

## **Exhibit D**

020477 K852

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

**FILED**

OCT 2 2002

DENISE ANN EHRHART,

Plaintiff,

vs.

THE LOCKFORMER COMPANY, a  
division of MET-COIL SYSTEMS  
CORPORATION, a Delaware corp.;  
MESTEK, INC., a Pennsylvania corp.;  
HONEYWELL INTERNATIONAL,  
INC. a Delaware corp., and CARLSON  
ENVIRONMENTAL, INC., an  
Illinois corp.

Defendants.

MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT

No.

**02C 7068**

JUDGE ANDERSEN

MAGISTRATE JUDGE DENLOW

**DOCKETED**

OCT 03 2002

**DEFENDANTS' NOTICE OF  
REMOVAL UNDER 28 U.S.C. § 1441(a)**

NOW COME Defendants, THE LOCKFORMER COMPANY, a division of MET-COIL SYSTEMS CORPORATION, a Delaware corporation; MESTEK, INC., a Pennsylvania corporation; and HONEYWELL INTERNATIONAL, INC., a Delaware corporation, by counsel, and pursuant to 28 U.S.C. § 1441(a), hereby remove this case from the Circuit Court of Cook County, Illinois to the United States District Court for the Northern District of Illinois, and in support of their Notice of Removal, state as follows:

1. This case is a civil action over which the United States District Court for the Northern District of Illinois has original jurisdiction pursuant to 28 U.S.C. § 1332, and is one which may be removed to the United States District Court for the Northern District of Illinois by these defendants pursuant to 28 U.S.C. § 1441(a).

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2. Plaintiff is a resident of the State of Illinois. See Plaintiff's Complaint, ¶ 1, attached as Exhibit A.

3. Defendant, The Lockformer Company, is a Delaware corporation having its principal place of business in the State of Iowa. See Exhibit A, ¶ 2.

4. Defendant, Mestek, Inc., is a Pennsylvania corporation having its principal place of business in the Commonwealth of Massachusetts. See Exhibit A, ¶ 3.

5. Defendant, Honeywell International, Inc., is a Delaware corporation. See Exhibit A, ¶ 4.

6. The amount in controversy in this action exceeds \$75,000. See Exhibit A, p. 13.

7. The sole non-moving defendant, Carlson Environmental, Inc. ("Carlson"), is a sham defendant who owed no legal duty to the plaintiff and is evidently named as a defendant in this action solely for the purpose of defeating the diversity jurisdiction of this court.

8. The plaintiff alleges that Carlson was retained by Lockformer to perform testing to determine the nature and extent of groundwater contamination in the proximity of the Lockformer plant. (Exhibit A, ¶¶ 74-75.) The plaintiff then simply concludes that Carlson "had a duty to act in good faith and to exercise reasonable care in its investigation and testing of groundwater contamination." (*Id.* at ¶ 82.) Although these allegations would suffice to establish a legal duty owed by Carlson to Lockformer, they do not suffice to establish a legal duty owed by Carlson to the plaintiff. The plaintiff does not allege that Carlson owed her a duty of reasonable care in investigating and testing of groundwater. The plaintiff cannot in good faith allege a legal duty owed to her by Carlson, because no such duty exists or ever has existed.

9. Furthermore, any duty owed by Carlson is defined by the terms of the contract between Carlson and Lockformer. *See, e.g., Ferentchak v. Village of Frankfort*, 105 Ill. 2d 474, 482, 475 N.E.2d 822, 826 (1985) (holding that the scope of the duty, whether in tort or contract, between contracting parties, is determined by the terms of the contract).

10. The plaintiff does not and cannot allege that the contract between Lockformer and Carlson state that the plaintiff is an intended beneficiary of their agreements. *See, e.g., Altevogt v. Brinkoetter*, 85 Ill.2d 44, 54-55, 421 N.E.2d 182, 187 (1981) (holding that a third party may only recover under a contract if the contracting parties have manifested in their contract an intent to confer benefit upon the third party.)

11. The plaintiff does not and cannot allege that the terms of the agreements demonstrate that Carlson either undertook to protect the plaintiff or assumed any duty that Lockformer may have owed to the plaintiff.

12. Because the plaintiff cannot establish that Carlson owed her any duty in tort or contract under Illinois law, Carlson is a sham defendant fraudulently joined to defeat this Court's jurisdiction.

13. Attached hereto and marked Exhibit B are true and accurate copies of the Summonses served upon each of the removing defendants less than 30 days ago. There are no other "process, pleadings, and orders" received by these defendants in this case.

14. Attached hereto and marked Exhibit C is a copy of this Notice of Removal filed in the Circuit Court of Cook County, Illinois on October 2, 2002.

WHEREFORE, defendants respectfully remove this case from the Circuit Court of Cook County, Illinois to the United States District Court for the Northern District of Illinois.

Respectfully submitted,

By: 

Norman J. Barry, Jr.  
*Attorneys for Defendant,*  
THE LOCKFORMER COMPANY,  
a division of MET-COIL SYSTEMS CORPORATION

Norman J. Barry, Jr. #124478  
John J. Duffy #6224834  
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140 South Dearborn St., Suite 700  
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312-422-0907

By: \_\_\_\_\_

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By: \_\_\_\_\_

Anthony G. Hopp  
*Attorneys for Defendant,*  
HONEYWELL INTERNATIONAL, INC.

Mr. Anthony G. Hopp  
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Chicago, Illinois 60606-1229  
Phone: 312-201-2562

WHEREFORE, defendants respectfully remove this case from the Circuit Court of Cook County, Illinois to the United States District Court for the Northern District of Illinois.

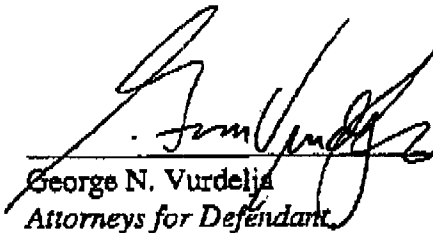
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# Exhibit A



IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

DENISE ANN EHRHART,

Plaintiff,

vs.

No.:

THE LOCKFORMER COMPANY, a  
Division of MET-COIL SYSTEMS  
CORPORATION, a Delaware  
corporation; MESTEK, INC., a  
Pennsylvania corporation; HONEYWELL  
INTERNATIONAL, INC., a Delaware  
corporation; and CARLSON  
ENVIRONMENTAL, INC., an Illinois  
corporation,

Defendants.

JURY DEMAND

FILED-5  
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DOROTHY BROWN  
CLERK OF CIRCUIT COURT  
LAW DIVISION

02L 011020  
CALENDAR  
OTHER PER

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COMPLAINT AT LAW

COUNT I - NEGLIGENCE

NOW COMES the Plaintiff, DENISE ANN EHRHART, by and through her attorneys, LAW OFFICES OF EDMUND J. SCANLAN LTD., and complaining against the Defendants, THE LOCKFORMER COMPANY, a Division of MET-COIL SYSTEMS CORPORATION, a Delaware corporation; MESTEK, INC., a Pennsylvania corporation; and HONEYWELL INTERNATIONAL, INC., a Delaware corporation, states as follows:

1. Plaintiff, DENISE ANN EHRHART, resided at 641 Riedy Road in Lisle, Illinois, from 1980 through 1997.

2. Defendant, THE LOCKFORMER COMPANY, a Division of MET-COIL SYSTEMS CORPORATION (hereinafter "LOCKFORMER"), is a Delaware corporation having its principal place of business in the State of Iowa.

3. Defendant, MESTEK, INC. (hereinafter "MESTEK"), is a Pennsylvania corporation having its principal place of business in the State of Massachusetts.

4. Defendant, HONEYWELL INTERNATIONAL, INC. (hereinafter "HONEYWELL"), is a Delaware corporation.

5. At all times relevant herein, LOCKFORMER operated and engaged in the business of metal fabrication and manufacturing, and is located at 711 Ogden Avenue, Lisle, Illinois (the LOCKFORMER site).

6. Defendant LOCKFORMER has operated a metal fabrication business at its facility on the Lockformer property for over 30 years, beginning no later than 1968.

7. As part of its manufacturing operations, at all relevant times, LOCKFORMER has maintained a metal degreasing operation on the Lockformer property.

8. Beginning in approximately 1968 and continuing through 1997, Lockformer's degreasing operation has included the use of a pitted vapor degreaser situated in a concrete tank pit several feet below the ground surface.

9. LOCKFORMER was, in October of 2000, merged into, and became a division of Met-Coil Systems Corporation.

10. MET-COIL SYSTEMS owns property adjacent to the Lockformer property, immediately west of 711 Ogden Avenue, Lisle, Illinois (the "Met-Coil Property").

11. MESTEK owns and operates LOCKFORMER, and has done so since purchasing the entity in approximately June of 2000.

12. During the course of its business operations, LOCKFORMER has engaged in the use of chlorinated solvents, including trichloroethylene (hereinafter "TCE").

13. Co-defendant, HONEYWELL, by and through its predecessors in interest, Baron-Blakeslee and Allied Signal, provided and installed upon the roof of the facility at the LOCKFORMER site a solvent storage tank.

14. HONEYWELL, by and through its predecessors in interest, agreed to maintain the rooftop storage tank.

15. The rooftop storage tank was filled with chlorinated solvents, including TCE, via a fill pipe that was affixed to the western wall of the LOCKFORMER facility.

16. In 1985, Allied Signal acquired Baron-Blakeslee.

17. Allied Signal has merged into and became known as Honeywell International (defendant HONEYWELL) prior to the commencement of this action.

18. Allied Signal, Inc., as a separate and distinct entity, no longer exists, and Honeywell International has assumed any and all of Allied Signal's rights and/or obligations.

19. HONEYWELL, by and through its employees and agents, supplied LOCKFORMER with chlorinated solvents, including TCE, from approximately 1970 until at least 1992.

20. That in order to maintain LOCKFORMER'S supply of TCE, HONEYWELL, by and through its employees and agents, pumped TCE from a truck into the rooftop storage tank.

21. That in the course of refilling LOCKFORMER'S supply of TCE, TCE was repeatedly released into the environment at the LOCKFORMER site from 1968 until at least 1992.

22. That TCE was released into the environment through a vent pipe every time the tank was filled from 1969 through 1985, because the rooftop tank lacked a sight glass to indicate how full the tank was.

23. That LOCKFORMER knew that TCE was released into the environment at the LOCKFORMER site during the course of filling the rooftop storage tank by 1985 at the latest.

24. That HONEYWELL, by and through its predecessors in interest, knew that TCE was released into the environment during the course of filling the rooftop storage tank as early as 1969.

25. That LOCKFORMER did not undertake to ascertain whether the soil at its facility had been contaminated by TCE until 1992.

26. That soil samples collected in 1992 at the Lockformer site in the vicinity of the refilling line showed the presence of TCE in a concentration of 680,000 parts per billion.

27. That in 1992, groundwater testing on the LOCKFORMER property revealed levels of contamination from chlorinated solvents in excess of the United States Environmental Protection Agency Standards for safe drinking water.

28. That the IEPA was not informed of TCE contamination at the LOCKFORMER site until 1995.

29. That LOCKFORMER was advised by Timothy Love, Site Remediation Manager for Allied Signal, in 1992 that there was a potential for contamination of the groundwater by TCE at the LOCKFORMER site.

30. That Timothy Love advised LOCKFORMER to test for groundwater contamination of TCE in 1992.

31. That Timothy Love advised LOCKFORMER to test water wells of residents in the vicinity of the LOCKFORMER site for TCE contamination in 1992.

32. That the defendants did not test for groundwater contamination in 1992, 1993, 1994 or 1995.

33. That the defendants did not test groundwater wells in the Village of Lisle in 1992, 1993, 1998 or 1999.

34. That testing done in 1997 revealed that TCE had contaminated the groundwater near the LOCKFORMER site in levels up to 68,000 parts per billion.

35. That LOCKFORMER was advised in 1998 that TCE was found in weathered limestone of an aquifer that served as a water source for residents in the area.

36. That LOCKFORMER did not warn the residents of Lisle in the vicinity of the plant of the presence of chlorinated solvents in the groundwater adjacent to the plant in 1998, 1999 or 2000.

37. Section 12(a) of the Act, 415 ILCS 5/12(a)(2000), provides as follows:

No person shall:

- a. Cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards

adopted by the Pollution Control Board  
under this Act.

38. Section 3.06 of the Act, 415 ILCS 5/3.06 (2000), provides the following definition:

"CONTAMINANT" is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

39. TCE is a "contaminant" as that term is defined in Section 3.06 of the Act.

40. Section 3.26 of the Act, 415 ILCS 5/3.26 (2000), provides, in relevant part, the following definition:

"PERSON" is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, . . . or any other legal entity, or their legal representative, agent or assigns.

41. The Defendants are "persons" as that term is defined in Section 3.26 of the Act.

42. Section 3.55 of the Act, 415 ILCS 5/3.55 (2000), provides the following definition:

"WATER POLLUTION" is such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

43. Section 3.56 of the Act, 415 ILCS 5/3.56 (2000), provides the following definition:

"WATERS" means all accumulations of water, surface and underground, natural, and artificial, public and private, or

parts thereof, which are wholly or partially within, flow through, or border upon the State.

