manner specified herein.
- E. In the event of any change in ownership and/or operation of the Service Station, Respondent shall notify EPA in writing within seven (7) calendar days of becoming aware of such change. Respondent shall provide the new owner and/or operator with a copy of this Order within the same seven (7) day period. In the event of any change in majority ownership or control of Chevron U.S.A. Inc., Respondent shall notify EPA in writing of the nature of any such change no later than fifteen (15) calendar days after the effective date of such change. In addition, Respondent shall provide a copy of this Order to any successor to Respondent at least fifteen (15) calendar days prior to the effective date of such change. Nothing stated in this paragraph II. E. shall relieve Respondent from its obligation to comply with the terms and conditions of this Order in the time and manner specified herein.

## **III. STATEMENT OF PURPOSE**

The purpose of this Order is to require Respondent to: (1) perform Interim Measures ("IM") to prevent or mitigate threats to human health or the environment at or from the Site; (2) perform a Site Investigation ("SI") to determine the nature and extent of any release of solid

wastes, hazardous wastes, and/or hazardous constituents related to Respondent's ownership and operation of the Service Station described in Section IV.B below; (3) perform a Corrective Measures Study ("CMS") to identify and evaluate alternatives for corrective action necessary to protect human health or the environment.

#### **IV. EPA'S FINDINGS OF FACT**

- A. Respondent is a Pennsylvania corporation doing business in the State of Maryland and is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).
- B. Respondent formerly owned and operated a gasoline service station, former Chevron Facility 122208, engaged in retailing automotive fuels (former Standard Industrial Classification ("SIC") code 5541, and current North American Industrial Classification System ("NAICS") code 4471), located at 5801 Riggs Road, Chillum, Maryland, 20783 ("the Service Station"). The Service Station occupies the eastern corner of the intersection of Eastern Avenue, N.E. and Riggs Road. The north side of the right-of-way of Eastern Avenue, N.E. represents the boundary between Washington, D.C. and Prince George's County, Maryland. The southern extent of the Service Station abuts Washington, D.C.
- C. A Gulf service station was constructed on the Service Station property on or about 1954. Standard Oil of California merged with the Gulf Oil Corporation in 1984, and after restructuring changed the name to the Chevron Corporation which owned and operated the Service Station until it was sold to an independent owner in 1993.
- D. Maryland Department of Environment ("MDE") files indicate that during Respondent's ownership and operation of the Service Station, beginning with an October 1989 report of an underground tank test failure, gasoline has leaked and/or otherwise been released into the ground from the property. The files for the 5801 Riggs Road Service Station are recorded as "MDE Case No. 90-0629PG".
- E. According to MDE files, wells were installed by Chevron for monitoring liquid-phase hydrocarbons ("LPH") as early as November 1989. Additional monitoring and recovery wells have been installed by Chevron through 2001. The well system, including pumping and recovery wells, installed to remediate LPH releases have alternately been in operation and turned off several times. EPA evaluated the MDE files and concluded that there is not enough information to determine fully the nature and extent of contamination of soil and groundwater. Additionally, there is insufficient information to evaluate fully vapor intrusion into the structures that are on and/or near soil and/or groundwater that was contaminated by volatile hazardous constituents in or at the Site.
- F. The available information indicates that the primary direction of movement of contamination from the Service Station moves through the soil and groundwater in a south and southeasterly direction. Since the location of the Service Station is on the border between the State of Maryland and the District of Columbia, the direction of movement of contamination from the Service Station is generally down gradient from the Service Station

and primarily into the District of Columbia (“D.C.”).

- G. Respondent notified the D.C. Department of Health on April 8, 2001, of its intent to expand its investigation from Maryland into D. C. and commencing in July 2001 initiated a process to investigate the extent of contamination. During this investigation groundwater, soil, and soil vapor samples were analyzed for gasoline/LPH constituents including benzene, toluene, ethyl benzene and xylene, methyl tertiary butyl ether (“MTBE”) and total petroleum hydrocarbons gasoline range organics (“TPH GRO”).
- H. For purposes of this Order, the “Site” includes the Service Station as well as the areal extent of contamination and all areas in very close proximity to the contamination necessary for implementation of this Order. See Attachment 1 for a Site map.
- I. A substantial proportion of the Site includes a residential neighborhood. Because of the potential for migration of soil vapors associated with the release of petroleum related constituents from the Service Station, there is a potential for residents to be exposed to these constituents. This neighborhood has an approximate population of 800 persons who may have been exposed to hazardous constituents in the release of gasoline/LPH from the Service Station.
- J. Sampling results through July 2002 indicate that petroleum related constituents found in the groundwater and soil within certain areas of the Site exceed EPA and D.C. risk-based screening criteria and have the potential to adversely impact human health and/or the environment.
- K. South of Eastern Avenue, benzene was found in the groundwater from below the detection level to 6,450 micrograms per liter (“ug/l”). Benzene was found in the soil at levels from below the detection level to 850 micrograms per kilogram (“ug/kg”). Benzene was found in soil vapor from 6.5 micrograms per cubic meter (“ug/m<sup>3</sup>”) to 44 ug/m<sup>3</sup>. MTBE was found in the groundwater from below the detection level to 5000 ug/l. MTBE was found in the soil from below the detection level to 850 ug/kg. MTBE was found in soil vapor from below the detection level to 110 ug/m<sup>3</sup>. The list of the petroleum related constituents sampled and the cumulative sampling results from soil, groundwater, ambient air and soil vapor from December 2001 through June 2002, as well as an aerial photograph of the Site are provided in Attachment 2.
- L. Benzene is a known human carcinogen causing leukemia. Other harmful effects associated with benzene exposure can be manifested in the liver, bone marrow, blood-forming system, and central nervous system. Benzene is a highly flammable colorless liquid with a sweet odor. It is found in the environment from both human activities and natural processes. Benzene is in crude oil, gasoline, cigarette smoke, and is also associated with volcanoes and forest fires. Various industries use benzene to make other chemicals such as styrene, cumene, rubber, lubricants, dyes, detergents, drugs, and pesticides. Because of its wide use, benzene ranks in the top twenty in volume for chemicals produced in the United States.

