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April 23, 2008

**HAND DELIVERED**

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Ms. Ashley Holt, Program Manager  
State Remediation Program  
Division of Solid Waste Management  
Tennessee Department of Environment and Conservation  
5<sup>th</sup> Floor, L&C Tower  
401 Church Street  
Nashville, Tennessee 37214-1535

**Re: Request for Extension of Schedule for Submission of Revised Corrective Action Plan Addressing the Solvent Release from the Egyptian Lacquer Manufacturing Company**

Dear Ms. Holt:

On behalf of the Egyptian Lacquer Manufacturing Company (“ELMCO”), we are requesting that the due date for submission of a Revised Corrective Action Plan to address ELMCO’s solvent release be extended from April 24, 2008, to June 23, 2008.

TDEC and ELMCO entered into a Consent Agreement and Order (the “Order”, TDEC Case No. 07-R0134) on June 1, 2007, that addressed the investigation and remediation of a solvent release that occurred at the ELMCO manufacturing facility located at 113 Fort Granger Drive in Franklin, Tennessee. That accidental solvent release was to groundwater that discharges into Liberty Creek and the Harpeth River west and south of the ELMCO facility. The source of the release is believed to be from leaking underground pipelines at the Tank Farm near the western end of the ELMCO facility. Although the release was stopped immediately upon discovery in February 2007, the previously released solvent has continued to migrate with the groundwater in the underlying limestone bedrock, both as a free product (floating on top of the groundwater) westward toward Liberty Creek and as dissolved contaminants in groundwater southward toward the Harpeth River and westward toward Liberty Creek. As you know, however, the observed flow of free product solvent toward Liberty Creek has dramatically lessened, and the concentrations of dissolved solvent constituents in the groundwater migrating into Liberty Creek and the Harpeth River have also substantially decreased.

The Order required ELMCO to submit separate Corrective Action Plans (“CAPs”) for the “source area” soils at the ELMCO facility, the soil pile at the interceptor trench (referring to the then-existing soil pile and trench created by TDEC’s early 2007 response efforts rather than the

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much larger trench and excavated soil/rock accumulations that resulted from the ELMCO "interim action" Interceptor Trench excavated in August 2007), and the contaminated groundwater on and off the ELMCO site. These CAPs were duly submitted in response to the Order, and the CAPs for the source-area soils and soil pile were substantially implemented. The more important Groundwater CAP, dated August 28, 2007, provided for two separate remedies. The first was active remediation of the narrow plume of free product solvent that flows westward toward Liberty Creek as a continuation of the interim action capture and removal practices that have been ongoing at the creek seeps and the interceptor trench. The CAP noted the recognized very limited risk associated with the dissolved plume of contaminated groundwater that flows into Liberty Creek and the Harpeth River. Based upon that risk level, ELMCO recommended monitored natural attenuation as the most suitable corrective action for the dissolved phase only. On November 20, 2007, TDEC issued a Notice of Deficiency ("NOD") to ELMCO which requested ELMCO to provide additional information necessary to support selection of monitored natural attenuation as a remedy for the dissolved phase, and to identify additional investigative and remediation planning efforts related to the approach. The NOD did not identify any deficiencies in the proposed remediation of the free-product plume, and explicitly stated that TDEC found no significant risk posed to human health and the environment by the dissolved-phase plume.

The NOD required ELMCO to submit to TDEC, and to implement following TDEC approval, an Investigative Workplan addressing certain CAP deficiencies identified by TDEC. Further, the NOD required that a Revised Corrective Action Plan be submitted to TDEC within 30 days following the submittal of the report of implementation of this Investigative Workplan. In response to this NOD, ELMCO submitted a letter work plan dated December 14, 2007, addressing TDEC's long-term air monitoring concerns and a second letter work plan, dated December 20, 2007 (the *Investigative Workplan*) addressing the additional investigations TDEC deemed necessary to address deficiencies in the previously submitted Groundwater CAP relating to the recommended monitored natural attenuation remedy. TDEC conditionally approved these work plans in a letter dated January 11, 2008. Pursuant to the requirements of the NOD, implementation of the *Investigative Workplan* was to begin within 7 working days of plan approval, and the report for most of the planned efforts was to be submitted within 45 days (or by February 25, 2008). ELMCO and TDEC informally agreed that implementation of the air monitoring plan should not begin until after the required well had been installed on the Battle Ground Academy Lower School Campus just west of Liberty Creek. However, as you are aware, both of these efforts were delayed by property access issues as described in the letter to you from Dwight Hinch of March 12, 2008.