44. The groundwater underlying the facility is a "water" as that term is defined in Section 3.56 of the Act.

45. Defendants' conduct in releasing TCE into the environment violated 415 ILCS 5/12(a)(2000) of the Act.

46. That LOCKFORMER first warned certain residents of the Village of Lisle, Illinois, that there was TCE contamination of soil on its property on August 28, 2000.

47. That on August 28, 2000, LOCKFORMER represented to certain residents of the Village of Lisle, Illinois, that the TCE contamination did not migrate south of the LOCKFORMER property.

48. That LOCKFORMER did not remediate TCE contamination on its property in 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, or 2001.

49. That on March 31, 1993, LOCKFORMER filed a lawsuit against Allied Signal, Inc. in the United States District Court for the Northern District of Illinois alleging that Allied Signal was liable to LOCKFORMER for TCE contamination of soil and groundwater at the LOCKFORMER property.

50. In 1994, LOCKFORMER and Allied Signal, Inc. settled and resolved the lawsuit.

51. That Allied Signal, Inc. agreed to pay LOCKFORMER a sum of \$800,000.00 to resolve the lawsuit LOCKFORMER filed against it.

52. That in exchange for Allied Signal, Inc.'s payment of \$800,000.00 to LOCKFORMER, LOCKFORMER agreed to dismiss the lawsuit and to use the payment

to the extent necessary solely to investigate and remediate the property until LOCKFORMER secured a section 4(y) letter from the IEPA. That LOCKFORMER also agreed to submit the property to the IEPA and participate in clean-up of the property through the IEPA Pre-notice Site Program and diligently investigate and remediate the property, as necessary, to qualify for a Section 4(y) Letter from IEPA. (See "Agreement" entered into by Lockformer and Allied Signal attached hereto as Exhibit "A").

53. Despite LOCKFORMER'S knowledge of the TCE spills and resulting contamination, it failed to define the nature and extent of the off-site TCE contamination, and failed to remediate TCE contamination onsite and offsite until after the Illinois Attorney General filed suit against LOCKFORMER in 2001 in the Circuit Court of the Eighteenth Judicial Circuit, DuPage County, Illinois.

54. In addition to the release of TCE into the environment from the refilling of the rooftop TCE tank, TCE was released into the ground around and beneath the LOCKFORMER property through the pitted vapor degreaser and by use of chlorinated solvents to clean the floor of the LOCKFORMER facility.

55. That the release of TCE into the ground around and beneath the LOCKFORMER property began in 1969 and continued until at least 1997.

56. That the U.S. EPA's investigation revealed that an actual or threatened release of a "hazardous substance" as defined by Section 101(14) of CERCLA occurred into the "environment" as defined by Sections 101(8) and (22) of CERCLA, 42 U.S.C., Sections 9601(8) and (22) (see Exhibit "B").

57. That the U.S. EPA's investigation revealed that the conditions present at the LOCKFORMER site constitute a threat to public health, welfare and the environment



upon the factors set forth in Section 300.415(b)(2) of the National Oil and Hazardous Substance Pollution Contingency Plan, as amended ("NCP"), 40 CFR, Part 300.

58. That in addition to the releases of TCE into the ground, defendants have caused TCE to be released into the air.

59. That no other sources of TCE exist in the vicinity which could have caused the TCE contamination of the groundwater in DENISE ANN EHRHART'S well.

60. That prior to the August 28, 2000 meeting at the Village of Lisle wherein the presence of TCE at LOCKFORMER'S facility was first disclosed, LOCKFORMER provided bottled water for its employees for purposes of consumption of water at the plant.

61. That the U.S. EPA investigation regarding the release of TCE at the LOCKFORMER site revealed that the groundwater flows from the LOCKFORMER property toward the south/southeast in the direction of a residential neighborhood (see Exhibit "B").

62. That the U.S. EPA investigation revealed the groundwater flow in the area has been shown to be toward the south/southeast and continued precipitation and percolation of storm water will continue to cause the TCE to migrate toward the bedrock aquifer which flows to the residential wells.

63. The LOCKFORMER site is located north and east, and hydrologically upgrading from plaintiff's residence and potable water source.

64. As a result of the repeated releases of TCE into the ground around and beneath the LOCKFORMER property, a plume of toxic chemicals, including TCE, formed at and beneath the ground surface of the LOCKFORMER site.

65. Toxic chemicals, including TCE, have migrated throughout the area in and surrounding the LOCKFORMER site, and have contaminated various residence, and potable water supplies in the Village of Lisle.

66. The TCE that has migrated from the LOCKFORMER site had come into contact with the well water serving plaintiff, DENISE ANN EHRHART.

67. Toxic chemicals including the TCE that migrated from the LOCKFORMER site and into the well water supply for plaintiff, DENISE ANN EHRHART, and she drank, bathed, cooked, and otherwise used this water.

68. TCE is a known human carcinogen and mutagen.

69. TCE exposure is known to cause diseases of the nervous system, including peripheral neuropathy.

70. That Defendants have known since at least 1968 that TCE is a human carcinogen and mutagen.

71. That TCE is a "hazardous substance" as defined by Section 101(14) of CERCLA, 42 U.S.C. Section 9601(14).

72. That Defendants have known that the release of TCE into the environment, including groundwater used for human consumption and bathing, can be harmful to those who come into contact with the contaminated water.

73. Defendants had a duty to exercise reasonable care in the handling of hazardous substances, including TCE, used or stored at the LOCKFORMER property and MET-COIL property and not to allow TCE to spill into the environment.

74. That notwithstanding said duty, the Defendants, THE LOCKFORMER COMPANY, a Division of MET-COIL SYSTEMS CORPORATION, a Delaware

corporation; MESTEK, INC., a Pennsylvania corporation; and HONEYWELL INTERNATIONAL, INC., a Delaware corporation, by and through their agents, servants and employees, were negligent in one or more of the following ways:

- (a) allowed TCE to repeatedly spill into the ground at the LOCKFORMER site during the refilling of the rooftop storage tank;
- (b) failed to adequately maintain the rooftop tank with a sight glass so that HONEYWELL drivers could ascertain when the tank was full while in the process of refilling it;
- (c) failed to take measures to prevent TCE that spilled during the refilling of the rooftop tank from coming into contact with the ground;
- (d) failed to take measures to contain TCE that spilled into the ground during the refilling of the rooftop storage tank;
- (e) allowed TCE to escape into the environment during the cleanup of the vapor degreaser pit;
- (f) allowed TCE to routinely and frequently spill onto the ground over the course of over twenty (20) years without appropriate safeguards to prevent or remedy such releases;
- (g) defendant, LOCKFORMER, used a vapor degreaser that was set in a concrete pit which allowed TCE to escape to the ground of the LOCKFORMER and MET-COIL properties and then migrate into the ground;
- (h) defendant, LOCKFORMER, stored TCE in a tank which was not equipped with safeguards to prevent the release, discharge, spillage or escape of TCE into the environment;
- (i) failed to warn the residents of the Village of Lisle, including DENISE ANN EHRHART, that TCE was found in the groundwater adjacent to the LOCKFORMER site;

- (j) LOCKFORMER failed to timely use the proceeds of an \$800,000.00 settlement agreement to investigate, remediate and clean up TCE at the LOCKFORMER site in violation of an agreement to do so;
- (k) LOCKFORMER continued to conduct business in such a manner that allowed TCE to spill into the environment after it had knowledge that TCE had contaminated the groundwater beneath the LOCKFORMER site;
- (l) allowed TCE to be released into the environment at the LOCKFORMER site through LOCKFORMER'S drains, floor, vapor degreaser pit, and by other means, including LOCKFORMER'S ventilation;
- (m) MESTEK failed to exercise reasonable care in its ownership, management and monitoring of LOCKFORMER with respect to LOCKFORMER'S procurement, use, handling and disposal of chlorinated solvents, including TCE;
- (n) violated ordinances for the protection of human life, including CERCLA and the Illinois Environmental Protection Act;
- (o) violated Section 415 ILCS 5/12(a) of the Illinois Environmental Protection Act by causing the discharge of TCE into the environment as to cause water pollution;
- (p) failed to clean up the contamination of TCE onsite or offsite.

75. One or more of the foregoing negligent acts and/or omissions of the Defendants, by and through their agents, servants and employees, caused hazardous chlorinated solvents, including TCE, to enter the well serving the plaintiff, DENISE ANN EHRHART, and which was used by DENISE ANN EHRHART to drink, bathe, cook, and otherwise use, thus resulting in plaintiff, DENISE ANN EHRHART'S, acquisition of kidney disease and other health disorders; and further her increased risk of

contracting cancer and other health related ailments; and her severe emotional distress as a result of her fear of contracting cancer and other health related ailments.

WHEREFORE, the Plaintiff, DENISE ANN EHRHART, demands judgment against the Defendants, THE LOCKFORMER COMPANY, a Division of MET-COIL SYSTEMS CORPORATION, a Delaware corporation; MESTEK, INC., a Pennsylvania corporation; and HONEYWELL INTERNATIONAL, INC., a Delaware corporation, in a sum in excess of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00), plus the costs of this lawsuit.

#### **COUNT II - WILLFUL AND WANTON**

NOW COMES the Plaintiff, DENISE ANN EHRHART, by and through her attorneys, LAW OFFICES OF EDMUND J. SCANLAN LTD., and for her Complaint against the Defendants, THE LOCKFORMER COMPANY, a Division of MET-COIL SYSTEMS CORPORATION, a Delaware corporation; MESTEK, INC., a Pennsylvania corporation; and HONEYWELL INTERNATIONAL, INC., a Delaware corporation, states as follows:

1-72. The plaintiff realleges and readopts Paragraphs 1 through 72 of Count I as and for Paragraphs 1 through 72 of Count IV, as though fully set forth herein.

73. Defendants, by and through their agents, servants and employees, had a duty to refrain from acting in a conscious and reckless disregard for the safety of others, including the plaintiff, DENISE ANN EHRHART, in its handling, storage, and disposal of TCE.

74. That notwithstanding the aforesaid duty, the Defendants, by and through their agents, servants and employees, willfully and wantonly acted with a conscious and

reckless disregard for the safety of the plaintiff, DENISE ANN EHRHART, in one or more of the following ways:

- (a) willfully and wantonly allowed TCE to repeatedly spill into the ground at the LOCKFORMER site during the refilling of the rooftop storage tank;
- (b) willfully and wantonly failed to adequately maintain the rooftop tank with a sight glass so that HONEYWELL drivers could ascertain when the tank was full while in the process of refilling it;
- (c) willfully and wantonly failed to take measures to prevent TCE that spilled during the refilling of the rooftop tank from coming into contact with the ground;
- (d) willfully and wantonly failed to take measures to contain TCE that spilled into the ground during the refilling of the rooftop storage tank;
- (e) willfully and wantonly allowed TCE to escape into the environment during the cleanup of the vapor degreaser pit;
- (f) willfully and wantonly allowed TCE to routinely and frequently spill onto the ground over the course of over twenty (20) years without appropriate safeguards to prevent or remedy such releases;
- (g) defendant, LOCKFORMER, willfully and wantonly used a vapor degreaser that was set in a concrete pit which allowed TCE to escape to the ground of the LOCKFORMER and MET-COIL properties and then migrate into the ground;
- (h) defendant, LOCKFORMER, willfully and wantonly stored TCE in a tank which was not equipped with safeguards to prevent the release, discharge, spillage or escape of TCE into the environment;
- (i) willfully and wantonly failed to warn the residents of the Village of Lisle, including DENISE ANN EHRHART, that TCE was found in the groundwater adjacent to the LOCKFORMER site;

- (j) LOCKFORMER willfully and wantonly failed to timely use the proceeds of an \$800,000.00 settlement agreement to investigate, remediate and clean up TCE at the LOCKFORMER site in violation of an agreement to do so;
- (k) LOCKFORMER willfully and wantonly continued to conduct business in such a manner that allowed TCE to spill into the environment after it had knowledge that TCE had contaminated the groundwater beneath the LOCKFORMER site;
- (l) willfully and wantonly allowed TCE to be released into the environment at the LOCKFORMER site through LOCKFORMER'S drains, floor, vapor degreaser pit, and by other means, including LOCKFORMER'S ventilation;
- (m) MESTEK acted willfully and wantonly in its ownership, management and monitoring of LOCKFORMER with respect to LOCKFORMER'S procurement, use, handling and disposal of chlorinated solvents, including TCE;
- (n) willfully and wantonly violated ordinances for the protection of human life, including CERCLA and the Illinois Environmental Protection Act;
- (o) willfully and wantonly violated Section 415 ILCS 5/12(a) of the Illinois Environmental Protection Act by causing the discharge of TCE into the environment as to cause water pollution;
- (p) willfully and wantonly failed to clean up the contamination of TCE onsite or offsite.