M. MTBE is a synthetic, volatile, colorless, organic ether, with a turpentine-like taste and odor. The Chemical Abstracts Service (“CAS”) registry number for MTBE is 1634-04-4. There are no known naturally occurring sources of MTBE. MTBE contains 18.2 percent oxygen by weight. MTBE was approved as a gasoline additive in 1979. In the 1980s, MTBE was used in varying amounts as an octane enhancer. Since the passage of the Clean Air Act Amendments of 1990, MTBE has been used in gasoline as an oxygenate in reformulated gasoline designed to produce cleaner burning fuel. The fate and transport of MTBE in the subsurface is significantly different from that of gasoline constituents that have historically been of toxicological concern, specifically the BTEX compounds (benzene, toluene, ethyl benzene, and xylene). Once released into the subsurface, MTBE separates from other gasoline constituents in the presence of moisture. MTBE has a strong affinity for water and does not readily adsorb to soil particles. Rather, MTBE moves with groundwater at approximately the rate of that water’s movement. In addition, MTBE is more persistent than the BTEX compounds because it does not readily biodegrade in the subsurface. In comparison to the BTEX constituents, MTBE is significantly more mobile in the subsurface and will migrate from the source more quickly. MTBE is also more difficult and expensive to remove from water than other gasoline constituents.

EPA’s December 1997, Drinking Water Advisory: Consumer Acceptability Advice and Health Effects Analysis on Methyl Tertiary-Butyl Ether (MTBE)(“1997 EPA Advisory”) Section 7.1) states: “The weight of evidence indicates that MTBE is an animal carcinogen, and the chemical poses a carcinogenic potential to humans (NSTC, 1997, page 4-26).” EPA has identified one of MTBE’s metabolites, formaldehyde, as a probable human carcinogen (Group B1). MTBE has been demonstrated to cause hepatic, kidney and central nervous system toxicity, peripheral neurotoxicity and cancer in animals.

N. Toluene is a clear, colorless liquid with a distinctive smell. Toluene occurs naturally in crude oil and in the tolu tree. It is produced in the process of making gasoline and other fuels from crude oil, in making coke from coal, and as a by-product in the manufacture of styrene. Toluene is used in making paint thinners, fingernail polish, lacquers, adhesives, and rubber and in some printing and leather tanning processes. Exposure to toluene is associated with toxic effects in the central nervous system, the liver, the kidney and the reproductive system.

O. Ethyl benzene is a colorless liquid that smells like gasoline. Ethyl benzene occurs naturally in coal tar and petroleum. It is also found in many products, including paints, inks and insecticides. Gasoline contains about 2% (by weight) ethyl benzene. Ethyl benzene is used in the production of styrene. It is also used as a solvent, a component of asphalt and naphtha, and in fuels. In the chemical industry, it is used in the manufacture of acetophenone, cellulose acetate, diethylbenzene, ethyl anthraquinone, ethyl benzene sulfonic acids, propylene oxide, and methyl benzyl alcohol. Consumer products containing ethyl benzene include pesticides, carpet glues, varnishes and paints, and tobacco products. Ethyl benzene has demonstrated hepatic, kidney and central nervous system toxicity. In addition, ethyl benzene is considered likely to be carcinogenic to humans via the inhalation route.

- P. Xylene is one of the top 30 chemicals produced in the United States in terms of volume. It is used as a solvent (a liquid that can dissolve other substances) in the printing, rubber, and leather industries. Along with other solvents, xylene is also used as a cleaning agent, a thinner for paint and varnishes. It is found in small amounts in airplane fuel and gasoline. Xylene is used as a material in the chemical, plastics, synthetic fiber industries and as an ingredient in the coating of fabrics and papers. Isomers of xylene are used in the manufacture of certain polymers (chemical compounds) such as plastics. Xylene exposure may adversely affect the central nervous system. Results of studies of animals indicate that large amounts of xylene can cause changes in the liver and have harmful effects on the kidneys, lungs, heart, and nervous system. Short-term exposure to very high concentrations of xylene causes death in animals, as well as muscular spasms, incoordination, hearing loss, changes in behavior, changes in organ weight, and changes in enzyme activity. Long-term exposure of animals to low concentrations of xylene has not been well studied.
- Q. EPA has determined that releases of the petroleum-related constituents, benzene, toluene, ethylbenzene and xylene, MTBE, and TPH GRO, have contaminated the soil and groundwater at the Site and may pose imminent and substantial endangerment to human health and the environment.

