

**LIST OF EXHIBITS TO**  
**MIDWEST'S STATEMENT OF MATERIAL FACTS IN SUPPORT**  
**OF ITS MOTION FOR PARTIAL SUMMARY JUDGEMENT**

**Exhibit A:** Excerpts from Transcript of the February 19, 2008 Deposition of Robert Vitale, President of Midwest

**Exhibit B:** Excerpts from Transcript of the February 20, 2008 Deposition of Robert Vitale, President of Midwest

**Exhibit C:** Declaration of Robert Vitale, Chief Executive Officer of Midwest, with Attachments:

1. Midwest's U.S. Patent No. 7,074,266
2. Midwest's U.S. Patent No. 7,081,270
3. Midwest's 1,204,198 Soil-Sement® trademark registration
4. Midwest's 2,222,732 Soil-Sement® trademark registration
5. Midwest's 3,318,243 Synthetic Organic Dust Control® trademark registration
6. ADOT Dust Palliative Specifications (May 2006)
7. ADOT Dust Palliative Specifications (June 2006)
8. ADOT Dust Palliative Specifications (May 2007)
9. July 27, 2006 letter from R. Vitale (Midwest) to Donald Dunavant (Polar Supply Company)
10. July 27, 2006 letter from R. Vitale (Midwest) to D. Schooner (Polar Supply Company)

**Exhibit D:** Excerpts from Transcript of the Deposition of Chad Falkenberg, President of Soilworks, with Exhibits:<sup>+</sup>

12. Material Safety Data Sheet for Soilworks' Durasoil® product
44. Soilwork's Price List
45. Copy of Durasoil's webpage from October 18, 2004
48. Copy of Durasoil's webpage from February 19, 2005
49. Copy of Durasoil's webpage from April 2, 2005
52. Google search results for "soil sement"
53. Google search results for "soil sement"
54. html codes for Soiltac.com
55. html codes for soiltac.com
56. html codes for soilworks.com
57. html codes for soilworks.com

<sup>+</sup> Certain cited portions of Mr. Falkenberg's deposition transcript have been separately submitted to the Court for filing under seal due to Soilworks' attorneys designation of the subject matters discussed therein as "HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY" pursuant to the Stipulated Protective Order entered by the Court in this case.

1 **Exhibit E:** Excerpts from Transcript of the Deposition of Dorian Falkenberg, Vice  
2 President of Soilworks, with Exhibit:

3 13. Midwest's 3,318,243 Synthetic Organic Dust Control® trademark  
4 registration

5 **Exhibit F:** Soilworks' Rule 26 Initial Disclosures

6 **Exhibit G:** Soilworks' Answers to Midwest's First Set of Interrogatories

7 **Exhibit H:** Midwest's First Set of Interrogatories

8 **Exhibit I:** Midwest's First Set of Requests for Production of Documents

9 **Exhibit J:** Midwest's Second Set of Requests for Production of Documents

10 **Exhibit K:** Declaration of John M. Skeriotis, Brouse McDowell, with Attachments:

- 11 A. March 19, 2008 letter from J. Skeriotis to S. Dosek  
12 B. June 8, 2006 letter from J. Skeriotis to D. Allsworth  
13 C. July 18, 2006 letter from J. Passarelli to J. Skeriotis  
14 D. August 8, 2006 letter from J. Skeriotis to J. Passarelli

15 **Exhibit L:** Soilworks' Responses to Midwest's First Set of Requests for Production of  
16 Documents

17 **Exhibit M:** Soilworks' Responses to Midwest's Second Set of Requests for Production of  
18 Documents

19 **Exhibit N:** Excerpts from Transcript of the Deposition of Steve Hickman, Polar Supply  
20 Company

21 **Exhibit O:** Excerpts from the Transcript of the Deposition of Steve Gordner, Polar Supply  
22 Company