75. One or more of the foregoing willful and wanton acts and/or omissions of the Defendants, by and through their agents, servants and employees, caused hazardous chlorinated solvents, including TCE, to enter the well serving the plaintiff, DENISE ANN EHRHART, and which was used by DENISE ANN EHRHART to drink, bathe, cook, and otherwise use, thus resulting in plaintiff, DENISE ANN EHRHART'S,

acquisition of kidney disease and other health disorders; and further her increased risk of contracting cancer and other health related ailments; and her severe emotional distress as a result of her fear of contracting cancer and other health related ailments.

WHEREFORE, the Plaintiff, DENISE ANN EHRHART, demands judgment against the Defendants, THE LOCKFORMER COMPANY, a Division of MET-COIL SYSTEMS CORPORATION, a Delaware corporation; MESTEK, INC., a Pennsylvania corporation; and HONEYWELL INTERNATIONAL, INC., a Delaware corporation, in a sum in excess of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00), plus the costs of this lawsuit.

**COUNT III - NEGLIGENCE - CARLSON ENVIRONMENTAL, INC.**

NOW COMES the Plaintiff, DENISE ANN EHRHART, by and through her attorneys, LAW OFFICES OF EDMUND J. SCANLAN LTD., and for her Complaint against the Defendant, CARLSON ENVIRONMENTAL, INC., an Illinois corporation, states as follows:

1-73. The plaintiff realleges and readopts Paragraphs 1 through 73 of Count I as and for Paragraphs 1 through 73 of Count III, as though fully set forth herein.

74. The defendant, CARLSON ENVIRONMENTAL, INC., an Illinois corporation, was retained as an environmental consultant by LOCKFORMER in 1998, and continued on until early 2001, approximately 27 months.

75. One of the claimed purposes for CARLSON ENVIRONMENTAL, INC.'S retention was to ascertain the nature and extent of groundwater contamination to residents of the Village of Lisle in the proximity of the LOCKFORMER plant.



76. CARLSON ENVIRONMENTAL, INC.'S first assignment at LOCKFORMER was to dig up source area and to do active remediation.

77. That the defendant, CARLSON ENVIRONMENTAL, INC., knew that TCE had been released into the environment and that TCE contamination of groundwater used by residents of the Village of Lisle posed a public health risk.

78. That the defendant, CARLSON ENVIRONMENTAL, INC., knew that the results of its testing would be used by LOCKFORMER as a basis to petition for a "no further remediation letter" from the IEPA.

79. That at that time and place, the defendant, CARLSON ENVIRONMENTAL, INC., had a duty to act in good faith and to exercise reasonable care in its investigation and testing of groundwater contamination.

80. That notwithstanding said duty, the defendant, CARLSON ENVIRONMENTAL, INC., by and through its duly authorized agents, servants and employees, was negligent in one or ore of the following ways:

- (a) knew that TCE had contaminated the bedrock aquifer at the LOCKFORMER site and failed to test DENISE ANN EHRHART'S well that they knew drew from this same bedrock aquifer;
- (b) failed to turn over to the Village of Lisle all information they had gathered regarding TCE contamination both on and off the LOCKFORMER site;
- (c) failed to submit a final environmental report to the Illinois Environmental Protective Agency summarizing CARLSON ENVIRONMENTAL'S observations, conclusions and data;
- (d) failed to promptly test the bedrock aquifer for the presence of TCE contamination despite the fact that

they knew that TCE was heavier than water and would most likely sink rapidly;

- (e) failed to use known and customary techniques in evaluating whether the TCE contamination at LOCKFORMER had migrated offsite and into both the private wells and public water system of the Village of Lisle;
- (f) carelessly tested wells by not reaching the bedrock aquifer from which these wells were drawn;
- (g) failed to conduct offsite testing of wells in Lisle until late 1999 despite knowledge that as early as 1995 STS, a consultant for LOCKFORMER, had warned LOCKFORMER regarding the risk that TCE had migrated off the LOCKFORMER site and into the potable water supplies to residents south of the LOCKFORMER site;
- (h) failed to dig up the source area at the LOCKFORMER site and do active remediation, thus posing a danger to Lisle residents utilizing well water.

81. As a result of one or more of the following negligent acts and/or omissions, the defendant, CARLSON ENVIRONMENTAL, INC., by and through their agents, servants and employees, failed to discover the presence of TCE in DENISE ANN EHRHART'S well, as well as the municipal water supply for the Village of Lisle, and further failed to notify the Village of Lisle, Illinois Environmental Protection Agency, and the residents of Lisle of the risk and/or probability that TCE had entered their potable water supplies; and as a result therefor, DENISE ANN EHRHART continued drinking, bathing, cooking and otherwise using her water for a longer period of time than she would have had the risk and/or probability been explained to her; and as a result therefor, her kidney disease was further compromised, and her increased risk of future cancer was

enhanced, and her emotional distress as a result of the fear of contracting cancer was enhanced.

WHEREFORE, the Plaintiff, DENISE ANN EHRHART, demands judgment against the Defendant, CARLSON ENVIRONMENTAL, INC., an Illinois corporation, in a sum in excess of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00), plus the costs of this lawsuit.

Respectfully submitted,

LAW OFFICES OF  
EDMUND J. SCANLAN LTD.

By:

  
Edmund J. Scanlan

Edmund J. Scanlan  
Mario C. Palermo  
LAW OFFICES OF  
EDMUND J. SCANLAN LTD.  
Attorneys for Plaintiff  
134 North LaSalle Street, Suite 1700  
Chicago, Illinois 60602  
(312) 372-0020  
(312) 372-1211—FAX

STATE OF ILLINOIS       )  
                                  ) SS.  
COUNTY OF COOK       )

**AFFIDAVIT**

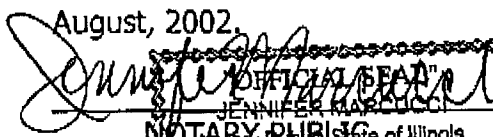
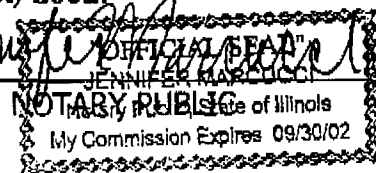
EDMUND J. SCANLAN hereby states that in his opinion the damages in the foregoing lawsuit exceed the sum of \$75,000.00.

  
EDMUND J. SCANLAN

SUBSCRIBED AND SWORN TO

Before me this 28<sup>th</sup> day of

August, 2002.

LAW OFFICES OF  
EDMUND J. SCANLAN LTD.  
Attorneys for Plaintiff  
134 North LaSalle Street  
Suite 1700  
Chicago, Illinois 60602  
(312) 372-0020  
(312) 372-1211--FAX  
FIRM ID #25586

SETTLEMENT, RELEASE AND INDEMNITY AGREEMENT

This Settlement, Release and Indemnity Agreement ("Agreement") is entered into between The Lockformer Company ("Lockformer"), its parent, Met-Coil Systems Corporation ("Met-Coil"), and AlliedSignal Inc. ("AlliedSignal") as of the date executed by all parties hereto.

Recitals

WHEREAS, Lockformer filed a lawsuit against AlliedSignal on March 31, 1993, in the United States District Court for the Northern District of Illinois, Eastern Division, entitled The Lockformer Company v. AlliedSignal Inc., No. 93 C 1934 ("the Lawsuit") alleging, inter alia, that AlliedSignal is liable to Lockformer for investigation and remediation costs relating to alleged contamination of soil and groundwater at Lockformer's property at 711 Ogden Avenue, Lisle, Illinois ("the Property").

WHEREAS, AlliedSignal has answered the complaint in the Lawsuit and has denied all liability, and continues to deny all liability;

WHEREAS, Lockformer, Met-Coil and AlliedSignal have engaged in settlement negotiations and now desire to settle and compromise all disputes and all claims arising out of the lawsuit and all claims between AlliedSignal and Lockformer, that Lockformer and/or Met-Coil had, have, or may have in the future, against AlliedSignal, which relate to the Property.

Definitions

AlliedSignal: As used in this Agreement, the term "AlliedSignal" shall mean AlliedSignal Inc. and Baron-Blakeslee, Inc., and their parents, subsidiaries, affiliated



EXHIBIT "A"

companies, predecessors, successors and assigns, joint ventures, and all of their employees, agents, consultants, insurers, attorneys, officers and directors.

Lockformer: As used in this Agreement, the term "Lockformer" shall mean The Lockformer Company, and its parents, subsidiaries, affiliated companies, predecessors, successors, assigns and joint ventures.

Met-Coil: As used in this Agreement, the term "Met-Coil" shall mean Met-Coil Systems Corporation and its parents, subsidiaries, affiliated companies, predecessors, successors, assigns and joint ventures.

#### Agreement

NOW, THEREFORE, in consideration of the above recitals and covenants and promises of Lockformer, Met-Coil and AlliedSignal, as set forth herein, the parties agree as follows:

A. Lockformer and Met-Coil, and their respective officers, directors, shareholders, and employees hereby and forever release, acquit and discharge AlliedSignal from all claims, demands, damages, expenses, costs, attorneys' fees, actions and liabilities of any kind and nature, known or unknown, past, present or future, for or because of any matter or thing done or omitted, alleged to have been done or omitted, or suffered to be done or omitted by AlliedSignal and related to the following: any and all transactions, events or claims alleged in the complaint or

pleadings on file in the lawsuit; any and all claims of first party insurance benefits (whether or not subrogated); any and all claims, including but not limited to personal injury and property damage, arising out of or related to the sale, use, delivery, repair or replacement of any TCE storage tank or related stand pipes; the sale, delivery, use or disposal of trichloroethylene ("TCE") or components containing TCE at the Property; any and all soil, air, water, or groundwater contamination or impact, personal injury, property damage, business interruption or lost business of any kind caused or related to, or alleged to have been caused or related to TCE, or any other compounds containing TCE.

B. Lockformer and Met-Coil agree to defend, hold harmless, and indemnify AlliedSignal from all claims, demands, damages, expenses, costs, attorneys' fees, actions and liabilities of any kind and nature, whether known or unknown, past, present, or future, whether threatened or brought by any person or entity, private, governmental, or otherwise regardless of whether any such claims, demands, damages, expenses, costs, attorneys' fees, actions, or liabilities arise from, purport to arise from, or are caused by, negligence, alleged negligence, strict liability, alleged strict liability, or other act or omission on the part of AlliedSignal, (including but, not limited to, the sole, joint or concurrent negligence, acts or omissions of AlliedSignal) that have been or may be brought against AlliedSignal by any person or entity seeking compensation for damages or other relief from AlliedSignal, as a result of any and all transactions, events or claims alleged

in the complaint and pleadings in the Lawsuit; any and all claims, including but not limited to personal injury and property damage, arising out of or related to the sale, use, repair, delivery or disposal of any storage tank and related equipment; the sale, delivery, use, storage, removal or disposal of any TCE or compounds containing TCE; and/or any and all soil, air, water or groundwater contamination or impact, personal injury, property damage, business interruption or lost business, caused by or related to, or alleged to have been caused by or related to TCE.

C. Upon execution of this Agreement, AlliedSignal agrees to pay \$400,000 ("Payment") to Lockformer. AlliedSignal also agrees to arrange for an irrevocable standby letter of credit (issued by a bank acceptable to Lockformer, such acceptance not to be unreasonably withheld) to the order of Lockformer, to issue in the amount of \$400,000 ("Letter of Credit") to guarantee AlliedSignal's obligation under Section D below. Such Letter of Credit may provide that it shall be automatically extended for additional periods each of one (1) year from its present or any future expiration date, unless at least sixty (60) calendar days prior to the then relevant expiration date the issuing bank notifies Lockformer that it has elected not to renew the Letter of Credit. In the event such notice of non-renewal is given, AlliedSignal shall obtain a new Letter of Credit issued by a bank acceptable to Lockformer (such acceptance not to be unreasonably withheld) unless at such time AlliedSignal's obligation under Section D below shall have been satisfied.



D. At any time, Lockformer may present AlliedSignal with a "Second Payment Letter" which may be either: 1. a letter bearing the notarized signature of the chief executive officer of Lockformer representing that the Payment has been expended and used exclusively for investigation and remediation of the Property or; 2. a Section 4(y) letter from the IEPA averring that the remediation of the Property is complete. Within ten (10) business days of the receipt of the Second Payment Letter, AlliedSignal will pay to Lockformer \$400,000 (the "Second Payment"). Within ten (10) business days of making the Second Payment to Lockformer, AlliedSignal will pay to Lockformer an amount equal to interest on \$400,000, calculated at the commercial paper rate for high grade unsecured notes thirty (30) days, less one (1) percent, as published by The Wall Street Journal on the date of execution of this Agreement, for the period which elapsed between the Payment and the Second Payment.