#### **V. EPA'S CONCLUSIONS OF LAW AND DETERMINATIONS**

Based on the Findings of Fact set forth above, the Conclusions of Law set forth in this Section V, and upon EPA's review of information set forth in the Administrative Record, EPA has made the following determinations:

- A. Chevron is a "person" within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).
- B. Benzene, toluene, ethylbenzene, xylene, MTBE, and TPH GRO are in the soil and groundwater and are solid wastes as defined in Section 1004(27) of RCRA, U.S.C. Section 6903(27), and/or hazardous wastes as defined in Section 1004(5) of RCRA, 42 U.S.C. Section 6903(5) within the meaning of Section 7003 of RCRA, 42 U.S.C. § 6973.
- C. Respondent has contributed to the handling, storage, and/or disposal of the solid wastes and/or hazardous wastes, benzene, toluene, ethylbenzene, xylene, MTBE, and TPH GRO, which may present an imminent and substantial endangerment to human health or the environment.
- D. The actions required by this Order are necessary to protect human health and the environment.

#### **VI. WORK TO BE PERFORMED**

Respondent may have completed some of the tasks required by this Order and may have available some of the information and data required by this Order. This previous work may be

used to meet the requirements of this Order, upon submission to and formal approval by EPA.

Pursuant to Section 7003 of RCRA, 42 U.S.C. Section 6973, Respondent is hereby ordered to perform the following acts in the manner and by the dates specified herein. All work undertaken pursuant to this Order shall be developed and performed, as appropriate and approved by EPA, in accordance with: the Scope of Work for Interim Measures set forth in Attachment 3; the Scope of Work for Health and Safety Plan set forth in Attachment 4; the Scope of Work for a Site Investigation set forth in Attachment 5; the Scope of Work for a Corrective Measures Study set forth in Attachment 6; and applicable Federal and State regulations and relevant EPA guidance documents.

All Scopes of Work and other Attachments to this Order are incorporated herein by reference. Relevant guidance may include, but is not limited to the following:

1. “RCRA Facility Investigation (RFI) Guidance” (Interim Final, May 1989, EPA 530/SW-89-031, Vol. I-IV, OSWER Directive 9502.00-6D Vol. 1-4);
2. “RCRA Ground-Water Monitoring: Draft Technical Guidance,” November 1992;
3. “Test Methods for Evaluating Solid Waste” (SW-846, November 1986 and subsequent revisions);
4. “Data Quality Objectives Process for Hazardous Waste Site Investigations, EPA QA/G-4HW” (EPA/600/R-00/007, January 2000);
5. “Risk Assessment Guidance for Superfund Volume I, Human Health Evaluation Manual & Volume II, Environmental Evaluation Manual Interim Final” (EPA/540/1-89/022 and 011, March 1989);
6. “EPA Guidance for Quality Assurance Project Plans, EPA QA/G” (EPA/600/R-98/018, February 1998);
7. “Handbook of Suggested Practice for the Design and Installation of Ground-Water Monitoring Wells” (EPA 600/4-89/043 October 1989);
8. “How to Effectively Recover Free Product at Leaking Underground Storage Tank Sites” (EPA 510/R-96/001 September 1996); and
9. “How to Evaluate Alternative Cleanup Technologies for Underground Storage Tank Sites - A Guide for Corrective Action Plan Reviewers” (EPA 510/B- 95/007 May 1995).

"Days" as used herein shall mean "calendar" days unless specified otherwise.

## **A. INTERIM MEASURES ("IM")**

1. Chevron shall perform the Site-Specific Interim Measures set forth in paragraphs VI.A.1.a. through VI.A.4.d. below:

a. Dual Phase Extraction System

On and after the effective date of this Order, Respondent shall continue to operate and maintain the existing Dual Phase Extraction System (DPES) as described on pages 1 through 4 of the August 7, 2002, Second Quarter 2002 Site Activity Summary Report, set forth herein as Attachment 8 and made a part hereof.

b. Pilot Test

By letter dated September 30, 2002, EPA approved the workplan for the Pilot Test of the DPES. Said letter and workplan are set forth herein as Attachment 9 and made a part hereof.

By letter dated November 15, 2002 EPA amended the schedule for completion of the implementation of the Pilot Test(s). Said letter is set forth herein as Attachment 9-A and made a part hereof

c. Interim Dual Phase Extraction System

By the letter dated September 30, 2002 (Attachment 9), EPA additionally informed Respondent of the terms and conditions under which Respondent shall design and implement an Interim DPES. Respondent shall comply with the terms and conditions of the September 30, 2002 letter as if fully set forth herein. By the letter dated November 15, 2002 (Attachment 9-A) EPA amended the schedule for completion of the implementation of the Interim DPES.

d. Soil Vapor Monitoring

By letter dated September 30, 2002, EPA approved Respondent's workplan entitled Standard Operating Procedures for Soil Vapor Sampling Activities Associated with the Chevron/Chillum, MD Project dated September 11, 2002. This workplan identifies procedures for, and Respondent is required to, obtain measurements of soil vapor concentrations for gasoline/LPH constituents at residential properties identified by EPA. Said letter and workplan are set forth herein as Attachment 10 and made a part hereof.

By letter dated November 15, 2002, EPA amended the schedule of work to complete the Soil Vapor Sampling Activities within 45 calendar days of that letter

(December 30, 2002). Said letter is set forth herein as Attachment 10-A and made a part hereof. The listing of the residential properties to be sampled for soil vapor is set forth in Attachment 11 hereto and made a part hereof.

