



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We make Indiana a cleaner, healthier place to live

Frank O'Bannon
Governor

John M. Hamilton
Commissioner

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www.ai.org/idem

January 27, 1999

Mr. Ray White, Midwest Manager
AlliedSignal Aerospace Inc.
Aerospace Equipment Systems
717 North Bendix Drive
South Bend, IN 46620

IDEM Office of Land Quality - Fileroom Stamp	
VRP Project Name:	<u>Honeywell</u>
VRP#:	<u>6980601</u> File Code: <u>200</u>
Description:	<u>VRA</u>
Confidential?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Deliberative?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Dear Mr. White:

Re: Voluntary Remediation Agreement
IDEM Site No. 6980601

AlliedSignal Inc.
717 North Bendix Drive
South Bend, IN

Please find enclosed a copy of the Voluntary Remediation Agreement (VRA) for the AlliedSignal Inc. facility in South Bend, Indiana. The VRA has been signed by the Assistant Commissioner of the Indiana Department of Environmental Management.

If an investigation report and/or remediation work plan report has been completed for the site according to IDEM Voluntary Remediation Program outlines, it may be submitted at this time. Please let me know if there are any other documents associated with your remediation that should also be included in our review.

If you have any questions please contact me at 317/308-3126 or 1-800-451-6027.

Sincerely,

Ed Joniskan, Project Manager
Voluntary Remediation Program
Office of Environmental Response

Enclosure

VOLUNTARY REMEDIATION AGREEMENT
Relating to AlliedSignal Inc.

AlliedSignal Inc.)
South Bend, IN)
)
Applicant)
)
Voluntary Remediation of:)
AlliedSignal Aerospace Equipment)
Systems)
IDEM Site #:6980601)
)
Proceeding under)
the Environmental)
Management Act)
(Indiana Code 13-25-5))

I. INTRODUCTION

1. The Indiana Department of Environmental Management ("IDEM"), by its Commissioner ("Commissioner"), and ("Applicant") hereby enter into this Voluntary Remediation Agreement ("Agreement"), pursuant to IC 13-25-5-8 for the purpose of remediating the release of hazardous substances or petroleum at AlliedSignal Aerospace Equipment Systems, South Bend, Indiana.

II. JURISDICTION

2. This Agreement is entered into by and between the Applicant and IDEM, by its Commissioner, pursuant to IC 13-25-5-8, hereafter collectively referred to as the "Parties."

3. The Parties agree to the following terms and conditions for the evaluation and implementation of the Voluntary Remediation Work Plan (Work Plan) and to waive their rights to administrative and judicial review of the binding effect and enforceability of the Agreement and agree not to contest the jurisdiction of IDEM to enter into this Agreement. However, the Applicant reserves all rights it may have under common law, the Indiana Code and federal statutes to seek contribution or indemnity from others not signatories to this Agreement.

4. By entering into this Agreement, the Applicant neither admits nor denies liability.

III. STATEMENT OF ELIGIBILITY

5. The Commissioner has determined that the application submitted by the Applicant is complete and that the Applicant is eligible to participate in the Voluntary Remediation Program established under IC 13-25-5. However, neither the Commissioner's determination of eligibility nor the entry into this Agreement precludes any finding by the Commissioner at a later date that the site poses an imminent and substantial threat to human health or the environment within the meaning of IC 13-25-5. In addition, if it is determined that the Applicant withheld or misrepresented information that would be relevant to the Applicant's eligibility, the Commissioner may withdraw from this Agreement.

IV. PARTIES BOUND

6. This Agreement shall apply to and be binding upon the Applicant, its officers, directors, principals, employees, agents, successors, subsidiaries and assigns and upon IDEM, its employees, agents and successors. The signatories to this Agreement certify that they are fully authorized to execute and legally bind the Parties they represent. No change in ownership, corporate, or partnership status of the Applicant shall in any way alter its status or responsibilities under this Agreement unless Applicant or IDEM withdraws from this Program.

7. The Applicant shall provide a copy of this Agreement to any subsequent owners or successors before ownership rights are transferred. The Applicant shall provide a copy of this Agreement to all contractors, sub-contractors, laboratories, and consultants which are retained to conduct any work performed under this Agreement, within fourteen (14) days after the effective date of this Agreement or within fourteen (14) days of the date of retaining their services.

V. DEFINITIONS

8. "Day" or "calendar day" shall be defined as the 24-hour period between 12:00 A.M. - 12:00 A.M..