1. Lockformer will send copies of the Second Payment Letter to the following:

- a) General Counsel  
AlliedSignal Inc.  
Box 2245R  
Morristown, NJ 07962-2245
- b) Carolyn J. Horn  
Assistant General Counsel  
AlliedSignal Inc.  
Box 2245R  
Morristown, NJ 07962-2245
- c) Robert L. Shuftan, Esq.  
Wildman, Harrold, Allen & Dixon  
225 W. Wacker Drive  
Chicago, IL 60606-1229

d) H. Roderic Heard, Esq.  
Wildman, Harrold, Allen & Dixon  
225 W. Wacker Drive  
Chicago, IL 60606-1229

E. Should AlliedSignal refuse or fail to pay the Second Payment to Lockformer within ten (10) business days of receipt of the Second Payment Letter, Lockformer shall be entitled to draw upon the Letter of Credit. Lockformer's sole pre-condition for payment under the Letter of Credit shall be the presentment of a letter bearing the notarized signature of the chief executive officer of Lockformer and stating that Lockformer has presented the Second Payment Letter to AlliedSignal and that AlliedSignal has not paid the Second Payment to Lockformer within ten (10) business days after its receipt of the Second Payment Letter. Should payment under the Letter of Credit be required, within ten (10) business days after payment under the Letter of Credit, AlliedSignal will pay to Lockformer an amount equal to the interest on \$400,000, at the commercial paper rate for high grade, unsecured notes, thirty (30) days less one (1) percent, as published by The Wall Street Journal on the date of execution of this Agreement, for the period elapsed between the Payment and Lockformer's drawing upon the Letter of Credit.

F. As a condition for AlliedSignal's performance, Lockformer agrees to use the Payment and to the extent necessary, the Second Payment (or the proceeds from the Letter of Credit, as the case may be) solely to investigate and remediate the Property until Lockformer secures a Section 4(y) letter from the IEPA or expends

fully the Payment and Second Payment attempting to secure the Section 4(y) letter. Lockformer further agrees to:

1. Submit the Property to the IEPA and participate in cleanup of the Property through the IEPA Pre-Notice Site Program, and
2. Diligently investigate and remediate the Property, as necessary, to qualify for a Section 4(y) letter from IEPA.

G. Lockformer and AlliedSignal agree to execute a stipulation for dismissal with prejudice of the Lawsuit, with each party to bear its own costs and fees.

H. Lockformer and AlliedSignal agree to request that the court retain jurisdiction over the Lawsuit for the purposes of enforcing this Agreement. If the court is unwilling to retain jurisdiction (and dismisses the case with leave to reinstate), either party may petition the court to enforce this Agreement, after providing notice to all counsel presently of record.

I. Lockformer will provide AlliedSignal with access to all publicly available files and all correspondence and submissions to or documents received from IEPA and submissions to IEPA and responses from IEPA related to the Property.

J. Lockformer will immediately provide AlliedSignal with a copy of any Section 4(y) letter upon receipt from the IEPA.

K. Lockformer, Met-Coil and AlliedSignal shall keep the terms of this Agreement confidential and shall not disclose or divulge this Agreement or its terms to any person or entity other than the

parties to this action or their attorneys. This shall not prevent disclosure to Lockformer's, Met-Coil's or AlliedSignal's owners, agents, accountants or potential purchasers or any governmental agency as may be necessary in the ordinary course of AlliedSignal's, Met-Coil's or Lockformer's business.

L. Lockformer and Met-Coil further agree that they will not assist any private person or private entity that is currently pursuing, or that may pursue, any claims, demands, or actions against AlliedSignal. This provision shall not impair any legal obligation of Lockformer to respond to any court ordered discovery seeking information about this Lawsuit, its settlement or any of the underlying facts. In the event that Lockformer or Met-Coil is served with any discovery request related to the Lawsuit or this Agreement, Lockformer or Met-Coil shall provide written notice to AlliedSignal at Box 2245R, Morristown, NJ 07962-2245, Attention: Carolyn Horn, Assistant General Counsel, prior to the filing of any response or production of documents.

M. Lockformer will stipulate with AlliedSignal to a finding by the court of nonliability of AlliedSignal under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") 42 U.S.C. § 9607.

N. Lockformer, Met-Coil and AlliedSignal hereby agree to the special considerations which follow:

1. Any obligation to pay any losses, damages, attorneys' fees, costs or expenses incurred or to be incurred by Lockformer is denied by

AlliedSignal, and this final compromise and settlement hereof shall not be treated as an admission of liability or responsibility by AlliedSignal at any time for any purpose, such liability having been and continuing to be expressly denied by AlliedSignal.

2. This Agreement may be executed in one or more counterparts, each of which, when so executed and delivered, shall be deemed an original, but all of which taken together shall constitute one in the same instrument.
3. This Agreement is entered into for the express benefit of Lockformer, Met-Coil and AlliedSignal and is not intended and shall not be deemed to create any rights or interests whatsoever in any third person, including without limitation, any right to enforce the terms hereof.
4. Each provision of this Agreement shall be interpreted in a manner as to be valid and enforceable under applicable law, but if any provision hereof shall be or become prohibited or invalid under any applicable law, that provision shall be ineffective only to the extent of such prohibition or invalidity without thereby invalidating the remainder of that provision or any other provision hereof.

5. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.
6. AlliedSignal, Lockformer and Met-Coil hereby expressly agree to waive any and all provisions of the Illinois Anti-Indemnity Act, 740 ILCS 35/1, which are or may be applicable to this Agreement.
7. This Agreement constitutes the entire agreement by and among the parties hereto and integrates and supersedes all prior understandings or agreements with respect to its subject matter, including but not limited to "Terms For Settlement Agreement: Lockformer/AlliedSignal Litigation" dated October 12, 1994.
8. This Agreement may not be altered, amended, modified or otherwise changed except in writing, duly executed by authorized representatives of all the parties hereto.
9. Each party executing this Agreement represents that it has been represented by counsel of its own choosing regarding the preparation and negotiation of this Agreement and all matters and claims set forth herein and that each of them has read this Agreement and is fully aware of the contents hereof and its legal effect.
10. If any dispute should arise with respect to this

Agreement, the prevailing party in any ensuing litigation or controversy shall be entitled to all costs of enforcement including reasonable attorneys' fees.

O. Within thirty days of the execution of this Agreement by the parties, AlliedSignal and Lockformer will file with the court a stipulation to dismiss, proposed finding of nonliability and request for dismissal with prejudice of the Lawsuit, each side to bear its own costs and attorneys' fees.

IN WITNESS HEREOF, this Agreement is executed and agreed to by the following, as of the last date set forth below.

AGREED AND ACCEPTED:

Dated: December \_\_\_\_, 1994

\_\_\_\_\_  
THE LOCKFORMER COMPANY

Dated: December \_\_\_\_, 1994

\_\_\_\_\_  
MET-COIL SYSTEMS CORPORATION

Dated: December 8, 1994

Paul M. Gath  
ALLIEDSIGNAL INC.

Agreement, the prevailing party in any ensuing litigation or controversy shall be entitled to all costs of enforcement including reasonable attorneys' fees.

O. Within thirty days of the execution of this Agreement by the parties, AlliedSignal and Lockformer will file with the court a stipulation to dismiss, proposed finding of nonliability and request for dismissal with prejudice of the Lawsuit, each side to bear its own costs and attorneys' fees.

IN WITNESS HEREOF, this Agreement is executed and agreed to by the following, as of the last date set forth below.

AGREED AND ACCEPTED:

Dated: December 6, 1994

X. John Del Vecchio  
THE LOCKFORMER COMPANY  
PRESIDENT

Dated: December 6, 1994

X. John Del Vecchio  
MET-COIL SYSTEMS CORPORATION  
VICE PRESIDENT

Dated: December     , 1994

ALLIEDSIGNAL INC.



CERTIFICATE OF SERVICE

I, Larysa Dema, a non-attorney, being first duly sworn, state that I caused a true and correct copy of Honeywell's Answer, Defenses and Crossclaims to Counts I-III and VI-IX of Plaintiffs' Second Amended Class Action Complaint for Injunctive, Declaratory and Other Relief to be served upon the following parties via U.S. Mail, postage prepaid on this 26th day of July, 2001:

Shawn M. Collins, Esq.  
Charles J. Corrigan, Esq.  
Edward J. Manzke, Esq.  
THE COLLINS LAW FIRM  
1770 N. Park Street, Suite 200  
Naperville, IL 60563


Norman B. Berger, Esq.  
Michael D. Hayes, Esq.  
Anne E. Viner, Esq.  
VARGA BERGER LEDSKY HAYES & CASEY  
224 S. Michigan Avenue, Suite 350  
Chicago, Illinois 60604

Daniel J. Biederman, Esq.  
CHUHAK & TECSON, P.C.  
225 W. Washington Street, Suite 1300  
Chicago, IL 60606-3418

Vincent S. Oleszkiewicz, Esq.  
Douglas B. Sanders, Esq.  
Baker & McKenzie  
130 East Randolph Drive  
Chicago, Illinois 60601

  
\_\_\_\_\_  
Larysa Dema

SUBSCRIBED and SWORN  
to before me this 26th day of July, 2001.

  
Notary Public



**AUTHENTICATION**

I, Bharat Mathur, certify that I am the Deputy Regional Administrator of the United States Environmental Protection Agency, Region 5, and that the attached document (17 total pages) concerning the "Lockformer" Site, Lisle, IL., is a true, correct and compared document, the original file copy of which is in my official custody pursuant to 40 C.F.R. §2.406.

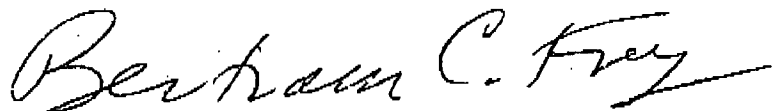
Subscribed under penalty of perjury on August 19, 2002



Bharat Mathur  
Deputy Regional Administrator  
U.S. Environmental Protection Agency  
Region 5

**CERTIFICATION**

I, Bertram C. Frey, certify that I am the Acting Regional Counsel of the United States Environmental Protection Agency, Region 5, that I am the designee of the General Counsel for the purpose of executing certifications under 40 C.F.R. §2.406, that I have duties throughout the jurisdiction of Region 5 of the United States Environmental Protection Agency, and that the official whose signature appears above has legal custody pursuant to 40 C.F.R. §2.406 of the original document as witnessed by my signature and the official seal of the United States Environmental Protection Agency which appear below.



Bertram C. Frey  
Acting Regional Counsel  
U.S. Environmental Protection Agency  
Region 5

Date: August 20, 2002

**EXHIBIT "B"**

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Region 5

IN THE MATTER OF: ) Docket No. V-W- '02-C-66E  
)  
)  
LOCKFORMER SITE ) ADMINISTRATIVE ORDER  
) PURSUANT TO SECTION 106(a)  
) OF THE COMPREHENSIVE  
) ENVIRONMENTAL RESPONSE,  
Respondents: ) COMPENSATION, AND  
) LIABILITY ACT OF 1980,  
LOCKFORMER COMPANY ) AS AMENDED, 42 U.S.C.  
MET-COIL SYSTEMS CORPORATION ) §9606(a)  
)

I. JURISDICTION AND GENERAL PROVISIONS

This Order is issued pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. §9606(a), and delegated to the Administrator of the United States Environmental Protection Agency ("U.S. EPA") by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, and further delegated to the Regional Administrators by U.S. EPA Delegation Nos. 14-14-A and 14-14-B, and to the Director, Superfund Division, Region 5, by Regional Delegation Nos. 14-14-A and 14-14-B.

This Order pertains to property located at 711 Ogden Avenue, Lisle, DuPage County, Illinois ("Lockformer Site" or the "Site"). This Order requires the Respondents to conduct removal activities described herein to abate an imminent and substantial endangerment to the public health, welfare or the environment that may be presented by the actual or threatened release of hazardous substances at or from the Site.

U.S. EPA has notified the State of Illinois of this action pursuant to Section 106(a) of CERCLA, 42 U.S.C. §9606(a).

II. PARTIES BOUND

This Order applies to and is binding upon Respondents and Respondents', receivers, trustees, successors and assigns. Any change in ownership or corporate status of Respondents including, but not limited to, any transfer of assets or real or personal

property shall not alter such Respondents' responsibilities under this Order.

Respondents shall ensure that their contractors, subcontractors, and representatives comply with this Order. Respondents shall be responsible for any noncompliance. Respondents are jointly and severally liable for carrying out all activities required by this Order. Compliance or noncompliance by one or more Respondents with any provision of this Order shall not excuse or justify noncompliance by any other Respondent.