2. In the event Respondent identifies an immediate or potential threat to human health and/or the environment at or from the Site, or discovers new releases of solid wastes or hazardous wastes at or from the Site not previously identified, Respondent shall notify the EPA Project Coordinator orally within forty-eight (48) hours of such identification or discovery and notify EPA in writing within three (3) calendar days of discovery summarizing the nature and extent of such release and/or the immediacy and magnitude of the potential threat(s) to human health and/or the environment. Upon written request of EPA, Respondent shall submit to EPA an IM Workplan in accordance with the IM Scope of Work, set forth in Attachment 3. If EPA determines that immediate action is required, the EPA Project Coordinator may orally authorize Respondent to act prior to EPA's receipt of the IM Workplan. Upon receipt of approval of the IM workplan, Respondent shall implement the EPA-approved workplan in accordance with the terms and conditions set forth herein.
3. If EPA identifies an immediate or potential threat to human health and/or the environment at or from the Site, or discovers new releases of solid wastes, hazardous wastes and/or hazardous constituents at or from the Site not previously identified, EPA will notify Respondent in writing. Within ten (10) days of receiving EPA's written notification, Respondent shall submit to EPA an IM Workplan in accordance with the IM Scope of Work, set forth in Attachment 3, that identifies interim measures which will mitigate the threat. If EPA determines that immediate action is required, the EPA Project Coordinator may require Respondent to act prior to Respondent's receipt of EPA's written approval.
4. Each IM Workplan required herein shall ensure that the interim measures are designed to mitigate immediate or potential threat(s) to human health and/or the environment, and should be consistent with the cleanup objectives of, and contribute to the performance of, any long-term remedy which may be required at the Site.
5. Each IM Workplan required herein shall be prepared in accordance with the IM Scope of Work set forth in Attachment 3 and shall include the following sections as appropriate and approved by EPA: Interim Measures Objectives, Data Collection Quality Assurance, Data Management, Design Plans and Specifications, Operation and Maintenance, Project Schedule, Interim Measures Construction Quality Assurance, and Reporting Requirements.
6. Concurrent with submission of each IM Workplan required herein, Respondent shall submit a new, or reference an EPA-approved IM Health and Safety Plan, that is in accordance with the Health and Safety Plan Scope of Work set forth in Attachment 4.

## **B. SITE INVESTIGATION ("SI")**

1. Within forty-five (45) calendar days of the effective date of this Order, Respondent shall submit to EPA for approval a description of the conditions at the Site ("Description"). This Description shall be developed in accordance with the SI Scope of Work contained in Attachment 5.
2. Within sixty (60) calendar days of the effective date of this Order, Respondent shall submit to EPA a Workplan for a Site Investigation ("SI Workplan"). The SI Workplan is subject to approval by EPA and shall be developed in accordance with, at a minimum, the SI Scope of Work contained in Attachment 5, and applicable federal and state regulations, and relevant EPA guidance documents.
3. The SI Workplan shall be designed to determine the presence, magnitude, extent, direction, and rate of movement of solid wastes, hazardous wastes, and/or hazardous constituents at or from the Site. The SI Workplan shall document the procedures Respondent shall use to conduct those investigations necessary to: (A) characterize the potential pathways of contaminant migration; (B) characterize the source(s) of contamination; (C) define the degree and extent of contamination of soil and groundwater; (D) identify actual or potential human and/or ecological receptors; (E) support the development of alternatives from which a corrective measure(s) will be selected by EPA; and (F) evaluate the effectiveness of the existing Dual Phase Extraction System described in Attachment 8 and submit a proposal to modify the system as appropriate. A specific schedule for expeditious implementation of all activities shall be included in the SI Workplan.
4. In accordance with the provisions of Attachment 5, hereto, the SI Workplan shall include the following: (A) a Project Management Plan; (B) a Data Collection Quality Assurance Plan; (C) a Data Management Plan, and (D) a Community Relations Plan. The SI Workplan shall also provide for the submission of draft and final SI reports.
5. Concurrent with the submission of the SI Workplan, Respondent shall submit to EPA a Health and Safety Plan in accordance with the provisions of Attachment 4 of this Order.
6. Upon receipt of EPA approval of the SI Workplan, Respondent shall implement the EPA-approved SI Workplan in accordance with the terms and schedules contained therein. Upon completion of implementation of the SI Workplan, Respondent shall submit to EPA for approval draft and final SI Reports and draft and final Laboratory and Bench Scale Studies Reports in accordance with the requirements and schedule contained in the EPA-approved SI Workplan.

### **C. CORRECTIVE MEASURES STUDY ("CMS")**

1. Within sixty (60) calendar days of receipt of EPA approval of the Final SI Report, Respondent shall submit to EPA for approval a Draft CMS Report in accordance

with the CMS Scope of Work in Attachment 6.

2. Within thirty (30) calendar days of receipt of EPA's comments on the Draft CMS Report, Respondent shall submit to EPA for approval the Final CMS Report, revised to respond to all comments received from and/or remedy all deficiencies identified by EPA on the Draft CMS Report.

#### **D. PUBLIC COMMENT ON EPA'S PROPOSED CORRECTIVE MEASURE(S)**

1. After EPA approval of the Final CMS Report, EPA will prepare a "Statement of Basis", if appropriate, in which EPA will explain its proposed corrective measure(s). The Statement of Basis will be available to the public for review and comment for at least thirty (30) calendar days.
2. Following the public review and comment period, EPA will notify Respondent of the corrective measure(s) selected by EPA in a Final Decision and Response to Comments ("FDRTC"). If the corrective measure(s) selected by EPA after consideration of public comments differs significantly from the corrective measure(s) proposed in the Statement of Basis, EPA will explain in the FDRTC the basis for such difference.

