

May 30th, 2008

RESOLUTION

County of Buncombe

State of North Carolina

WHEREAS, a duly-appointed CTS Citizen's Monitoring Council, established to monitor and report concerns of the local community in conjunction with the CTS of Asheville, Inc. / Mills Gap Road Groundwater Contamination Site, has requested and recommended it; and

WHEREAS, a "voluntary remediation" status, under North Carolina law (N.C.G.S., Chapter 130A-310.9b) is not extended automatically to any presumed responsible party or owner of a contaminated property, listed with the state's Inactive Hazardous Substance or Waste Sites Branch, unless formally accepted and approved by the Secretary of the North Carolina Department of Environment and Natural Resources that grants a "maximum financial responsibility" for cleanup costs; and

WHEREAS, both identified presumed responsible parties identified for this site, were held in abeyance of contempt, under a formal federal criminal contempt charge, pending a promulgated formal administrative enforcement order, by the federal government on 1/16/2004 (case no. ISIS- 04-204-3755 under CERCLA Chapter 106A) for **non-compliance** in order to **compel compliance** with a previous mandate, dated 4/4/2002 under a federal "enforcement-lead removal action" promulgating the requirement that such an Administrative Order on Consent be concluded and signed; and

WHEREAS, the second identified presumed responsible party and "owner" held liable, is in **violation of state law** (N.C.G.S., Chapter 130A-310.8), for not having properly disclosed, recorded and left uncorrected for a ten year period, certain information available to it, but not disclosed to the public, of certain highly toxic hazardous substances present at the Site, known to be carcinogens (among them, vinyl chloride, cadmium and trichloroethylene), not mentioned or listed in an *ORDER TO SUBMIT, AND TO RECORD, NOTICE OF AN INACTIVE HAZARDOUS SUBSTANCE OR WASTE DISPOSAL SITE*; and

WHEREAS, the above-mentioned history of enforcement and submission; and on-going circumstance of non-compliance, do not comport with or fit the meaning of "voluntary"; and

WHEREAS, the dictionary meaning definition of "voluntary" is described as "arising, acting, or resulting from somebody's own choice or decision rather than because of external pressure or force" or "acting or done of one's own free will without valuable consideration or legal obligation"; and

WHEREAS, previous delays in compliance may have unnecessarily placed the community at greater risk, referring to the above-described **Action Memorandum /Enforcement, dated April 4, 2002, under which the situation at the Site was determined to be "time-critical" and then stated, that: "the situation at the site will worsen, if a removal action is delayed or not taken.** The presence of contaminated soils beneath the building at the site poses a threat to the nearby population and the environment. Unless removal actions are initiated and completed the contaminants within the unsaturated zone will continue to be a source of groundwater and surface water contamination" in that "decision document" approved by the Director of the Division of Waste Management of the United States Environmental Protection Agency for Region 4, ; and

WHEREAS, compliance with an **enforcement-lead order** for action should not be construed to be a "voluntary" act, given such "benefits" conferred under true "voluntary" action. A compulsory act complied with, should not ***now*** be construed as engaging in a voluntary act; and

WHEREAS, a special "voluntary remediation" status is not without reward or benefit: That benefit being questioned, hereunder, being a "maximum financial responsibility" of three million dollars (\$3,000,000) derived from a 1987 statutory requirement and cost basis; and

WHEREAS, the costs of that remedial action, as yet, remain undetermined and are expected to be higher and increasing with time; and

WHEREAS, should an undetermined real cost for a comprehensive and full scale cleanup substantially exceed \$3,000,000, such as that one envisioned and called for under the 2002 "enforcement-lead removal action" under EPA, **any amount in excess, would be paid by the tax-payer.** As per example – were soil removal action costs under an anticipated full and effective remediation of soil beneath and surrounding the manufacturing facility in question, to approach or exceed, a not unreasonable twenty million dollar (\$20,000,000) figure; and

WHEREAS, CTS Printex in Mountain View, California was cleaned up expeditiously, comprehensively and completely (including soil excavation and

removal) within five years from site discovery, with similar contamination and a plant operation, but with markedly lower maximum levels of contamination from those identified at CTS of Asheville, at corporate expense; and

WHEREAS, the citizens of Buncombe County and North Carolina are dependent upon their government to act in their best interests and to prevent a viable multinational corporation and a local ownership group from not fulfilling their respective responsibilities as identified presumed responsible parties for contamination affecting life and future well-being of its citizens.

NOW, THEREFORE, BE IT RESOLVED, that the Buncombe County Board of Commissioners respectfully requests the Honorable William G. Ross, Secretary of the Department of Environment and Natural Resources of the State of North Carolina, under the direction of the Honorable Roy Cooper, Attorney General of the State of North Carolina, and for these foregoing reasons and in the interest of justice and for the benefit of the citizens of Buncombe County and North Carolina, decline such special discretionary grant and awarded privileged status and protection, under the aforesaid circumstance for the aforesaid reasons. Granted under the North Carolina General Statutes, Chapter 130A, Section 310.9(b).

KATHY HUGHES, CLERK TO THE
BOARD OF COMMISSIONERS

NATHAN RAMSEY, CHAIRMAN
BOARD OF COMMISSIONERS

The above Resolution was made and approved on this _____ day of June, 2008

By Nathan Ramsey, Chairman of the Buncombe County Board of Commissioners. The Buncombe County Board of Commissioners are: Vice Chairman David Gantt, Carol Weir Peterson, Bill Stanley and David Young. Tuesday's meeting was held at the Buncombe County Court House located in Asheville, NC.