### III. FINDINGS OF FACT

Based on available information, including the Administrative Record in this matter, U.S. EPA hereby finds that:

1. The Lockformer Site (Site) is located at 711 West Ogden Avenue, Lisle, DuPage County, Illinois, and is generally depicted in the map appended as Attachment A. The Site is located in a mixed industrial/residential area on the south side of Ogden Avenue, west of Interstate 355. A residential subdivision is located to the north of Ogden Avenue. A car dealership is located to the east. Southeast of the Site are an undeveloped, wooded parcel and single family homes. Southwest of the Site are the Burlington Northern railroad and right-of-way, and St. Joseph's Creek. On the western boundary is a multi-unit commercial building.
2. The current legal owner and operator at the Site is Lockformer Company (Lockformer). Lockformer Company is a wholly owned subsidiary of Metcoil Systems Corporation. In June of 2000, Mestek, Inc. purchased Metcoil and thereby owns and operates both Lockformer and Metcoil.
3. The Site consists of a one-story metal fabricating plant and associated office space and land where releases have occurred and contamination has come to be located. Lockformer manufactures parts and equipment for the metal fabricating business. Lockformer's metal fabrication processes involve the use of a trichloroethylene (TCE) vapor degreaser located inside the building in a degreaser tank and pit. From approximately 1970 to 1992, the degreaser pit drew its TCE from a 500-gallon storage tank located on the roof of the facility. Degreaser spills occurred at the Site during delivery of TCE to the TCE storage tank. The tank was filled at regular intervals via a refilling line which extends down the west side of the facility.

4. Contaminated soil was first discovered at the Site in the fall of 1991, during underground utility (water line) repair work conducted on the west side of the building. In 1992, Lockformer conducted soil sampling and detected TCE at concentrations as high as 680,000 parts per billion (ppb) in soil at the Site. Additional soil and groundwater samples collected in 1995 in the vicinity of the refilling line showed the presence of TCE at maximum concentrations of 960,000 ppb in soil. Lockformer conducted an additional assessment of TCE releases, and a report dated February 14, 1997, documents TCE contamination in on-Site groundwater monitoring wells at levels as high as 68,000 ppb. Technical reports prepared by Lockformer in 1997 and 1998 indicated that surface drainage is to the south and that the storm water drain terminated in a neighboring residential yard. The reports also concluded that TCE contamination at the Site had migrated downward and laterally to a sand layer impacting groundwater at of depth 56 feet.
5. On December 18, 19 and 20, 2000, the Illinois EPA (IEPA) collected samples from private wells at forty-eight (48) homes located near Front Street, which is located approximately 1,200 feet south of the Lockformer Site. Of the 48 private well water samples collected, 34 samples showed the presence of TCE, and nine showed the presence of TCE in excess of 5ppb. IEPA investigations determined that ground water flows from the Lockformer property toward the South /South East in the direction of a residential neighborhood. The contaminated wells are located in an unincorporated area. The unincorporated neighborhood is refusing annexation by neighboring Lisle which must annex it to connect it with a public water supply system.
6. On January 22, 2001, Lockformer entered into an agreed order with the State of Illinois. The agreed order requires Lockformer to among other things, conduct a Comprehensive Volatile Organic Compounds (VOC) Investigation and delineate the nature and extent of the contamination caused by the TCE spills at the Site, and to provide bottled water to the residents affected by the contaminated wells. Under that Order, Lockformer has been providing bottled water to potentially affected residences. Pursuant to the Agreed Order, well installation was initiated in June of 2001; soil sampling, sewer investigation and sampling, monitoring well installation are being conducted; and ground water elevations and additional data are being collected.

7. On March 13, 2001 the IEPA referred the site to U.S. EPA for a time-critical removal action to address source areas at the Site on an expedited basis.

#### IV. CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the Findings of Fact set forth above, and the Administrative Record supporting these removal actions, U.S. EPA determines that:

1. The Lockformer Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. §9601(9).
2. Trichloroethylene (TCE) is a "hazardous substance" as defined by Section 101(14) of CERCLA, 42 U.S.C. §9601(14).
3. Each Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. §9601(21).
4. Respondents Lockformer Company and Met-Coil Systems Corporation are the present "owners" and "operators" of the Lockformer Site, as defined by Section 101(20) of CERCLA, 42 U.S.C. §9601(20). Respondents Lockformer Company and Met-Coil Systems are either persons who at the time of disposal of any hazardous substances owned or operated the Lockformer Site, or who arranged for disposal or transport for disposal of hazardous substances at the Lockformer Site. Respondents are therefore liable persons under Section 107(a) of CERCLA, 42 U.S.C. §9607(a).
5. The conditions described in the Findings of Fact above constitute an actual or threatened "release" into the "environment" as defined by Sections 101(8) and (22) of CERCLA, 42 U.S.C. §§9601(8) and (22).
6. The conditions present at the Site constitute a threat to public health, welfare, or the environment based upon the factors set forth in Section 300.415(b)(2) of the National Oil and Hazardous Substances Pollution Contingency Plan, as amended ("NCP"), 40 CFR Part 300. These factors include, but are not limited to, the following:
  - a. Actual or potential contamination of drinking water supplies or sensitive ecosystems; this factor is present at the Site due to the existence of high levels of TCE in the surface and subsurface soils and groundwater. Studies conducted by Lockformer have

documented that TCE contamination is migrating vertically and horizontally toward the sand and gravel deposits and ultimately to the bedrock aquifer. Sampling by IEPA from private wells and monitoring wells found levels of TCE above the Maximum Contaminant Level (MCL) of 5 ppb. IEPA investigations determined that ground water flows from the Lockformer property toward the South /South East in the direction of a residential neighborhood.

- b. High levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface, that may migrate; this factor is present at the Site due to the existence of very high levels of TCE that have been documented to be released to the soil and ground water. The TCE in the surface soil and subsurface soil is an ongoing source of groundwater contamination which is migrating vertically and horizontally and will continue to migrate to the bedrock aquifer causing further ground water contamination.
- c. Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released; this factor is present at the Site due to the existence of documented concentrations of TCE in the soil and ground water on site that has been shown to be migrating. The ground water flow in the area has been shown to be toward the South/South East and continuing precipitation and percolation of storm water will continue to cause the TCE to migrate toward the bedrock aquifer which flows to the residential wells.
- d. The unavailability of other appropriate federal or state response mechanisms to respond to the release; this factor supports the actions required by this Order at the Site because IEPA requested U.S. EPA's assistance to conduct a removal action to expedite removal of contaminated source areas at the Lockformer facility. The IEPA will continue to oversee private well sampling and investigation of the TCE ground water contamination in Lisle and coordinate the groundwater investigation and cleanup under its agreed order with Lockformer.

7. The actual or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the public health, welfare, or the environment within the meaning

of Section 106(a) of CERCLA, 42 U.S.C. §9606(a).

8. The removal actions required by this Order are necessary to protect the public health, welfare, or the environment, and are not inconsistent with the NCP and CERCLA.

#### V. ORDER

Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the Administrative Record for this Site, U.S. EPA hereby orders that Respondents perform the following actions:

1. Notice of Intent to Comply

Respondents shall notify U.S. EPA in writing within 3 business days after the effective date of this Order of Respondents' irrevocable intent to comply with this Order. Failure of each Respondent to provide such notification within this time period shall be a violation of this Order.

2. Designation of Contractor, Project Coordinator, and On-Scene Coordinator

Respondents shall perform the removal actions itself or retain a contractor to implement the removal actions. Respondents shall notify U.S. EPA of Respondents' qualifications or the name and qualifications of such contractor, whichever is applicable, within 5 business days of the effective date of this Order. Respondents shall also notify U.S. EPA of the name and qualifications of any other contractors or subcontractors retained to perform work under this Order at least 5 business days prior to commencement of such work. U.S. EPA retains the right to disapprove of the Respondents or any of the contractors and/or subcontractors retained by the Respondents. If U.S. EPA disapproves a selected contractor, Respondents shall retain a different contractor within 2 business days following U.S. EPA's disapproval and shall notify U.S. EPA of that contractor's name and qualifications within 3 business days of U.S. EPA's disapproval.

Within 5 business days after the effective date of this Order, the Respondents shall designate a Project Coordinator who shall be responsible for administration of all the Respondents' actions required by the Order and submit the designated coordinator's name, address, telephone number, and qualifications to U.S. EPA. To the greatest extent possible, the Project Coordinator shall be present on-site or readily available during site work. U.S. EPA



retains the right to disapprove of any Project Coordinator named by the Respondents. If U.S. EPA disapproves a selected Project Coordinator, Respondents shall retain a different Project Coordinator within 3 business days following U.S. EPA's disapproval and shall notify U.S. EPA of that person's name and qualifications within 4 business days of U.S. EPA's disapproval. Receipt by Respondents' Project Coordinator of any notice or communication from U.S. EPA relating to this Order shall constitute receipt by Respondents.

The U.S. EPA has designated Steven Faryan of the Emergency Response Branch, Region 5, as its On-Scene Coordinator ("OSC"). Respondents shall direct all submissions required by this Order to the OSC at 77 West Jackson Boulevard, SE-5J, Chicago, Illinois, 60604-3590, by certified or express mail. Respondents shall also send a copy of all submissions to Thomas Krueger, Assistant Regional Counsel, 77 West Jackson Boulevard, C-14J, Chicago, Illinois, 60604-3590. All Respondents are encouraged to make their submissions to U.S. EPA on recycled paper (which includes significant postconsumer waste paper content where possible) and using two-sided copies.

### 3. Work to Be Performed

Respondents shall perform, at a minimum, the following response activities:

- a. assessing and mitigating the documented threats posed by contaminants found at the Lockformer Site, including an Extent of Contamination investigation to assess the vertical and horizontal migration of the identified contaminants. The investigation shall be conducted to assess the known areas of contamination and to identify the outer limits of the contamination and shall include groundwater and soil. The Removal Action Work Plan shall also assess and mitigate other known storage or disposal areas or areas where releases occurred. These include the degreaser pit area, associated pipes and drains, building sewers and sumps, the building's roof, down spouts, storm sewers and head walls, and any other indoor or outdoor drum or tank storage area. The staged pile of fill at the south end of the building shall be sampled and characterized for disposal. A ground water assessment and investigation shall be conducted in the general area to determine groundwater flow and concentrations of contaminants in the monitoring wells and drinking water wells.

Controlling access to portions of the property where contaminants have been detected or are known to be disposed to prevent exposure to workers, the public entering the facility, and to neighboring residents. This shall include fencing, tarping, or placing of contaminated materials in containers. Portions of the parking lot may have to be relocated to allow for excavation, treatment and backfilling;

- c. Taking necessary actions to prevent and control migration of contaminants into the ground water, soil, sewers, roadways, neighboring residences, and the St. Joseph's Creek;
- d. After delineating the vertical and horizontal extent of contamination; removing, treating, and properly disposing of all hazardous substances and contaminated materials at an approved facility which is in compliance with the CERCLA Off-Site Rule, and backfilling all areas with clean fill to the pre-existing grade;
- e. Decontaminating, removing, and disposing of all tanks, scrap metal, equipment, sumps, sewers, building floors, walls, or roof which have come into contact with or which have been used to store, treat, or process any of the identified contaminants; and
- f. Implementing a Confirmation Sampling Plan to determine if appropriate clean-up standards have been met. The plan shall provide for sampling of soil, ground water, surface water, metal and concrete floors, walls and roofing material.

### 3.1 Work Plan and Implementation

Within 10 business days after the effective date of this Order, the Respondents shall submit to U.S. EPA for approval a draft Work Plan for performing the removal activities set forth above. The draft Work Plan shall provide a description of, and an expeditious schedule for, the activities required by this Order.

U.S. EPA may approve, disapprove, require revisions to, or modify the draft Work Plan. If U.S. EPA requires revisions, Respondents shall submit a revised draft Work Plan within 7 business days of notification. Respondents shall implement the Work Plan as finally approved in writing by U.S. EPA in accordance with the schedule approved by U.S. EPA. Once approved, or approved with

modifications, the Work Plan, the schedule, and any subsequent modifications shall be fully enforceable under this Order. Respondents shall notify U.S. EPA at least 48 hours prior to performing any on-site work pursuant to the U.S. EPA approved Work Plan.

Respondents shall not commence or undertake any removal actions at the Site without prior U.S. EPA approval.

### 3.2 Health and Safety Plan

Within 10 business days after the effective date of this Order, the Respondents shall submit a plan for U.S. EPA review and comment that ensures the protection of the public health and safety during performance of on-site work under this Order. This plan shall comply with applicable Occupational Safety and Health Administration ("OSHA") regulations found at 29 CFR Part 1910. If U.S. EPA determines it is appropriate, the plan shall also include contingency planning. Respondents shall incorporate all changes to the plan recommended by U.S. EPA, and implement the plan during the pendency of the removal action.

### 3.3 Quality Assurance and Sampling

All sampling and analyses performed pursuant to this Order shall conform to U.S. EPA direction, approval, and guidance regarding sampling, quality assurance/quality control ("QA/QC"), data validation, and chain of custody procedures. Respondents shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with U.S. EPA guidance. Upon request by U.S. EPA, Respondents shall have such a laboratory analyze samples submitted by U.S. EPA for quality assurance monitoring. Respondents shall provide to U.S. EPA the quality assurance/quality control procedures followed by all sampling teams and laboratories performing data collection and/or analysis. Respondents shall also ensure provision of analytical tracking information consistent with OSWER Directive No. 9240.0-2B, "Extending the Tracking of Analytical Services to PRP-Lead Superfund Sites."