#### **E. SUBMISSIONS/EPA APPROVAL/ADDITIONAL WORK**

1. EPA will review Respondent's IM, SI, and CMS Workplans and Reports and any other documents to be submitted to EPA for approval pursuant to this Order ("Submissions") with the exception of progress reports, and will notify Respondent in writing of EPA's approval or disapproval of each such Submission. In the event of EPA's disapproval, EPA shall specify in writing any deficiencies in the Submission.
2. Within thirty (30) calendar days of receipt of EPA's comments on the Submissions described in paragraph 1 immediately above, Respondent shall submit to EPA for approval a revised Submission, which responds to any comments received and/or corrects any deficiencies identified by EPA. In the event EPA disapproves the revised Submission, EPA reserves the right to revise such Submission and seek to recover from Respondent the costs thereof, in accordance with CERCLA and other applicable law. Any Submission approved or revised by EPA under this Order shall be deemed incorporated into and made an enforceable part of this Order.
3. On the first day of the second full month following the effective date of this Order, Respondent shall provide EPA with a progress report. Thereafter, Respondent shall provide EPA with quarterly (every three months) progress reports beginning the first week of January, throughout the period that this Order is effective. The progress reports shall contain the information required in the

relevant Scope(s) of Work attached hereto.

4. Four (4) copies of all Submissions required by this Order shall be hand-delivered or sent by overnight express delivery, or Certified Mail, Return Receipt Requested, to the Project Coordinator designated pursuant to Section XIII, "PROJECT COORDINATORS," below.
5. All work performed pursuant to this Order shall be under the direction and supervision of a professional engineer or geologist with expertise in solid and/or hazardous waste site investigation and remediation. Within ten (10) calendar days after the effective date of this Order, Respondent shall submit to EPA, in writing, the name, title, and qualifications of the engineer or geologist and of any contractors or subcontractors to be used in carrying out the terms of this Order. Notwithstanding Respondent's selection of an engineer, geologist, contractor or subcontractor, nothing herein shall relieve Respondent of its obligation to comply with the terms and conditions of this Order. EPA shall have the right to disapprove at any time the use of any professional engineer, geologist, contractor or subcontractor selected by Respondent. Within fifteen (15) calendar days of receipt from EPA of written notice disapproving the use of any professional engineer, geologist, contractor or subcontractor, Respondent shall notify EPA, in writing, of the name, title and qualifications of the personnel who will replace the personnel whose use was disapproved by EPA. Respondent shall notify EPA within ten (10) days prior to changing voluntarily its engineer or geologist, and/or contractors or subcontractors to be used in carrying out the terms of this Order, and shall submit to EPA in writing, the name, title, and qualifications of such person(s).
6. EPA may determine that certain tasks and deliverables including, but not limited to, investigatory work or engineering evaluation require additional work, regardless of whether these tasks and deliverables have been in the IM, SI, or CMS Workplans or Reports. If EPA determines that such additional work is necessary to protect human health and or the environment, EPA shall notify Respondent of the requirement to perform the additional work and shall specify the reasons for EPA's determination that additional work is necessary. Within fifteen (15) calendar days after the receipt of such notification, Respondent shall have the opportunity to meet or confer with EPA to discuss the additional work. If additional work is required by EPA, Respondent shall submit to EPA for approval a workplan for additional work. Such workplan shall be submitted within thirty-five (35) days of receipt of EPA's determination that additional work is necessary, or according to an alternate schedule established by EPA. Upon approval of a workplan(s) for additional work, Respondent shall implement it in accordance with the schedule and requirements contained therein. In the event Respondent fails to perform the additional work, EPA reserves the right to order Respondent to perform such additional work; to perform such additional work itself and to seek to recover from Respondent all costs of performing such additional work; and/or to disapprove of the IM, SI, or CMS Workplans or Reports, or any other Workplans or Reports

required hereunder.

## **VII. QUALITY ASSURANCE**

Throughout all sample collection and analysis activities, Respondent shall use EPA-approved quality assurance, quality control, and chain-of-custody procedures, as specified in the EPA-approved workplan. In addition, Respondent shall:

1. Ensure that the laboratories it uses for analyses perform such analyses according to the EPA methods included in "Test Methods for Evaluating Solid Waste" (SW-846, November 1986, and subsequent updates) or other methods deemed satisfactory to EPA. If methods other than EPA methods are to be used, Respondent shall submit all analytical protocols to be used for analyses to EPA for approval at least thirty (30) calendar days prior to the commencement of analyses and shall obtain EPA approval prior to the use of such analytical protocols.
2. Ensure that laboratories it uses for analyses participate in a quality assurance/quality control program equivalent to that which is followed by EPA. As part of such a program, and upon request by EPA, such laboratories shall perform analyses of samples provided by EPA to demonstrate the quality of the analytical data.
3. Inform the EPA Project Coordinator at least fourteen (14) calendar days in advance of any laboratory analysis regarding which laboratory will be used by Respondent and ensure that EPA personnel and EPA authorized representatives have reasonable access to the laboratories and personnel used for analysis.

## **VIII. PUBLIC REVIEW OF ADMINISTRATIVE RECORD**

The Administrative Record supporting the issuance of this Order and any decisions or determinations made by EPA pursuant to the Order will be available for public review on Mondays through Fridays, from 9:00 a.m. to 5:00 p.m., by contacting the EPA Project Coordinator, Mr. Douglas A. Donor at:

U.S. Environmental Protection Agency  
Region III (3WC11)  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

Telephone: 215-814-3394

The Index to the Administrative Record supporting the issuance of this Order is set forth in Attachment 7.