9. "Site" shall be used in the manner as defined by IC 13-11-2-203(a); which includes the legal description of the site located at 717 North Bendix Drive, South Bend, Indiana.

10. All other terms contained in this Agreement shall be used in the manner as defined by IC 13-11-2 as they relate to IC 13-25-5.

VI. STATEMENT OF PURPOSE

11. This Agreement sets forth the terms and conditions of evaluation and implementation of a Voluntary Remediation Work Plan proposed by the Applicant for the remediation of the release or threatened release of petroleum or hazardous substances from the site.

12. The activities conducted by the Applicant under this Agreement are subject to approval by

IDEM. Applicant shall provide all necessary information for a Work Plan for the site. The activities conducted by the Applicant shall be consistent with this Agreement, all applicable laws and regulations and any appropriate guidance documents applicable to the Voluntary Remediation Program as of the date of execution of this agreement. Applicant shall employ sound scientific, engineering and construction practices.

VII. WORK TO BE PERFORMED

13. All work to be performed by the Applicant pursuant to this Agreement shall be under the direction and supervision of a Certified Professional Engineer or Certified Professional Geologist or other qualified persons with expertise in hazardous substance or petroleum site investigation and remediation. This individual may or may not be designated by the Applicant as the Applicant's Project Manager pursuant to Paragraph 24. Prior to the initiation of site work, the Applicant shall notify IDEM, in writing, regarding the name, title, and qualification of such engineer, geologist or qualified person and of any contractors and/or subcontractors to be used in carrying out the terms of this Agreement. Selection of any such engineer, geologist or qualified person contractor and/or subcontractor shall be subject to disapproval by IDEM.

14. The Applicant shall submit a Voluntary Remediation Work Plan not later than one hundred eighty (180) days after the date this VRA is executed, or longer if an extension is agreed to by the parties. If Applicant fails to submit the Work Plan within that time frame the Agreement is voidable at the discretion of IDEM. If IDEM determines the Agreement is void, all protection provided under IC 13-25-5-18(e) is extinguished. In the event the VRA is voided, the Applicant shall remain responsible to IDEM under Section XIX for expenses through the date the Agreement is voided. The Remediation Work Plan must specify the objectives for the remediation of hazardous substances or petroleum that is based on one of the following: background levels that occur naturally on the site, or an assessment of the risks posed by the hazardous substances or petroleum, taking into consideration the expected future use and measurable risks to human health, natural resources, or the environment. Risk based objectives shall be based on one of the following: 1) levels of hazardous substances and petroleum calculated by IDEM using standard equations and default values for that particular contaminant; 2) levels of hazardous substances and petroleum calculated using site specific data for the default values in IDEM's standard equations; 3) levels of hazardous substances and petroleum developed based on site specific risk assessments that take into account site specific factors. The remedial actions shall be selected using any U.S. EPA or IDEM guidance documents or reasonable alternatives selected by IDEM as appropriate.

15. The Voluntary Remediation Work Plan submittal shall include, (1) a detailed description of the investigation conducted by the Applicant in preparing the Voluntary Remediation Work Plan and a description of the work to be performed by the Applicant to determine the nature and extent of the actual or threatened release, (2) a proposed statement of work to accomplish the remediation in accordance with guidelines established by the department; and (3) the following project plans; (a) a quality assurance project plan; (b) a sampling and analysis plan; (c) a health and safety plan; (d) a community relations plan; (e) a schedule for implementation of all tasks set forth in the Voluntary Remediation Work Plan; and (f) data management plan.

16. The IDEM may request Applicant to submit additional or corrected information pursuant to IC 13-25-5-9(b). The Applicant may comply with the request or withdraw the proposed plan from consideration.

17. The Voluntary Remediation Work Plan shall be subject to review and evaluation by IDEM pursuant to IC 13-25-5-9(a) within sixty (60) days of receipt of the Work Plan. Additionally, IDEM may request the applicant to supply additional information or corrected information pursuant to IC 13-25-5-9(b). This time period shall not include the time required for public comment under IC 13-25-5-11.

18. The Commissioner shall make a determination concerning the approval, modification and approval, or rejection of the Voluntary Remediation Work Plan within thirty (30) calendar days of close of the public comment period provided for in IC 13-25-5-11 and notify the Applicant as provided in IC 13-25-5-12 or 13-25-5-13.