Upon request by U.S. EPA, Respondents shall allow U.S. EPA or its authorized representatives to take split and/or duplicate samples of any samples collected by Respondents or their contractors or agents while performing work under this Order. Respondents shall notify U.S. EPA not less than 3 business days in advance of any sample collection activity. U.S. EPA shall have the right to take any additional samples that it deems necessary.

### 3.4 Reporting

Respondents shall submit a monthly written progress report to U.S. EPA concerning activities undertaken pursuant to this Order, beginning 30 calendar days after the date of U.S. EPA's approval of the Work Plan, until termination of this Order, unless otherwise directed by the OSC. These reports shall describe all significant developments during the preceding period, including the work performed and any problems encountered, analytical data received during the reporting period, and developments anticipated during the next reporting period, including a schedule of work to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

Any Respondent that owns any portion of the Site, and any successor in title shall, at least 30 days prior to the conveyance of any interest in real property at the Site, give written notice of this Order to the transferee and written notice of the proposed conveyance to U.S. EPA and the State. The notice to U.S. EPA and the State shall include the name and address of the transferee. The party conveying such an interest shall require that the transferee will provide access as described in Section V.4 (Access to Property and Information).

### 3.5 Final Report

Within 60 calendar days after completion of all removal actions required under this Order, the Respondents shall submit for U.S. EPA review a final report summarizing the actions taken to comply with this Order. The final report shall conform to the requirements set forth in Section 300.165 of the NCP. The final report shall also include a good faith estimate of total costs incurred in complying with the Order, a listing of quantities and types of materials removed, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destinations of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (e.g., manifests, invoices, bills, contracts, and permits).

The final report shall also include the following certification signed by a person who supervised or directed the preparation of that report:

Under penalty of law, I certify that, to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation

of this report, the information submitted is true, accurate, and complete.

4. Access to Property and Information

Respondents shall provide or obtain access as necessary to the Site and all appropriate off-site areas, and shall provide access to all records and documentation related to the conditions at the Site and the activities conducted pursuant to this Order. Such access shall be provided to U.S. EPA employees, contractors, agents, consultants, designees, representatives, and State of Illinois representatives. These individuals shall be permitted to move freely at the Site and appropriate off-site areas in order to conduct activities which U.S. EPA determines to be necessary. Respondents shall submit to U.S. EPA, upon request, the results of all sampling or tests and all other data generated by Respondents or their contractor, or on the Respondents' behalf during implementation of this Order.

Where work under this Order is to be performed in areas owned by or in possession of someone other than Respondents, Respondents shall obtain all necessary access agreements within 14 calendar days after the effective date of this Order, or as otherwise specified in writing by the OSC. Respondents shall immediately notify U.S. EPA if, after using its best efforts, it is unable to obtain such agreements. Respondents shall describe in writing their efforts to obtain access. U.S. EPA may then assist Respondents in gaining access, to the extent necessary to effectuate the response activities described herein, using such means as U.S. EPA deems appropriate.

5. Record Retention, Documentation, Availability of Information

Respondents shall preserve all documents and information, in their possession or the possession of their contractors, subcontractors or representatives, relating to work performed under this Order, or relating to the hazardous substances found on or released from the Site, for six years following completion of the removal actions required by this Order. At the end of this six year period and at least 60 days before any document or information is destroyed, Respondents shall notify U.S. EPA that such documents and information are available to U.S. EPA for inspection, and upon request, shall provide the originals or copies of such documents and information to U.S. EPA. In addition, Respondents shall provide documents and information retained under this Section at any time before expiration of the six year period at the written request of U.S. EPA. Any information that Respondents are required to provide or maintain

pursuant to this Order is not subject to the Paperwork Reduction Act of 1995, 44 U.S.C. §3501 et seq.

6. Off-Site Shipments

All hazardous substances, pollutants or contaminants removed off-site pursuant to this Order for treatment, storage or disposal shall be treated, stored, or disposed of at a facility in compliance, as determined by U.S. EPA, with the U.S. EPA Off-Site Rule, 40 CFR §300.440, 58 Fed. Reg. 49215 (Sept. 22, 1993).

7. Compliance With Other Laws

All actions required pursuant to this Order shall be performed in accordance with all applicable local, state, and federal laws and regulations except as provided in Section 121(e) of CERCLA and 40 CFR §300.415(j). In accordance with 40 CFR §300.415(j), all on-site actions required pursuant to this Order shall, to the extent practicable, as determined by U.S. EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements under federal environmental or state environmental or facility siting laws.

8. Emergency Response and Notification of Releases

If any incident, or change in Site conditions, during the activities conducted pursuant to this Order causes or threatens to cause an additional release of hazardous substances from the Site or an endangerment to the public health, welfare, or the environment, the Respondents shall immediately take all appropriate action to prevent, abate or minimize such release, or endangerment caused or threatened by the release. Respondents shall also immediately notify the OSC or, in the event of his unavailability, shall notify the Regional Duty Officer, Emergency Response Branch, Region 5 at (312) 353-2318, of the incident or Site conditions.

Respondents shall submit a written report to U.S. EPA within 7 business days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. Respondents shall also comply with any other notification requirements, including those in Section 103 of CERCLA, 42 U.S.C. §9603, and Section 304 of the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. §11004.

#### VI. AUTHORITY OF THE U.S. EPA ON-SCENE COORDINATOR

The OSC shall be responsible for overseeing the implementation of this Order. The OSC shall have the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any work required by this Order, or to direct any other response action undertaken by U.S. EPA or Respondents at the Site. Absence of the OSC from the Site shall not be cause for stoppage of work unless specifically directed by the OSC.

U.S. EPA and Respondents shall have the right to change their designated OSC or Project Coordinator. U.S. EPA shall notify the Respondents, and Respondents shall notify U.S. EPA, as early as possible before such a change is made, but in no case less than 24 hours before such a change. Notification may initially be made orally, but shall be followed promptly by written notice.

#### VII. PENALTIES FOR NONCOMPLIANCE

Violation of any provision of this Order may subject Respondents to civil penalties of up to \$27,500 per violation per day, as provided in Section 106(b)(1) of CERCLA, 42 U.S.C. §9606(b)(1). Respondents may also be subject to punitive damages in an amount up to three times the amount of any cost incurred by the United States as a result of such violation, as provided in Section 107(c)(3) of CERCLA, 42 U.S.C. §9607(c)(3). Should Respondents violate this Order or any portion hereof, U.S. EPA may carry out the required actions unilaterally, pursuant to Section 104 of CERCLA, 42 U.S.C. §9604, and/or may seek judicial enforcement of this Order pursuant to Section 106 of CERCLA, 42 U.S.C. §9606.

#### VIII. REIMBURSEMENT OF COSTS

Respondents shall reimburse U.S. EPA, upon written demand, for all response costs incurred by the United States in overseeing Respondents' implementation of the requirements of this Order. U.S. EPA may submit to Respondents on a periodic basis a bill for all response costs incurred by the United States with respect to this Order. U.S. EPA's Itemized Cost Summary, or such other summary as certified by U.S. EPA, shall serve as the basis for payment.

Respondents shall, within 30 days of receipt of the bill, remit a cashier's or certified check for the amount of those costs made payable to the "Hazardous Substance Superfund," to the following address:

U.S. Environmental Protection Agency  
Program Accounting & Analysis Section  
P.O. Box 70753  
Chicago, Illinois 60673

Respondents shall simultaneously transmit a copy of the check to the Director, Superfund Division, U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, Illinois, 60604-3590. Payments shall be designated as "Response Costs - Lockformer Site" and shall reference the payer's name and address, the U.S. EPA site identification number B5Y5, and the docket number of this Order.

Interest at a rate established by the Department of the Treasury pursuant to 31 U.S.C. §3717 and 4 CFR §102.13 shall begin to accrue on the unpaid balance from the day after the expiration of the 30 day period notwithstanding any dispute or an objection to any portion of the costs.

#### IX. RESERVATION OF RIGHTS

Nothing herein shall limit the power and authority of U.S. EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent U.S. EPA from seeking legal or equitable relief to enforce the terms of this Order. U.S. EPA also reserves the right to take any other legal or equitable action as it deems appropriate and necessary, or to require the Respondents in the future to perform additional activities pursuant to CERCLA or any other applicable law.

#### X. OTHER CLAIMS

By issuance of this Order, the United States and U.S. EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents. The United States or U.S. EPA shall not be a party or be held out as a party to any contract entered into by the Respondents or their directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out activities pursuant to this Order. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this Order.



~~This~~ Order does not constitute a pre-authorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. §9611(a)(2).

Nothing in this Order constitutes a satisfaction of or release from any claim or cause of action against the Respondents or any person not a party to this Order, for any liability such person may have under CERCLA, other statutes, or the common law, including but not limited to any claims of the United States for costs, damages and interest under Sections 106(a) or 107(a) of CERCLA, 42 U.S.C. §§9606(a), 9607(a).

#### XI. MODIFICATIONS

Modifications to any plan or schedule may be made in writing by the OSC or at the OSC's oral direction. If the OSC makes an oral modification, it will be memorialized in writing within 7 business days; however, the effective date of the modification shall be the date of the OSC's oral direction. The rest of the Order, or any other portion of the Order, may only be modified in writing by signature of the Director, Superfund Division, Region 5.

If Respondents seek permission to deviate from any approved plan or schedule, Respondents' Project Coordinator shall submit a written request to U.S. EPA for approval outlining the proposed modification and its basis.

No informal advice, guidance, suggestion, or comment by U.S. EPA regarding reports, plans, specifications, schedules, or any other writing submitted by the Respondents shall relieve Respondents of their obligations to obtain such formal approval as may be required by this Order, and to comply with all requirements of this Order unless it is formally modified.

#### XII. NOTICE OF COMPLETION

After submission of the Final Report, Respondents may request that U.S. EPA provide a Notice of Completion of the work required by this Order. If U.S. EPA determines, after U.S. EPA's review of the Final Report, that all work has been fully performed in accordance with this Order, except for certain continuing obligations required by this Order (e.g., record retention), U.S. EPA will provide written notice to the Respondents. If U.S. EPA determines that any removal activities have not been completed in accordance with this Order, U.S. EPA will notify the Respondents, provide a list of the deficiencies, and require that Respondents

modify the Work Plan to correct such deficiencies. The Respondents shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the U.S. EPA notice. Failure to implement the approved modified Work Plan shall be a violation of this Order.

#### XIII. ACCESS TO ADMINISTRATIVE RECORD

The Administrative Record supporting these removal actions is available for review during normal business hours in the U.S. EPA Record Center, Region 5, 77 W. Jackson Blvd., Seventh Floor, Chicago, Illinois. Respondents may contact Thomas Krueger, Assistant Regional Counsel, at (312) 886-0562 to arrange to review the Administrative Record. An index of the Administrative Record is attached to this Order.

#### XIV. OPPORTUNITY TO CONFER

Within 3 business days after issuance of this Order, Respondents may request a conference with U.S. EPA. Any such conference shall be held within 5 business days from the date of the request, unless extended by agreement of the parties. At any conference held pursuant to the request, Respondents may appear in person or be represented by an attorney or other representative.

If a conference is held, Respondents may present any information, arguments or comments regarding this Order. Regardless of whether a conference is held, Respondents may submit any information, arguments or comments (including justifications for any assertions that the Order should be withdrawn against a Respondent), in writing to U.S. EPA within 2 business days following the conference, or within 7 business days of issuance of the Order if no conference is requested. This conference is not an evidentiary hearing, does not constitute a proceeding to challenge this Order, and does not give Respondents a right to seek review of this Order. Requests for a conference shall be directed to Thomas Krueger, Assistant Regional Counsel, at (312) 886-0562. Written submittals shall be directed as specified in Section V.2 of this Order.

#### XV. SEVERABILITY

If a court issues an order that invalidates any provision of this Order or finds that Respondents have sufficient cause not to

comply with one or more provisions of this Order, Respondents shall remain bound to comply with all provisions of this Order not invalidated by the court's order.

XVI. EFFECTIVE DATE

This Order shall be effective 10 business days following issuance unless a conference is requested as provided herein. If a conference is requested, this Order shall be effective 5 business days after the day of the conference.

IT IS SO ORDERED

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

*W. E. Munro*  
William E. Munro, Director  
Superfund Division  
United States  
Environmental Protection Agency  
Region 5

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

*10/4/01*

# Exhibit B

Corporation Service Company  
2711 Centerville Road Suite 400, Wilmington, DE, 19808  
(302) 636-5400

9/5/02

United States Corporation Company

The Prentice-Hall Corporation System, Inc.

### NOTICE OF SERVICE OF PROCESS

Date Processed: 04-SEP-02

Transmittal #: IL1511268C

ALL

To: ANN MCCLURE  
MESTEK, INC.  
260 N. ELM ST.  
WESTFIELD MA 01085

Redirect sent to:

TYPE OF REPRESENTATION: Statutory

We enclose the following documents which were served upon:

Illinois Corporation Service Company

as registered agent in Illinois

for

MET-COIL SYSTEMS CORPORATION (ID#: 2005843)

Documents were served on 04-SEP-02 via Personal Service

ID#: N/A

Title of Action: DENISE ANN EHRHART  
vs. THE LOCKFORMER COMPANY, ET AL.  
Court: CIRCUIT COURT OF COOK COUNTY, IL  
Nature of Case: Personal Injury

Case #: 02L 011020

☒ Summons  
☒ Complaint  
☐ Garnishment  
☐ Subpoena  
☐ Notice of Mechanic's Lien  
☐ Notice of Attorney's Lien  
☐ Notice of Default Judgment  
☒ Other: AFFIDAVIT; EXHIBITS "A" - "B"

☐ A self-addressed stamped envelope enclosed  
☐ Duplicate copies of the Notice and Acknowledgement enclosed

Answer Due: WITHIN 30 DAYS AFTER SERVICE  
Documents Sent: Federal Express ID#:   
Call Placed: No call placed Spoke to: N/A  
Comments: JURY DEMAND

Attorney for Claimant:  
EDMUND J. SCANLAN  
LAW OFFICES OF EDMUND J. SCANLAN LTD.  
134 N. LASALLE ST., SUITE 1700  
CHICAGO, IL 60602  
312 372 0020

Form Prepared By: Janelle Watkins

Please acknowledge receipt of this notice and the enclosures by signing and returning the acknowledgement copy.

Original Client Copy - for your records

The information on this transmittal is provided for use in forwarding the attached documents. This information does not constitute a legal opinion as to the facts or details of this action. These should be obtained from the documents themselves. The receiver of this transmittal is responsible for interpreting the documents and for taking appropriate action. If you have received only a copy of the transmittal, you should be aware that the documents have been sent to the original addressee. You should contact that addressee for details or interpretations of the content of those documents.

SEP-25-2002 18:03

LAW DEPARTMENT

973 455 5904 P.02/03

CT System

Service of Process Transmittal Form  
Chicago, Illinois

09/13/2002

Via Federal Express (2nd Day)

TO: Margaret M Johnson  
Honeywell International Inc.  
101 Columbia Road  
PO Box 2245  
Morristown, NJ 07962-2245

RE: PROCESS SERVED IN ILLINOIS

FOR Honeywell International Inc. Domestic State: Da

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

1. TITLE OF ACTION: Denise Ann Ehrhart vs The Lockformer Company, et al including HONEYWELL INTERNATIONAL, INC.
2. DOCUMENT(S) SERVED: Summons, Complaint, Exhibits
3. COURT: Circuit Court of Cook County, Illinois, County Department, Law Division  
Case Number 02L011020
4. NATURE OF ACTION: Alleged personal injuries and/or wrongful death resulting from prolonged exposure to trichloroethylene (TCE). Amount claimed: \$75,000 in excess.
5. ON WHOM PROCESS WAS SERVED: CT Corporation System, Chicago, Illinois
6. DATE AND HOUR OF SERVICE: By Process server on 09/13/2002 at 08:30
7. APPEARANCE OR ANSWER DUE: Within 30 days after Service
8. ATTORNEY(S): Edmund J. Scanlan, Ltd. 312-372-0020  
134 North LaSalle  
Chicago, IL 60602

9. REMARKS:

SIGNED CT Corporation System

PER Angela McAley  
ADDRESS 208 South LaSalle Street  
Chicago, IL 60604  
SOP WS 0004777089

Information contained on this transmittal form is recorded for CT Corporation System's record keeping purposes only and to permit quick reference for the recipient. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information that can be obtained from the documents themselves. The recipient is responsible for interpreting the documents and for taking the appropriate action.

Corporation Service Company  
2711 Centille Road Suite 400, Wilmington, DE, 19808  
(302) 636-5400

SEP 4 2002

United States Corporation Company

The Prentice-Hall Corporation System, Inc.

## NOTICE OF SERVICE OF PROCESS

Date Processed: 03-SEP-02

Transmittal #: MA1510381P ALL

To: ANN MCCLURE  
MESTEK, INC.  
260 N. ELM ST.  
WESTFIELD MA 01085

Redirect sent to:

## TYPE OF REPRESENTATION: Statutory

We enclose the following documents which were served upon:

as registered agent in Massachusetts The Prentice-Hall Corporation System, Inc.  
for

Documents were served on 03-SEP-02 via Personal Service MESTEK, INC. (ID#: 0257706)

ID#: N/A

Title of Action: SEE ENCLOSED RIDER  
vs. The Lockformer Company, et al  
Court: Circuit Court of Cook County, IL  
Nature of Case: Environmental

Case #: SEE ENCLOSED RIDER

<input checked="" type="checkbox"/> Summons	<input type="checkbox"/> Notice of Mechanic's Lien	<input type="checkbox"/> A self-addressed stamped envelope enclosed
<input checked="" type="checkbox"/> Complaint	<input type="checkbox"/> Notice of Attorney's Lien	<input type="checkbox"/> Duplicate copies of the Notice and Acknowledgement enclosed
<input type="checkbox"/> Garnishment	<input type="checkbox"/> Notice of Default Judgment	
<input type="checkbox"/> Subpoena		
<input checked="" type="checkbox"/> Other: Exhibit A, etc.		

Answer Due: 30 days  
Documents Sent: Federal Express  
Call Placed: No call placed  
Comments: N/A

ID#:   
Spoke to: N/A

Attorney for Claimant:  
Edmund J. Scanlan  
Law Offices of Edmund J. Scanlan Ltd  
134 North LaSalle Street, Suite 1700  
Chicago, IL 60602  
(312) 372-0020

Form Prepared By: Bernardo Montanez

Please acknowledge receipt of this notice and the enclosures by signing and returning the acknowledgement copy.

Original Client Copy - for your records

The information on this transmittal is provided for use in forwarding the attached documents. This information does not constitute a legal opinion as to the facts or details of this action. These should be obtained from the documents themselves. The receiver of this transmittal is responsible for interpreting the documents and for taking appropriate action. If you have received only a copy of the transmittal, you should be aware that the documents have been sent to the original addressee. You should contact that addressee for details or interpretations of the content of those documents.

**Corporation Service Company**  
2711 Centerville Road Suite 400, Wilmington, DE, 19808  
(302) 636-5400

United States Corporation Company

The Prentice-Hall Corporation System, Inc.

---

**DEFENDANT:** The Lockformer Company, et al

---

**TRANSMITTAL #:** MA1510381P

---

<b>CASE #:</b>	<b>PLAINTIFF:</b>
02L 011020	DENISE ANN EHRHART
02L 011022	VIRGINIA HALLMER

The information on this transmittal is provided for use in forwarding the attached documents. This information does not constitute a legal opinion as to the facts or details of this action. These should be obtained from the documents themselves. The receiver of this transmittal is responsible for interpreting the documents and for taking appropriate action. If you have received only a copy of the transmittal, you should be aware that the documents have been sent to the original addressee. You should contact that addressee for details or interpretations of the content of those documents.



*Yurdelja & Heaphy*  
9/3/04

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

DENISE ANN EHRHART,

Plaintiff,

vs.

THE LOCKFORMER COMPANY, a  
Division of MET-COIL SYSTEMS  
CORPORATION, a Delaware corp.;  
MESTEK, INC., a Pennsylvania corp.;  
HONEYWELL INTERNATIONAL, INC.,  
a Delaware corp.; and CARLSON  
ENVIRONMENTAL, INC., an Illinois  
corp.,

Defendants.

No.:

PLEASE SERVE

SEE ATTACHED SERVICE LIST

02L 011020  
CALENDAR H  
OTHER PERSI

**SUMMONS**

To each defendant:

**YOU ARE SUMMONED** and required to file an answer to the complaint in this case, a copy of which is attached, or otherwise file an appearance in the office of the Clerk of this Court (located in the Richard J. Daley Center, Room 801, Chicago, Illinois 60602) within 30 days after service of this summons, not counting the day of service. IF YOU FAIL TO DO SO, A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE RELIEF ASKED IN THE COMPLAINT.

To the officer:

This summons must be returned by the officer or other person to whom it was given for service with endorsement of service and fees, if any, immediately after service. If service cannot be made, this summons shall be returned so endorsed. This summons may not be served later than 30 days after its date.

A true copy Attest:  
9/3/04 *John Carter*  
Deputy Sheriff Suffolk County

WITNESS. .... AUG 28 2002 2002

Clerk of Court

DOROTHY BROWN  
CLERK OF CIRCUIT COURT

EDMUND J. SCANLAN LTD.  
Attorney for Plaintiff  
134 North LaSalle, #1700  
Chicago, IL 60602  
(312) 372-0020

Attorney No.: 25586

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Date of service: .....  
(To be inserted by officer on copy  
with defendant or other person)



# Exhibit C

020477

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

DENISE ANN EHRHART,

Plaintiff,

vs.

THE LOCKFORMER COMPANY, a  
division of MET-COIL SYSTEMS  
CORPORATION, a Delaware corp.;  
MESTEK, INC., a Pennsylvania corp.;  
HONEYWELL INTERNATIONAL,  
INC. a Delaware corp., and CARLSON  
ENVIRONMENTAL, INC., an  
Illinois corp.

Defendants.

No. 02 L 11020

Motion Call H

**NOTICE OF FILING**

TO:

Mr. Edmund J. Scanlan  
Edmund J. Scanlan Ltd.  
134 North LaSalle Street, Suite 1700  
Chicago, Illinois 60602  
Phone: 372-0020 / Fax: 372-1211

Mr. Anthony G. Hopp  
Wildman, Harrold, Allen & Dixon  
225 West Wacker Drive, Suite 3000  
Chicago, Illinois 60606-1229  
Phone: 201-2562 / Fax: 201-2555

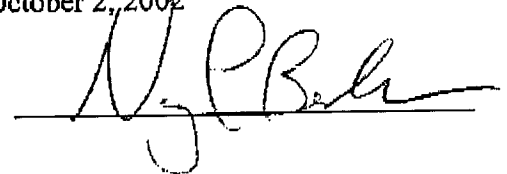
George N. Vurdelja  
Vurdelja & Heaphy  
120 North LaSalle Street, Suite 1150  
Chicago, Illinois 60602  
Phone: 345-2000 / Fax: 345-2005

PLEASE TAKE NOTICE that on October 2, 2002 we filed with the Clerk of the Court of Cook County, Illinois the **DEFENDANTS' NOTICE OF REMOVAL UNDER 28 U.S.C. §1441(a).**

  
**DONOHUE BROWN MATHEWSON & SMYTH**

**PROOF OF SERVICE**

I, Nancy P. Becker, a non-attorney, on oath hereby certifies under penalties of perjury as provided by law pursuant to Ill. Rev. Stat., ch. 110, par. 1-109 [735 ILCS 5/1-109], that the above notice and any attached pleadings were ( ) personally delivered or (X) placed in the U.S. mail at 140 South Dearborn Street, Chicago, Illinois, with first class postage prepaid and directed to the parties at the addresses set forth above (at) (before) 5:00 p.m. on October 2, 2002



IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

DENISE ANN EHRHART,	)	
	)	
Plaintiff,	)	
vs.	)	No. 02 L 11020
	)	
THE LOCKFORMER COMPANY, a	)	Motion Call H
division of MET-COIL SYSTEMS	)	
CORPORATION, a Delaware corp.;	)	
MESTEK, INC., a Pennsylvania corp.;	)	
HONEYWELL INTERNATIONAL,	)	
INC. a Delaware corp., and CARLSON	)	
ENVIRONMENTAL, INC., an	)	
Illinois corp.	)	
	)	
Defendants.	)	

**DEFENDANTS' NOTICE OF  
REMOVAL UNDER 28 U.S.C. § 1441(a)**

NOW COME Defendants, THE LOCKFORMER COMPANY, a division of MET-COIL SYSTEMS CORPORATION, a Delaware corporation; MESTEK, INC., a Pennsylvania corporation; and HONEYWELL INTERNATIONAL, INC., a Delaware corporation, by counsel, and pursuant to 28 U.S.C. § 1441(a), hereby remove this case from the Circuit Court of Cook County, Illinois to the United States District Court for the Northern District of Illinois, and in support of their Notice of Removal, state as follows:

1. This case is a civil action over which the United States District Court for the Northern District of Illinois has original jurisdiction pursuant to 28 U.S.C. § 1332, and is one which may be removed to the United States District Court for the Northern District of Illinois by these defendants pursuant to 28 U.S.C. § 1441(a).

2. Plaintiff is a resident of the State of Illinois. See Plaintiff's Complaint, ¶ 1, attached as Exhibit A.

3. Defendant, The Lockformer Company, is a Delaware corporation having its principal place of business in the State of Iowa. See Exhibit A, ¶ 2.

4. Defendant, Mestek, Inc., is a Pennsylvania corporation having its principal place of business in the Commonwealth of Massachusetts. See Exhibit A, ¶ 3.