## **IX. ON-SITE AND OFF-SITE ACCESS**

- A. Respondent shall provide to EPA and its employees, agents, consultants, contractors and other authorized and/or designated representatives, for the purposes of conducting and/or overseeing the work required by this Order, or by any EPA-approved Workplan prepared pursuant hereto, access to all property owned or controlled by Respondent wherein work must be undertaken. Such access shall permit EPA and its employees, agents, consultants, contractors and other authorized and designated representatives to conduct all activities described in paragraph IX. C. of this Order.
- B. To the extent that work required by this Order, or by any EPA- approved Workplan prepared pursuant hereto, must be done on property not owned or controlled by Respondent, Respondent shall use its best efforts to obtain site access agreement(s) from the present owner(s) and/or lessee(s) of such property, as appropriate, within sixty (60) calendar days of receipt of EPA approval of any Workplan pursuant to this Order which requires work on such property. For purposes of this paragraph, "best efforts" shall include, at a minimum, but shall not be limited to: a) a letter from Respondent to the present owner(s) or lessee(s) of such property requesting agreements to permit Respondent, EPA, and its authorized representatives access to such property; and b) the payment of reasonable sums of money in consideration of access. "Reasonable sums of money" means the fair market value of the right of access necessary to implement the requirements of this Order. In the event that such agreements for access are not obtained within sixty (60) calendar days after receipt of EPA approval of any Workplan pursuant to this Order which requires work on property which is not owned or controlled by Respondent, Respondent shall notify EPA, in writing, within seven (7) calendar days after the conclusion of such thirty day period, regarding both the efforts undertaken to obtain access and the inability to obtain such agreements. In the event that Respondent fails to obtain off-site access, despite the exercise of best efforts, EPA, in its sole discretion, may assist Respondent in obtaining off-site access for Respondent. Respondent shall reimburse EPA for all costs incurred by EPA in obtaining access, including, but not limited to, attorneys fees and the amount of any just compensation and costs incurred by EPA.
- C. In accordance with law and regulation, as appropriate, EPA and its employees, agents, contractors, consultants and other authorized and designated representatives shall have the authority at all reasonable times to enter and freely move about the location where work required by this Order is being performed for the purposes of, inter alia: inspecting work required by this Order, or by any EPA-approved workplan prepared pursuant hereto, records, operating logs and contracts related to the Site; reviewing the progress of the Respondent in carrying out the terms of this Order; conducting such tests as EPA deems necessary; using a camera, sound recording or other documentary type equipment; and verifying the data submitted to EPA by the Respondent. The Respondent shall permit such persons to inspect and copy all records, files, photographs, documents and other writings, including all sampling and monitoring data, in any way pertaining to the work required by this Order.

- D. Nothing in this Order limits or otherwise affects EPA's rights of access and entry pursuant to applicable law, including, but not limited to RCRA and CERCLA.

#### **X. SAMPLING AND DATA/DOCUMENT AVAILABILITY**

- A. Respondent shall submit to EPA the results of all sampling and/or tests or other data generated by, or on behalf of, Respondent in accordance with the requirements of this Order and the Attachments appended hereto and incorporated herein.
- B. Except as provided further in this Paragraph X. B., Respondent shall notify EPA, in writing, at least fourteen (14) calendar days in advance of any mobilization to the field for activities, including but not limited to, well drilling, installation of equipment, or sampling. In the event of situations where mobilization to the field must occur within a time frame that does not allow for fourteen (14) days advance notice to EPA, Respondent shall inform the EPA Project Coordinator of same by telephone and request approval to proceed within a shorter time frame. EPA shall communicate such approval in writing and indicate whether EPA or its consultants will be present. At the request of EPA, Respondent shall provide or allow EPA or its authorized representatives to take split or duplicate samples of all samples collected by Respondent pursuant to this Order. Nothing in this Order shall limit or otherwise affect EPA's authority to collect samples pursuant to applicable law, including, but not limited to, RCRA and CERCLA.
- C. Respondent may assert a business confidentiality claim covering all or part of any information submitted to EPA pursuant to this Order in the manner described in 40 C.F.R. Section 2.203(b). Any assertion of confidentiality shall be adequately substantiated by Respondent when the assertion is made in accordance with 40 C.F.R. Section 2.204(e)(4). Information subject to a confidentiality claim shall be disclosed only to the extent allowed by, and in accordance with, the procedures set forth in 40 C.F.R. Part 2, Subpart B. If no such confidentiality claim accompanies the information when it is submitted to EPA, it may be made available to the public by EPA without further notice to Respondent. Respondent shall not assert any confidentiality claim with regard to any physical, sampling, monitoring, or analytical data.
- D. If Respondent wishes to assert a privilege with regard to any document which EPA seeks to inspect or copy pursuant to this Order, Respondent shall identify the document, the privilege claimed, and the basis therefor in writing. For the purposes of this Order, privileged documents are those documents exempt from discovery from the United States in litigation under the Federal Rules of Civil Procedure. Respondent shall not assert a privilege with regard to any analytical, sampling or monitoring data.