The required Investigative Workplan implementation report (for most aspects of the planned work) was submitted to TDEC on March 25, 2008. Pursuant to the NOD, the Revised Groundwater CAP is due to be submitted to TDEC on April 24, 2008. As we have orally discussed with you and other TDEC personnel, however, we need an extension of that deadline for the reasons set forth below:

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1. The Revised CAP needs to address, in a single document, not only the contaminated groundwater but also (a) any remaining contaminated soils in the source area at the ELMCO Tank Farm, (b) the operation and ultimate closure of the Interceptor Trench near Liberty Creek, (c) the management of the piles of excavated soil and rock that are staged south of (and originate from) the Interceptor Trench, and (d) any residual soil contamination that exists in the soils in the Liberty Creek floodplain.

As you recall the NOD required additional investigation of the treated soils in the identified solvent release source area at the south end of the ELMCO Tank Farm, and of the soils directly underlying the Tank Farm pad. That investigation has not yet been performed. As described in ELMCO's December 20, 2007, *Investigative Workplan*, ELMCO proposed and TDEC agreed to defer these investigations until after ELMCO could empty, clean, and remove the tanks and associated piping in the Tank Farm, and the approved *Workplan* established a May 30, 2008 due date for the report of these investigations to be submitted to TDEC. In accordance with that plan, ELMCO contractors are currently working on-site to complete the tank cleaning and removal work, but this schedule cannot now be substantially accelerated. Considering that the contamination condition of the source area soils is a very important factor in any comprehensive corrective action planning efforts, the results of these source area soil investigations must be known and evaluated as part of such efforts. A Comprehensive CAP can thus not be completed until these soil investigation results have been obtained.

2. A Comprehensive CAP must involve a more thorough assessment of the risks to which persons may be exposed to the contaminated soil, groundwater, and surface water, and especially to breathable vapors that may be created from such contaminated soil and water. While previous investigations and TDEC's evaluations have found that the contamination (with continued implementation of free product capture and removal efforts) does not pose significant short-term exposure risks to the persons living, working, or going to school nearby, TDEC has stated that the long-term chronic risks need more evaluation. Because the purpose of any corrective action should be to ameliorate risk, this evaluation is key to the corrective action planning.

We note that a key component of the assessment of chronic risks was expected to rely on the data gathered from the implementation of the December 14, 2007 long-term air monitoring plan. This plan calls for constant air monitoring at key locations initially for a full month, and for week-long periods in different seasons over 2008 thereafter, to gather data on the air contaminant levels to which persons may be chronically exposed. Unfortunately, due to inability to gain property access from the primary property owner, implementation of this air monitoring program was delayed until Monday of this week. We must have the results from at least some of this air monitoring effort before we can

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adequately assess whether there are potential long-term risks that need to be addressed by corrective action.

3. The results from the additional investigations and evaluations already implemented pursuant to the *Investigative Workplan* and set forth in the report submitted to TDEC on March 25, 2008, also need to be carefully factored into any revised CAP. For example, the initial results from collection and analysis of groundwater samples from the new wells installed at the BGA school and on Daniels Drive may indicate that the solvent-constituent groundwater contaminant plume may extend further northward and westward than originally believed, although these initial results need to be corroborated by additional groundwater monitoring efforts. With another round of groundwater monitoring scheduled for May 2008, the requested extension would enable the results from this follow-up groundwater testing to be factored into the planned risk assessment and corrective action planning efforts.
4. We also need to consider in our corrective action plan the potential new access to be provided by TDEC's planned construction of a culvert crossing of Liberty Creek south of the Liberty Creek seep and Interceptor Trench area. We understand that TDEC is still working through the planning of such a crossing, but may substantially resolve the difficult problem that currently exists with getting vehicles and equipment to the Liberty Creek work area. Such a crossing would likely require some rearrangement of the stockpiled soil and rock, and the greatly improved vehicular access could make some response options feasible that were not particularly feasible before.

We believe that the above reasons provide adequate justification for an extension of the April 24, 2008, due date for the Revised CAP, and that they justify the requested 60-day extension until June 23, 2008. TDEC has already found that the site conditions as they existed even last Spring and Summer do not pose an acute or chronic hazard to fish and/or aquatic life in Liberty Creek or the Harpeth River, or an acute risk to human health. Under such conditions, we believe that it is very important to allow sufficient time for thorough evaluation of recent and pending data and chronic risks, and for careful planning of needed corrective actions. My client is sensitive and aware of some community members impatience with the time taken thus far to address this contamination. I can assure you that no one wants prompt resolution of the soil and groundwater contamination issues more than ELMCO. However, it is critical that the all such actions be undertaken in a scientific manner in compliance with all rules and regulations..

We appreciate your consideration and look forward to your reply.

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Very truly yours,

STITES & HARBISON, PLLC

William L. Penny

cc: Paul Sloan, TDEC  
Chuck Head, TDEC  
Mike Apple, TDEC  
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