19. If the Applicant desires to proceed with the implementation of the approved Work Plan, the Applicant must notify the Commissioner in writing not more than 60 days after the Work Plan is approved. After providing such notice, the Applicant shall initiate the work detailed in the Voluntary Remediation Work Plan according to the schedule as set forth in the Commissioner's Notice of Approval. Upon the Commissioner's receipt of notice that the Applicant intends to proceed, the fully approved Voluntary Remediation Work Plan shall be deemed incorporated into and made an enforceable part of this Agreement.

20. The Applicant may terminate this Agreement at any time, by notifying IDEM in writing of its intent to terminate the Agreement. IDEM will cease review of any submittals under this Agreement within two (2) business days of receipt of the notice of intent to terminate the Agreement. No additional administrative costs, except those necessary administrative costs associated with terminating this Agreement, as described in section XIX, will accrue after that date. IDEM will then prepare a summary of its administrative costs through that date and provide that summary to the Applicant for payment. Upon full payment of the appropriate administrative costs by the Applicant, the Agreement shall be terminated.

VIII. ADDRESSES FOR ALL CORRESPONDENCE

20. Documents, including reports, approvals, notifications, disapprovals, and other correspondence, to be submitted under this Agreement, may be sent by certified mail, return receipt requested, hand delivery, overnight mail or by courier service to the following addresses or to such addresses as the Applicant or IDEM may designate in writing.

Documents to be submitted to IDEM should be sent to:

Mr. Ed Joniskan
Voluntary Remediation Project Manager
IDEM
100 N Senate Ave
P.O. Box 6015
Indianapolis, Indiana 46206-6015
(317) 308 - 3126

Documents to be submitted to the Applicant should be sent to:

Mr. Ray White, Midwest Manager Site Remediation
AlliedSignal Inc.
Aerospace Equipment Systems
717 North Bendix Drive
South Bend, IN 46620

IX. COMPLIANCE WITH APPLICABLE LAWS

21. All work undertaken by the Applicant pursuant to this Agreement shall be performed in compliance with all applicable Federal, state and local laws, ordinances and regulations, including, but not limited to, all Occupational Safety and Health Administration, Department of Transportation and Resource Conservation and Recovery Act regulations. In the event of a conflict in the application of Federal, state, or local laws, ordinances and regulations, the Applicant shall comply with the more/most stringent of such laws, ordinances, or regulations, unless provided otherwise in writing by IDEM. As provided by IC 13-25-4-26, no state or local permit shall be required for any portion of the work conducted entirely on-site. However, where it is determined that such a permit is required under federal law, Applicant shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals. The Applicant shall be responsible for obtaining all Federal permits which are necessary for the performance of any work hereunder.

22. Nothing in this Agreement or in IC 13-25-5 relieves Applicant of its obligations or responsibilities under the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq., including the duty to meet any permit conditions including, but not limited to, financial responsibility, closure, post-closure or corrective action. The Covenant Not to Sue shall not be construed to relieve Applicant of any duty to perform closure, post-closure or corrective action regardless of whether the Work Plan addressed the contaminants or property at issue. Additionally, this Covenant Not to Sue shall not be construed to relieve the Applicant of any and all Natural Resource Damage liability arising from the contaminants addressed or not addressed by the Remediation Work Plan, under the following authorities: 42 U.S.C.A. § 9601 et seq.; 33 U.S.C.A. §2701 et.seq.; Indiana Code 13-25-4-8; and any common law theories of public trust doctrine in Indiana.

X. INTERAGENCY COORDINATION

23. The following agencies may have an interest in the Work Plan because of coexisting or contiguous natural resources or concurrent jurisdiction over the site:

1. Indiana Department of Natural Resources; Fish & Wildlife Division
Rm-W273, 402 W. Washington, Indianapolis, IN 46204
Attn: Mr. Wayne Faatz, (317) 232-4080; Fax (317) 233-4579
2. Indiana State Department of Health; Epidemiology Resource Center,
2 North Meridian Street, Indianapolis, IN 46204
Attn: Ms. Dollis Wright, (317) 233-7808; Fax (317) 233-7378
3. Fire Prevention and Building Safety Commission
Office of the Fire Marshal, Rm E-241, 402 W. Washington,
Indianapolis, IN 46204 (317) 232-2222; Fax (317) 233-0307

The Applicant shall provide notice to these agencies of the submission of the Work Plan executive summary, a site map and the name of the Voluntary Remediation Program Project Manager. Any of the above named agencies that wish to review the Work Plan shall be given an opportunity by the Commissioner to comment during the time IDEM is reviewing the Plan. The Commissioner shall consider any comments from state agencies that are received at least thirty (30) days prior to the deadline established in this Agreement for approval or rejection of the Work Plan.