#### **XI. RECORD PRESERVATION**

Respondent shall preserve, during the pendency of this Order and for a minimum of at least

six (6) years after its termination, all data, records and documents in its possession or in the possession of its divisions, officers, directors, employees, agents, contractors, successors, and assigns which relate in any way to this Order or to solid and/or hazardous waste management and/or disposal at the Site. After six (6) years, Respondent shall make such records available to EPA for inspection or shall provide copies of such records to EPA. Respondent shall notify EPA at least thirty (30) calendar days prior to the proposed destruction of any such records, and shall provide EPA with a reasonable opportunity to inspect, copy and/or take possession of any such records. Respondent shall not destroy any record to which EPA has requested access for inspection and/or copying until EPA has obtained such access or withdrawn its request for such access. Nothing in this Section XI shall in any way limit the authority of EPA under Section 3007 of RCRA, 42 U.S.C. Section 6927, Section 9005 of RCRA, 42 U.S.C. Section 6991d, or any other access or information-gathering authority.

## **XII. PROJECT COORDINATORS**

- A. EPA hereby designates Douglas A. Donor as the EPA Project Coordinator and Jack Hwang as EPA's Alternate Project Coordinator. Within ten (10) calendar days of the effective date of this Order, Respondent shall notify EPA, in writing, of the Project Coordinator it has selected. Respondent's legal counsel shall not serve as Respondent's Project Coordinator. EPA's and Respondent's Project Coordinators shall be responsible for overseeing the implementation of the Order. The EPA Project Coordinator will be EPA's primary designated representative for the Site. To the maximum extent possible, all communications between Respondent and EPA, and all documents, reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order, shall be directed through the Project Coordinators.
- B. Respondent must provide at least seven (7) calendar days written notice to EPA prior to changing its Project Coordinator.
- C. If EPA determines that conditions or activities at the Site, whether or not in compliance with this Order, have caused or may cause a release or threatened release of solid wastes, hazardous wastes, hazardous constituents, hazardous substances, pollutants or contaminants which threaten or may pose a threat to the public health or welfare or to the environment, EPA may direct that Respondent stop further implementation of this Order for such period of time as may be needed to abate any such release or threatened release and/or to undertake any action which EPA determines is necessary to abate such release or threatened release.

## **XIII. NOTIFICATION**

- A. Unless otherwise specified, reports, correspondence, approvals, disapprovals, notices, or other submissions relating to or required under this Order shall be in writing and shall be sent as follows:
  - 1. Four copies of all documents to be submitted to the EPA shall be sent to:

Mr. Douglas A. Donor  
Project Manager  
Technical Support Branch (3WC11)  
Waste & Chemicals Management Division  
United States Environmental Protection Agency, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

2. Documents to be submitted to Respondent shall be sent to:

Ms. Denise Dixon  
Project Manager,  
Chevron Products, Company  
2300 Windy Ridge Parkway  
Suite 800  
Atlanta, Georgia 30339

and to:

Mr. Mark Hausman, Esq.  
Chevron USA Counsel  
2300 Windy Ridge Parkway (Check This)  
Suite 800  
Atlanta, Georgia 30339

3. One copy of all documents to be submitted to EPA shall also be sent to:

Dr. V. Sreenivas  
Deputy Chief for Hazardous Materials and Toxic Substances  
District of Columbia Department of Health  
Environmental Health Administration  
51 N Street, N.E., Room 3019  
Washington, D.C. 20002

and to:

Mr. Mick Butler  
Program Administrator  
Oil Control Program  
Maryland Department of the Environment  
1800 Washington, Boulevard  
Suite 620  
Baltimore, Maryland 21230-1719

- B. Any notice, report, certification, data presentation, or other document submitted by

Respondent pursuant to this Order which discusses, describes, demonstrates, or supports any finding or makes any representation concerning Respondent's compliance or noncompliance with any requirement of this Order shall be certified by a responsible corporate officer or a duly authorized representative of a responsible corporate officer. A "responsible corporate officer" means: (a) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (b) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding 25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. A person is a "duly authorized representative" only if: (1) the authorization is made in writing by a person described above; (2) the authorization specifies either an individual or position having responsibility for overall operation of the regulated facility or activity (a duly authorized representative may thus be either a named individual or any individual occupying a named position); and (3) the written authorization is submitted to the Project Coordinator designated by EPA in Section XII ("PROJECT COORDINATORS") of this Order.

C. The certification required by paragraph B, above, shall be in the following form:

I certify that the information contained in or accompanying this **[type of submission]** is true, accurate, and complete.

As to [the/those identified portion(s)] of this **[type of submission]** for which I cannot personally verify **[its/their]** accuracy, I certify under penalty of law that this **[type of submission]** and all attachments were prepared in accordance with procedures designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, or the immediate supervisor of such person(s), the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Signature : \_\_\_\_\_

Name : \_\_\_\_\_

Title : \_\_\_\_\_

#### **XIV. ENFORCEMENT AND PENALTIES FOR NONCOMPLIANCE**

A. If Respondent fails to comply with the terms and provisions of this Order, said failure to

comply may subject Respondent to civil penalties of up to five thousand five hundred dollars (\$5,500.00) per violation per day, as provided in RCRA Section 7003(b), 42 U.S.C. Section 6973(b), as amended by the Debt Collection Improvement Act of 1996. (See also 40 C.F.R. Part 19).

- B. If Respondent violates this Order or any provision thereof, EPA may seek judicial enforcement of this Order in accordance with RCRA Section 7003(b), 42 U.S.C. Section 6973(b).