5. Defendant, Honeywell International, Inc., is a Delaware corporation. See Exhibit A, ¶ 4.

6. The amount in controversy in this action exceeds \$75,000. See Exhibit A, p. 13.

7. The sole non-moving defendant, Carlson Environmental, Inc. ("Carlson"), is a sham defendant who owed no legal duty to the plaintiff and is evidently named as a defendant in this action solely for the purpose of defeating the diversity jurisdiction of this court.

8. The plaintiff alleges that Carlson was retained by Lockformer to perform testing to determine the nature and extent of groundwater contamination in the proximity of the Lockformer plant. (Exhibit A, ¶¶ 74-75.) The plaintiff then simply concludes that Carlson "had a duty to act in good faith and to exercise reasonable care in its investigation and testing of groundwater contamination." (*Id.* at ¶ 82.) Although these allegations would suffice to establish a legal duty owed by Carlson to Lockformer, they do not suffice to establish a legal duty owed by Carlson to the plaintiff. The plaintiff does not allege that Carlson owed her a duty of reasonable care in investigating and testing of groundwater. The plaintiff cannot in good faith allege a legal duty owed to her by Carlson, because no such duty exists or ever has existed.

9. Furthermore, any duty owed by Carlson is defined by the terms of the contract between Carlson and Lockformer. *See, e.g., Ferentchak v. Village of Frankfort*, 105 Ill. 2d 474, 482, 475 N.E.2d 822, 826 (1985) (holding that the scope of the duty, whether in tort or contract, between contracting parties, is determined by the terms of the contract).

10. The plaintiff does not and cannot allege that the contract between Lockformer and Carlson state that the plaintiff is an intended beneficiary of their agreements. *See, e.g., Altevogt v. Brinkoetter*, 85 Ill.2d 44, 54-55, 421 N.E.2d 182, 187 (1981) (holding that a third party may only recover under a contract if the contracting parties have manifested in their contract an intent to confer benefit upon the third party.)

11. The plaintiff does not and cannot allege that the terms of the agreements demonstrate that Carlson either undertook to protect the plaintiff or assumed any duty that Lockformer may have owed to the plaintiff.

12. Because the plaintiff cannot establish that Carlson owed her any duty in tort or contract under Illinois law, Carlson is a sham defendant fraudulently joined to defeat this Court's jurisdiction.

13. Attached hereto and marked Exhibit B are true and accurate copies of the Summonses served upon each of the removing defendants less than 30 days ago. There are no other "process, pleadings, and orders" received by these defendants in this case.

14. Attached hereto and marked Exhibit C is a copy of this Notice of Removal filed in the Circuit Court of Cook County, Illinois on October 2, 2002.

WHEREFORE, defendants respectfully remove this case from the Circuit Court of Cook County, Illinois to the United States District Court for the Northern District of Illinois.

Respectfully submitted,

By: \_\_\_\_\_

  
Norman J. Barry, Jr.  
*Attorneys for Defendant,*  
THE LOCKFORMER COMPANY,  
a division of MET-COIL SYSTEMS CORPORATION

Norman J. Barry, Jr. #124478  
John J. Duffy #6224834  
Charles E. Harper, Jr. #6269908  
DONOHUE BROWN  
MATHEWSON & SMYTH  
140 South Dearborn St., Suite 700  
Chicago, Illinois 60603  
312-422-0907

By: \_\_\_\_\_

George N. Vurdelja  
*Attorneys for Defendant,*  
MESTEK, INC.

George N. Vurdelja  
VURDELJA & HEAPHY  
120 North LaSalle Street, Suite 1150  
Chicago, Illinois 60602  
Phone: 312-345-2000

By: \_\_\_\_\_

Anthony G. Hopp  
*Attorneys for Defendant,*  
HONEYWELL INTERNATIONAL, INC.

Mr. Anthony G. Hopp  
WILDMAN, HARROLD,  
ALLEN & DIXON  
225 West Wacker Drive, Suite 3000  
Chicago, Illinois 60606-1229  
Phone: 312-201-2562

WHEREFORE, defendants respectfully remove this case from the Circuit Court of Cook County, Illinois to the United States District Court for the Northern District of Illinois.

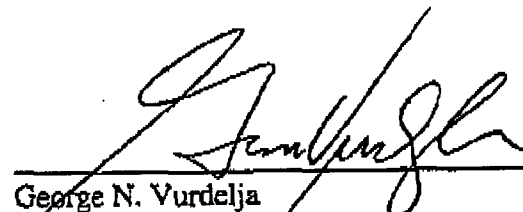
Respectfully submitted,

By: \_\_\_\_\_

Norman J. Barry, Jr.  
*Attorneys for Defendant,*  
THE LOCKFORMER COMPANY,  
a division of MET-COIL SYSTEMS CORPORATION

Norman J. Barry, Jr. #124478  
John I. Duffy #6224834  
Charles E. Harper, Jr. #6269908  
DONOHUE BROWN  
MATHEWSON & SMYTH  
140 South Dearborn St., Suite 700  
Chicago, Illinois 60603  
312-422-0907

By: \_\_\_\_\_

  
George N. Vurdelja  
*Attorneys for Defendant,*  
MESTEK, INC.

George N. Vurdelja  
VURDELJA & HEAPHY  
120 North LaSalle Street, Suite 1150  
Chicago, Illinois 60602  
Phone: 312-345-2000

By: \_\_\_\_\_

Anthony G. Hopp  
*Attorneys for Defendant,*  
HONEYWELL INTERNATIONAL, INC.

Mr. Anthony G. Hopp  
WILDMAN, HARROLD,  
ALLEN & DIXON  
225 West Wacker Drive, Suite 3000  
Chicago, Illinois 60606-1229  
Phone: 312-201-2562



WHEREFORE, defendants respectfully remove this case from the Circuit Court of Cook County, Illinois to the United States District Court for the Northern District of Illinois.

Respectfully submitted,

By:

\_\_\_\_\_  
Norman J. Barry, Jr.  
*Attorneys for Defendant,*  
THE LOCKFORMER COMPANY,  
a division of MET-COIL SYSTEMS CORPORATION

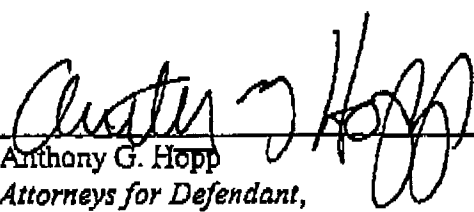
Norman J. Barry, Jr. #124478  
John J. Duffy #6224834  
Charles E. Harper, Jr. #6269908  
DONOHUE BROWN  
MATHEWSON & SMYTH  
140 South Dearborn St., Suite 700  
Chicago, Illinois 60603  
312-422-0907

By:

\_\_\_\_\_  
George N. Vurdelja  
*Attorneys for Defendant,*  
MESTEK, INC.

George N. Vurdelja  
VURDELJA & HEAPHY  
120 North LaSalle Street, Suite 1150  
Chicago, Illinois 60602  
Phone: 312-345-2000

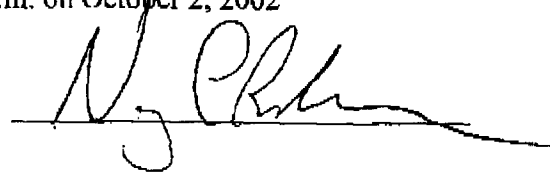
By:

  
\_\_\_\_\_  
Anthony G. Hopp  
*Attorneys for Defendant,*  
HONEYWELL INTERNATIONAL, INC.

Mr. Anthony G. Hopp  
WILDMAN, HARROLD,  
ALLEN & DIXON  
225 West Wacker Drive, Suite 3000  
Chicago, Illinois 60606-1229  
Phone: 312-201-2562

PROOF OF SERVICE

I, Nancy P. Becker, a non-attorney, on oath hereby certify under penalties of perjury as provided by law pursuant to Ill. Rev. Stat., ch. 110, par. 1-109 [735 ILCS 5/1-109], that the above-mentioned pleading, **DEFENDANTS' NOTICE OF REMOVAL UNDER 28 U.S.C. §1441(a)** was ( ) personally delivered; ( ) sent via facsimile number 312-422-0909 in Chicago, Illinois directed to the parties at the facsimile numbers set forth below; or (X) placed in the U.S. mail at 140 South Dearborn Street, Chicago, Illinois, with first class postage prepaid and directed to the parties at the addresses set forth below before 5:00 p.m. on October 2, 2002



Attorneys for Plaintiff:

Mr. Edmund J. Scanlan  
Law Offices of Edmund J. Scanlan Ltd.  
134 North LaSalle Street  
Suite 1700  
Chicago, Illinois 60602  
Phone: 372-0020 / Fax: 372-1211

Attorneys for Honeywell:

Mr. Anthony G. Hopp  
Wildman, Harrold, Allen & Dixon  
225 West Wacker Drive  
Suite 3000  
Chicago, Illinois 60606-1229  
Phone: 201-2562 / Fax: 201-2555

Attorneys for Mestek

George N. Vurdelja  
Vurdelja & Heaphy  
120 North LaSalle Street  
Suite 1150  
Chicago, Illinois 60602  
Phone: 345-2000 / Fax: 345-2005

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS

DOCKETED  
OCT 03 2002

**Civil Cover Sheet**

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the Northern District of Illinois.

Plaintiff(s): DENISE ANN EHRHART

Defendant(s): THE LOCKFORMER COMPANY, a division of  
MET-COIL SYSTEMS CORPORATION, MESTEK, INC., a  
Pennsylvania Corporation, HONEYWELL INTERNATIONAL,  
INC., a Delaware corporation, and CARLSON  
ENVIRONMENTAL, INC., an Illinois corporation

County of Residence: DuPage

County of Residence:

Plaintiff's Atty: Edmund J. Scanlan  
Law Ofc of Edmund J. Scanlan Ltd.  
134 N. LaSalle Street, Chicago, IL 60602  
312-372-0020

Defendant's Atty: Norman J. Barry, Jr.  
Donohue Brown Mathewson & Smyth  
140 S. Dearborn St., Chicago, IL 60603  
312-422-0907

II. Basis of Jurisdiction:

4. Diversity (complete item III)

020 7068  
JUDGE ANDERSEN

III. Citizenship of Principal Parties  
(Diversity Cases Only)

Plaintiff:- 1 Citizen of This State  
Defendant:- 5 Non IL corp and Principal place of Business outside IL

MAGISTRATE JUDGE DENLOW

IV. Origin :

2. Removed From State Court

V. Nature of Suit:

360 Other Personal Injury

VI. Cause of Action:

28 U.S.C. 1332

VII. Requested in Complaint

Class Action: No  
Dollar Demand: excess of \$75,000  
Jury Demand: Yes

FILED-EDS  
02 OCT -2 PM 3:32  
CLERK  
U.S. DISTRICT COURT

VIII. This case **IS NOT** a refiling of a previously dismissed case.

Signature: 

Date: 10-2-02

If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the Back button in your browser and change it. Once correct, print this form, sign and date it and submit it with your new civil action. **Note: You may need to adjust the font size in your browser display to make the form print properly.** Revised: 06/28/00

1-2

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS

Eastern Division

**DOCKETED**

OCT 03 2002

**02C 7068**

Case Number:

**JUDGE ANDERSEN**

In the Matter of

DENISE ANN EHRHART

Plaintiff,

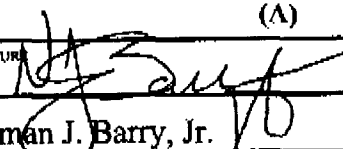
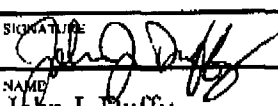

v.

THE LOCKFORMER COMPANY, et al.,  
Defendants.

**MAGISTRATE JUDGE DENLO**

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR:

THE LOCKFORMER COMPANY, a division of MET-COIL SYSTEMS CORPORATION

(A)		(B)	
SIGNATURE 		SIGNATURE 	
NAME Norman J. Barry, Jr.		NAME John J. Duffy	
FIRM Donohue Brown Mathewson & Smyth		FIRM Donohue Brown Mathewson & Smyth	
STREET ADDRESS 140 South Dearborn Street, Suite 700		STREET ADDRESS 140 South Dearborn Street, Suite 700	
CITY/STATE/ZIP Chicago, IL 60603		CITY/STATE/ZIP Chicago, Illinois 60603	
TELEPHONE NUMBER (312) 422-0907		TELEPHONE NUMBER (312) 422-0995	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 124478		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6224834	
MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
(C)		(D)	
SIGNATURE 		SIGNATURE	
NAME Charles E. Harper, Jr.		NAME	
FIRM Donohue Brown Mathewson & Smyth		FIRM	
STREET ADDRESS 140 South Dearborn Street, Suite 700		STREET ADDRESS	
CITY/STATE/ZIP Chicago, Illinois 60603		CITY/STATE/ZIP	
TELEPHONE NUMBER (312) 422-0998		TELEPHONE NUMBER	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 626990		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)	
MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input type="checkbox"/>	
TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input type="checkbox"/>	
DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>	

FILED-EDS  
02 OCT -2 PM 3:32  
CLERK  
U.S. DISTRICT COURT

1-3