XI. DESIGNATED PROJECT MANAGER

24. On or before the effective date of this Agreement, IDEM and the Applicant shall each designate a Project Manager. Each Project Manager shall be responsible for overseeing the implementation of this Agreement. The IDEM Project Manager will be the IDEM designated representative at the site. To the maximum extent possible, communications between the Applicant and IDEM and all documents (including reports, approvals, and other correspondence) concerning the activities performed pursuant to the terms and conditions of this Agreement shall be directed through the Project Managers. During implementation of this Agreement, the Project Managers shall, whenever possible, operate by consensus and shall attempt in good faith to resolve disputes informally through discussion of the issues. Each Party has the right to change its respective Project Manager by notifying the other Party in writing at least five (5) calendar days prior to the change.

25. The IDEM Project Manager shall have the authority to halt, conduct, or direct any work required by this Agreement and/or any response actions or portions thereof when conditions may present an imminent and substantial threat to human health or the environment. In the event that the IDEM Project Manager halts work pursuant to this paragraph, the schedule of work described in the Work Plan and this Agreement shall be modified accordingly or the IDEM may withdraw its approval of the Work Plan pursuant to Section XVIII.

26. The absence of the Applicant's or IDEM's Project Manager from the site shall not be cause for the stoppage of work. The Applicant's Project Manager or his supervisor shall reasonably be

available by telephone while the field investigation is being performed. The Applicant's Project Manager shall designate a person to be in charge who will be available on-site when field work is being performed.

XII. QUALITY ASSURANCE

27. The Applicant shall use quality assurance, quality control, and chain of custody procedures in accordance with the Quality Assurance Project Plan approved for use by IDEM, throughout any Work Plan sample collection and analysis activities under this Agreement, unless IDEM agrees otherwise.

28. Applicant shall provide the IDEM Project Manager with reasonable advance notice of all sampling and analysis as detailed in the Work Plan. To provide quality assurance and maintain quality control, the Applicant shall:

- (a) allow IDEM personnel and/or IDEM authorized representatives reasonable access to laboratories and personnel utilized by the Applicant for analyses;
- (b) ensure that all sampling and analyses are performed according to U.S. EPA methods, the approved Quality Assurance Project Plan, or other methods deemed satisfactory by IDEM; and,
- (c) ensure that any laboratories used by the Applicant for analyses participate in a documented Quality Assurance/Quality Control program that complies with U.S. EPA guidance documents. As part of such a program, and upon request by IDEM, such laboratories shall perform analyses of samples provided by IDEM to demonstrate the quality of analytical data for each such laboratory.

29. In the event any laboratory fails to perform the activities required above, IDEM reserves the right to reject any data not gathered pursuant to the requirements listed above, and to require that the Applicant utilize a different laboratory.

XIII. SAMPLING AND DATA/DOCUMENT AVAILABILITY

30. The Applicant shall, upon request, make the results of all sampling, including raw data, and/or tests or other data generated by the Applicant, or on the Applicant's behalf, available to IDEM. IDEM will make available to the Applicant the quality assured results of sampling and/or tests or other data similarly generated by IDEM.

31. At the request of IDEM, the Applicant shall provide split or duplicate samples to IDEM and/or its authorized representative, of any samples collected by the Applicant pursuant to the implementation of this Agreement. At the request of the Applicant, IDEM or its authorized representative, shall provide split or duplicate samples to the Applicant of any samples collected by IDEM and/or its authorized representative pursuant to the implementation of this Agreement. Each Party shall notify the other sufficiently in advance of any sample collection activity to allow for the splitting or duplicating of samples.

XIV. ACCESS

32. To the extent that the site or other areas where work is to be performed hereunder is presently owned or controlled by Parties other than those bound by this Agreement, the Applicant shall obtain, or shall use its best efforts to obtain access agreements from the present owners. Best efforts shall include at a minimum, a certified letter from Applicant to the present owner of such property requesting access agreements to permit Applicant, IDEM and their authorized representatives access to such property. Any such access agreements shall be incorporated by reference into this Agreement. Such agreements shall provide access for IDEM and authorized representatives of IDEM, as specified below. In the event that such access agreements are not obtained, the Applicant shall so notify IDEM, which may then, at its discretion, assist the Applicant in gaining access. IDEM reserves the right to withdraw, or modify with the Applicant's consent, as necessary, this Agreement, should the Applicant's inability to gain access to the site or other areas materially affect the Applicant's ability to perform the work required herein.

33. The Applicant shall provide authorized representatives of IDEM access to the site and other areas where work is to be performed at all reasonable times. Such access shall be related solely to the work being performed on the Site and shall include, but not be limited to: inspecting records, operating logs and contracts related to the site; reviewing the progress of the Applicant in carrying out the terms of this Agreement; conducting such tests, inspections, and sampling as IDEM may deem necessary; using a camera, sound recording, or other documentary type equipment for field activities; and, verifying the data submitted to IDEM by the Applicant hereunder. The Applicant shall permit IDEM's authorized representatives to inspect and copy all records, files, photographs, documents, and other writings, including all sampling and monitoring data, which pertain to this Agreement and over which the Applicant exercises control. All persons with access to the site pursuant to this Agreement shall comply with approved health and safety plans.

34. Nothing herein shall be construed as restricting the inspection or access authority of IDEM under any law or regulation.

XV. RECORD PRESERVATION

35. The Applicant agrees to preserve, during the pendency of this Agreement and for a minimum of six (6) years after its termination, all records and documents in the Applicant's possession or in the possession of its employees, agents, accountants, contractors, which relate in any way to the subject matters covered by this Agreement. Upon request by IDEM, the Applicant shall make available to IDEM such records, or copies of any such records. After this six year period, the Applicant shall notify IDEM in writing thirty (30) calendar days prior to the destruction of any such documents. At that time, if IDEM requests that some or all documents be preserved for a longer period of time, the Applicant shall provide IDEM with the documents that IDEM wishes to preserve.

36. The Applicant may assert a confidentiality claim, pursuant to applicable laws and rules IC 13-14-11-1 thru IC 13-14-11-5, and 5-14-3 with respect to any or all of the information requested or submitted pursuant to this Agreement. IDEM will inform the Applicant within 30 days of receipt

whether it disagrees with the confidential claim for only submitted information. Any such dispute shall be subject to section XVI. Any assertion of confidentiality shall be adequately substantiated by Applicant when the assertion is made. Information determined to be confidential by the IDEM shall be disclosed only to the extent permitted by IC 13-14-11-1 and IC 5-14-3. If no such confidentiality claim accompanies the information when it is submitted to the IDEM, it may be made available to the public by the IDEM without further notice to the Applicant. Applicant agrees not to assert any confidentiality claim with regard to any sampling data.

XVI. DISPUTE RESOLUTION

37. This section (Dispute Resolution) shall apply to any dispute arising under any section of this Agreement, unless specifically excepted.

38. The Parties shall use their best efforts to, in good faith, resolve all disputes or differences of opinion informally. If, however, disputes arise concerning this Agreement which the Parties are unable to resolve informally, the Applicant may present written notice of such dispute to IDEM and set forth specific points of dispute and the position of the Applicant. This written notice shall be submitted no later than five (5) calendar days after the Applicant discovers the Project Managers are unable to resolve the dispute. The Applicant's Project Manager will notify IDEM's Project Manager immediately by phone or other appropriate method of communication, prior to written notice, when s/he believes the Parties are unable to resolve a dispute.

39. Within ten (10) calendar days of receipt of such a written notice, IDEM shall provide a written response to the Applicant setting forth its position and the basis therefore. During the five (5) calendar days following the receipt of the response, the Parties shall attempt to negotiate in good faith a resolution of their differences.

40. (a) Following the expiration of the time periods described in the immediately preceding paragraph, if IDEM concurs with the position of the Applicant, the Applicant shall be notified in writing and this Agreement shall be modified to include any necessary extensions of time or variances of work. If IDEM does not concur with the position of the Applicant, IDEM, through the Commissioner or his/her designate, shall make a determination regarding the dispute, based upon and consistent with the terms of this Agreement, and shall provide written determination of such resolution to the Applicant.

(b) In the event that such determination is not acceptable to either Party, the dispute may be submitted to an impartial third Party for mediation in the following manner:

(1) The Parties shall select a mediator from the Indiana Supreme Court's approved list of mediators as established by the Indiana Rules of Alternative Dispute Resolution (ADR Rules) within five (5) calendar days of Applicant's receipt of the Commissioner's determination. In the event such a list does not exist or does not contain mediators which the Parties agree are qualified to mediate environmental disputes, the Parties shall compile a mutually acceptable list and select a mediator from that list within five (5) calendar days of the Parties determination that the Supreme Court approved list does not contain qualified mediators. In addition to the qualifications required by the

ADR Rules, the mediator shall have experience in environmental issues.

(2) The dispute shall be initially submitted to the mediator via a written request for dispute resolution through mediation; the written request shall be issued within 5 calendar days after the Parties have selected a mediator under paragraph 40(b)(1) of this section. The request for assistance shall include the written determination of the Commissioner issued pursuant to paragraph 40(a) and the documents specified in paragraphs 38 and 39 of this section. A copy of the written request shall be delivered to the other Parties at the time the request is made.

(3) The Party which submitted the dispute to mediation may make a written submission in support of its position to the mediator, if the mediator so agrees, within 10 days of the mediator's selection, and any other Party may make a written response in support of its position within 7 days thereafter. The mediator shall immediately thereafter contact all Parties and determine the course of the mediation, including scheduling any meetings deemed necessary.

(4) The mediation process shall be conducted in accordance with Indiana Rules of Alternative Dispute Resolution in any aspect not covered by this Agreement.

(5) The mediator and the Parties shall proceed with all due speed to resolve the dispute.

(6) All communications, whether oral or written, between the mediator and the Parties, shall be kept confidential in accordance with the Indiana Rules for Alternative Dispute Resolution, Rule 2.12.

41. If either Party determines or the mediator declares that the dispute cannot be resolved through the mediation process, the Parties retain all rights under the Indiana Administrative Orders and Procedures Act, IC 4-21.5.

42. Until the dispute is resolved, any actions concerning that element of work in dispute shall be halted. The resolution of the dispute shall be incorporated into the Work Plan and made an enforceable part thereof. The time schedule for the work in dispute shall be extended by the amount of time needed for resolution. Elements of work and/or obligations not affected by the dispute shall be completed in accordance with the schedule contained in the Work Plan.

43. Elements of work and any actions required as a result of such dispute resolution shall immediately be incorporated, if necessary, into the appropriate plan or procedure, and into this Agreement. The Applicant shall proceed with all remaining work according to the modified plan or procedure.

XVII. FORCE MAJEURE

44. The Applicant shall cause all work or required reporting to be performed within the time limits set forth herein, unless performance is delayed by events which constitute a force majeure. For

purposes of this Agreement, a force majeure is an event arising from circumstances beyond the reasonable control of the Applicant which delays performance of any obligations required by this Agreement. Increases of costs shall not be considered an event of force majeure.

45. The Applicant shall notify IDEM by calling within three (3) calendar days and by writing no later than seven (7) calendar days after any event which the Applicant contends is a force majeure. Such notification shall describe the anticipated length of the delay, the cause or causes of the delay, the measures taken or to be taken by the Applicant to minimize the delay, and the timetable by which these measures will be implemented. The Applicant shall have the burden of demonstrating that the event is a force majeure. The decision of whether an event is a force majeure shall be made by the Assistant Commissioner, or his/her designee, of the Office of Environmental Response. Said decision shall be immediately communicated to Applicant.

46. If a delay is attributable to a force majeure, the time period for performance under this Agreement shall be extended, in writing, by the amount of time that is attributable to the event constituting the force majeure.

XVIII. RESERVATION OF RIGHTS

47. IDEM and the Applicant reserve all rights and defenses they may have pursuant to any available legal authority unless expressly waived herein.

48. Nothing herein is intended to release, discharge, or in any way affect any claims, causes of action or demands in law or equity which the Parties may have against any person, firm, partnership or corporation, not a Party to this Agreement 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 materials, hazardous substances, hazardous waste, contaminants, or pollutants at, to, or from the site. The Parties to this Agreement expressly reserve all rights, claims, demands, and causes of action they have against any and all other persons and entities who are not Parties to this Agreement, and as to each other for matters not covered hereby. Nothing in this Agreement is intended to create rights in any persons or entities who are not parties to this Agreement.

49. The Applicant reserves the right to seek contribution, indemnity, or any other available remedy against any person other than IDEM found to be responsible or liable for contribution, indemnity, or otherwise for any amounts which have been or will be expended by the Applicant in connection with the site.

50. The IDEM reserves the right to bring an action, including an administrative action, against Applicant for any violations of statutes or regulations except for the specific violations or releases that are being remediated in the Work Plan.

51. Pursuant to IC 13-25-5, the IDEM reserves the right to withdraw its approval of the Work Plan at any time during the implementation of the Work Plan if:

- (a) IDEM determines that the Applicant has failed to substantially comply with the terms and conditions of this Agreement or the Work Plan;
- (b) the Applicant declines to implement the Work Plan after being notified of its approval by the IDEM; or
- (c) IDEM determines that a hazardous substance or petroleum has become an imminent or substantial threat to human health or the environment.

Upon withdrawal of its approval, this Agreement shall be terminated and IDEM reserves the right to bring any action to enforce any statute or regulation under Title 13 of the Indiana Code including an action regarding the violations or releases that were the subject of this Agreement.

52. IDEM acknowledges that, pursuant to IC 13-25-5-20(b), Applicant, upon receipt of the Certificate of Completion, is not liable for claims for contribution concerning matters addressed in the Voluntary Remediation Work Plan.

XIX. ADMINISTRATIVE COSTS

53. Applicant agrees to reimburse IDEM for all of its administrative costs associated with implementation of this agreement. Attachment A contains an itemized list of estimated costs that IDEM expects to incur under this Agreement. The estimated costs may include the preparation of the itemized list of administrative costs. This estimate is not intended to bind IDEM to a maximum cost it is entitled to bill the Applicant under this Agreement. The estimate is merely provided as a courtesy to the Applicant.

54. IDEM shall send periodically an accounting of contractor, subcontractor and laboratory costs to Applicant, including appropriate supporting documentation. Applicant shall pay said amount within thirty (30) days of receipt of the accounting. IDEM shall also send periodically an accounting of IDEM's staff costs to Applicant. Said accounting shall itemize all costs incurred by IDEM for time, salary, benefits and travel costs of IDEM staff personnel and associated indirect costs. Applicant shall pay said amount within thirty (30) days of receipt of the accounting.

55. Checks should be made payable to the Voluntary Remediation Fund and be mailed along with a transmittal letter stating the site name and address to the Indiana Department of Environmental Management; Attention: Cashier; 100 North Senate Avenue; P.O. Box 7060; Indianapolis, Indiana 46207-7060. In addition, a copy of the check and transmittal letter shall be mailed to the IDEM Project Manager.

56. Administrative costs shall include all reasonable costs, direct and indirect, of IDEM's oversight arrangement for this Agreement and the Work Plan including, but not limited to, time, salary, benefits and travel costs of IDEM personnel and its contractors and associated indirect costs, contractor costs, compliance monitoring, including the collection and analysis of split or duplicate samples, inspection of Applicant's activities, site visits, discussions regarding disputes that may arise as a result of

this Agreement, review and approval or disapproval of reports, and the costs of dispute resolution. Such costs shall also include the costs incurred by IDEM in having a qualified person oversee the conduct of the Applicant under this Agreement and the Work Plan. In addition, Applicant shall be assessed an additional amount not to exceed ten (10) % of the total administrative costs paid to IDEM. This amount will ensure that the IDEM meets its obligations under IC 13-25-5-22 and all other expenses not covered above. Said amount must be paid before the Certificate of Completion will be issued by the IDEM.

57. In the event that this agreement is terminated for any reason, Applicant agrees to reimburse IDEM for all of its administrative costs reasonably incurred to the time of termination. IDEM agrees to reimburse Applicant any unused portion of the application fee in accordance with IC 13-25-5-8 (b) (2).

XX. COMMUNITY RELATIONS

58. The Applicant will cooperate with IDEM in providing information about the Work Plan to the public. IDEM will give the Applicant reasonable advance notice of and may require the Applicant's or its agent's attendance at any such public meetings it may hold or sponsor at times and locations which are agreed upon by IDEM and the Applicant.

59. A public information file shall be maintained by IDEM at a public repository near the site. Applicant shall be notified of the location of said public place.

60. Before the Commissioner may approve or disapprove the Work Plan, the Commissioner shall provide opportunities for public comment pursuant to IC 13-25-5-11.

XXI. NOTICE OF BANKRUPTCY

61. As soon as Applicant has knowledge of its intention to file bankruptcy or no later than 7 days prior to the actual filing of a voluntary or involuntary bankruptcy petition, Applicant shall notify IDEM of its intention to file a bankruptcy petition.

XXII. INDEMNIFICATION

62. The Applicant agrees to indemnify and save and hold the State of Indiana, its agencies, departments, agents, and employees, harmless from any and all claims or causes of action arising from, or on account of, acts or omissions of the Applicant, its officers, employees, receivers, trustees, agents, or assigns, in carrying out the activities pursuant to this Agreement.

XXIII. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

63. The effective date of this Agreement shall be the date on which this Agreement is signed by the Commissioner of IDEM.

64. This Agreement may be amended by mutual agreement of IDEM and the Applicant. Amendments shall be in writing and shall be effective when signed by the Commissioner of IDEM.

XXIV. EXTENSIONS OF TIME PERIODS

65. Any written response shall be deemed timely performed if hand delivered or postmarked by the last day of any time period prescribed herein. Whenever a Party has the right or is required to do some act or make some response within a prescribed period after the service of a notice or other paper on it and the notice or paper is served upon it by mail, three (3) days shall be added to the prescribed period.

66. Whenever any Party is called upon to respond or otherwise act in a certain number of days, and if the final day occurs on a Saturday, Sunday or legal holiday (whether state or national), such time limitation shall automatically extend to the next business day after such Saturday, Sunday or holiday.

67. Any time periods specified in this Agreement may be extended only by agreement of the Parties.

XXV. TERMINATION AND SATISFACTION

68. The provisions of this Agreement shall be satisfied when IDEM gives the Applicant written notice in the form of a Certificate of Completion that the Applicant has demonstrated to IDEM's satisfaction that all of the terms of this Agreement have been completed, including the selection and implementation of a remedial action. This notice shall exclude the provisions of Section XV, Record Preservation.

69. Nothing in this Agreement shall restrict the State of Indiana from seeking other appropriate relief to protect human health or the environment from pollution or contamination at or from this site not remediated in accordance with this Agreement.

70. After IDEM issues the Certificate of Completion, the Governor shall provide Applicant with a Covenant Not to Sue pursuant to IC 13-25-5-18. The Covenant Not To Sue shall contain a listing of the specific work and contaminants covered.

XXVI. PRECEDENCE OF AGREEMENT

71. In the event that conflict arises among the terms and conditions of this Agreement, the Statement of Work, or the approved Work Plan, this Agreement shall govern and the terms and conditions hereunder shall determine the Parties' rights and responsibilities.

TECHNICAL RECOMMENDATION:

By: Peggy Dorsey
Peggy Dorsey, Section Chief
Project Management Branch
Office of Environmental Response
IDEM

Date: 1/20/99

Ray White
Applicant (type)
AlliedSignal, Inc.

By: Ray White
Midwest Manager,
Title: Site Remediation

Date: December 10, 1998

APPROVED FOR LEGALITY AND FORM:

By: Thomas W. Baker
Thomas W. Baker
Attorney for IDEM
Office of Legal Counsel

Date: 1/22/99

Thomas Byrne
Attorney for Applicant (type)

By: Thomas Byrne
Assistant General Counsel
Environmental
Title: _____

Date: November 6, 1998

Approved and adopted by the Indiana Department of Environmental Management

this 25 day of January, 1999.

Mary Beth Tuohy
Mary Beth Tuohy, Assistant Commissioner
Office of Environmental Response

VRP Cost Estimate Worksheet
AlliedSignal Aerospace Equipment Systems
Site #6980601

Voluntary Remediation Agreement - Attachment A

<i>Task Type</i>	<i>PM's Cost</i>	<i>Contractor's Cost</i>	<i>Task Total</i>
Phase II Report Review	\$1,845.00	\$2,444.00	\$4,289.00
Implementation Oversight	\$1,280.00	\$6,020.00	\$7,300.00
Remediation Work Plan Review	\$2,350.00	\$3,102.00	\$5,452.00
Risk Assessment	\$1,450.00	\$2,928.00	\$4,378.00
Completion Determination	\$1,275.00	\$1,980.00	\$3,255.00
	\$8,200.00	+ \$16,474.00	= \$24,674.00

<u>PM's Site Rating:</u>	<u>Easy</u>	<u>Average</u>	<u>Difficult</u>
	1800. to 3000.	3600. to 5400.	7200. to 9000
Enter Rating amt. to be divided, in col. F:	\$0.00	\$0.00	\$8,200.00
Cost of 2 tasks (ea.)	\$0.00	\$0.00	\$4,100.00
Cost of 3 tasks (ea.)	\$0.00	\$0.00	\$1,366.67
Cost of 4 tasks (ea.)	\$0.00	\$0.00	\$2,050.00
Cost of 5 tasks (ea.)	\$0.00	\$0.00	\$1,640.00