#### **XV. RESERVATION OF RIGHTS**

- A. EPA expressly reserves all rights and defenses that it may have, including the right both to disapprove of work performed by Respondent pursuant to this Order, to require that Respondent correct and/or perform any work disapproved by EPA, and to request that Respondent perform tasks in addition to those stated in the Scope(s) of Work, workplan(s), or this Order.
- B. EPA hereby reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including any which may pertain to Respondent's failure to comply with any of the requirements of this Order. This Order shall not be construed as a covenant not to sue, or as a release, waiver or limitation of any rights, remedies, powers and/or authorities, civil or criminal, which EPA has under RCRA, CERCLA, or any other statutory, regulatory or common law authority.
- C. Respondent's compliance with the terms of this Order shall not relieve Respondent of its obligations to comply with RCRA or any other applicable local, state, or federal laws and regulations.
- D. Respondent's compliance with this Order shall not limit or otherwise preclude EPA from taking additional enforcement action pursuant to Section 7003 of RCRA, 42 U.S.C. Section 6973, or any other authority, should EPA determine that such action is warranted.
- E. This Order is not intended to be, nor shall it be, construed as a permit. This Order does not relieve Respondent of any obligation to obtain and comply with any local, state, or federal permit or approval.
- F. EPA reserves the right to perform any portion of the work required herein or any additional site characterization, feasibility study, and response/corrective actions it deems necessary to protect public health or welfare or the environment. EPA may exercise its authority under RCRA, CERCLA or any other authority to undertake or require the performance of response actions at any time. EPA reserves the right to seek reimbursement from Respondent for costs incurred by the United States in connection with any such response actions. Notwithstanding compliance with the terms of this Order, Respondent is not released from liability, if any, for the costs of any response actions taken by EPA.

- G. EPA reserves whatever rights it may have under CERCLA or any other law, or in equity, to recover from Respondent any costs incurred by EPA in overseeing the implementation of this Order.

#### **XVI. OTHER CLAIMS**

Nothing in this Order shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership, or corporation, or other entity for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any solid wastes, hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from the Site.

#### **XVII. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to this Order shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. Respondent shall obtain or require its authorized representatives to obtain all permits and approvals necessary under such laws and regulations.

#### **XVIII. NOTICE OF NON-LIABILITY OF EPA**

EPA shall not be deemed a party to any contract involving Respondent and relating to activities at the Site and shall not be liable for any claim or cause of action arising from or on account of any act, or the omission of Respondent, its officers, employees, contractors, receivers, trustees, agents or assigns, in carrying out the activities required by this Order.

#### **XIX. SUBSEQUENT MODIFICATION**

- A. The EPA Project Coordinator may make minor modifications in the studies, techniques, procedures, designs or schedules utilized in carrying out this Order and necessary for the completion of the project.
- B. No informal advice, guidance, suggestions, or comments by EPA regarding reports, plans, specifications, schedules, and any other writing submitted by Respondent shall be construed as relieving Respondent of its obligation to obtain written approval, if and when required by this Order.

#### **XX. SEVERABILITY**

If any provision or authority of this Order or the application of this Order to any party or circumstance is held by any judicial or administrative authority to be invalid, the application of such provision to other parties or circumstances and the remainder of this Order shall not be affected thereby and shall remain in full force.

## **XXI. TERMINATION AND SATISFACTION**

The provisions of this Order shall be deemed satisfied upon Respondent's receipt of written notice from EPA that Respondent has demonstrated, to the satisfaction of EPA, that the terms of this Order, including any additional tasks determined by EPA to be required pursuant to this Order, have been satisfactorily completed. This notice shall not, however, terminate Respondent's obligation to comply with any continuing obligations hereunder including, but not limited to, Sections XI ("RECORD PRESERVATION"), XV ("RESERVATION OF RIGHTS"), XVI ("OTHER CLAIMS"), and XVII ("OTHER APPLICABLE LAWS").

## **XXII. EFFECTIVE DATE AND OPPORTUNITY TO CONFER**

- A. This Order is deemed issued on the date it is signed by the Director of the Waste and Chemicals Management Division of EPA Region III. This Order shall become effective fifteen (15) calendar days following the date on which it is issued.
- B. Not later than ten (10) calendar days from the date of issuance of this Order, Respondent may confer with EPA to discuss the scope and applicability of this Order, the findings upon which this Order is based, the appropriateness of any action or activity required to be undertaken hereby, or other issues directly relevant to issuance of this Order. Such a conference is not, and shall not be deemed to be a proceeding to challenge this Order. Any request for a conference within the prescribed time frame shall be made to :

Susan T. Hodges (3RC43)  
Senior Assistant Regional Counsel  
U.S. Environmental Protection Agency  
1650 Arch Street  
Philadelphia, PA 19103  
Telephone: (215) 814-2643  
Fax: (215) 814-2603

## **XXIII. NOTICE OF INTENT TO COMPLY**

- A. No later than seven (7) calendar days after the effective date of this Order, Respondent shall provide notice in writing to EPA's Project Coordinator stating whether Respondent will comply with the terms of this Order. If the Respondent does not agree and commit to perform all of the requirements of this Order in such notice, EPA will conclude that Respondent has decided not to comply with the terms of the Order and Respondent will be deemed in violation of this Order. The absence of a response by EPA to the notice

required by this Section XXIII. shall not be deemed to be acceptance of Respondent's assertions nor as a position taken by EPA with regard to those assertions.

- B. Failure of Respondent to provide such notice shall be a violation of this Order and deemed to be a decision by Respondent not to comply with the terms of this Order. Said failure to comply may result in an agency decision to file a judicial action to enforce the terms of this Order.

IT IS SO ORDERED:

DATE: \_\_\_\_\_

BY: \_\_\_\_\_

JAMES J. BURKE  
DIRECTOR OF THE WASTE AND CHEMICALS  
MANAGEMENT DIVISION  
UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION III