



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029



SDMS DocID 2184333

BY OVERNIGHT MAIL

SEP 23 2015

Honeywell International, Inc.
David M. Cote, Chairman and CEO
101 Columbia Road
Morristown, New Jersey 07962-1219

Mack Trucks, Inc.
Stephen Roy, President
7900 National Service Road
Greensboro, North Carolina 27409

Re: Dwyer Property Groundwater Plume Superfund Site

Dear Messrs. Cote and Roy:

This letter concerns the Dwyer Property Groundwater Plume Superfund Site (Site), located in Elkton, Cecil County, Maryland. In recent correspondence, the U.S. Environmental Protection Agency (EPA) notified you that a Remedial Investigation (RI) and Feasibility Study (FS) are necessary to determine the appropriate course of action at the Site.

An RI identifies site characteristics and defines the nature and extent of soil, air, surface water, and groundwater contamination at a site and the risks posed by a site. An FS evaluates different cleanup options for a site. EPA is issuing the enclosed Unilateral Administrative Order (Order) to both Honeywell International, Inc. (Honeywell) and Mack Trucks, Inc. (Mack) under Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), 42 U.S.C. § 9606, and requires that Honeywell and Mack conduct the RI and FS for the Site.

Honeywell and Mack must notify EPA on or before the effective date of the Order whether you intend to comply with the Order. The Order is effective either fourteen (14) days from today or fourteen (14) days after a conference with EPA is held (if you request one). A request for a conference must be submitted to EPA within seven (7) days from today.



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EPA's Project Coordinator is Robert Wallace, who may be reached at (215) 814-3278 or at wallace.robert@epa.gov. EPA's attorney assigned to this Site is Brian Nishitani, who may be reached at (215) 814-2675 or at nishitani.brian@epa.gov.

Sincerely,



Cecil A. Rodrigues, Director
Hazardous Site Cleanup Division

001 1 4 930

Enclosure

c: Eric Rey, Esq. and Kerry A. Dziubek, Esq., Arnold & Porter LLP
Timothy J. Bergère, Esq. and Charles B. Casper, Esq., Montgomery McCracken Walker
& Rhoads LLP
Brian Nishitani, Esq., (EPA 3RC43)
Robert Wallace, (EPA 3HS22)
Carlyn Prisk (EPA 3HS62)
Maria Goodine (EPA 3HS62)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III**

IN THE MATTER OF:

**Dwyer Property Groundwater Plume Site
Elkton, Maryland**

Docket No. CERC-03-2015-0270-DC

Honeywell International Inc.

and

Mack Trucks, Inc.

Respondents

**Proceeding Under Section 106(a)
of the Comprehensive Environmental
Response, Compensation, and Liability Act
of 1980, as amended, 42 U.S.C. § 9606(a)**

**UNILATERAL ADMINISTRATIVE ORDER FOR
REMEDIAL INVESTIGATION/FEASIBILITY STUDY**

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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III**

IN THE MATTER OF: :
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Dwyer Property Groundwater Plume Site :
Elkton, Maryland : **Docket No. CERC-03-2015-0270-DC**
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Honeywell International Inc. :
 :
and :
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Mack Trucks, Inc. :
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Respondents :
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Proceeding Under Section 106(a) :
of the Comprehensive Environmental :
Response, Compensation, and Liability Act :
of 1980, as amended, 42 U.S.C. § 9606(a) :

**ADMINISTRATIVE ORDER FOR
REMEDIAL INVESTIGATION/FEASIBILITY STUDY**

I. JURISDICTION AND GENERAL PROVISIONS

- 1.1 This Administrative Order (Order) is being issued by the United States Environmental Protection Agency (EPA) to the above-captioned Respondents (hereinafter, the Respondents). This Order concerns the preparation and performance of a Remedial Investigation and Feasibility Study (RI/FS) for the Dwyer Property Groundwater Plume Site located in Elkton, Maryland (Site).
- 1.2 This Order is issued to Respondents by EPA under the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), 42 U.S.C. § 9606(a). This authority was delegated to the Administrator of EPA on January 23, 1987, by Executive Order 12580 (52 Fed. Reg. 2926, January 29, 1987), and was further delegated to EPA Regional Administrators on September 13, 1987 by EPA Delegation No. 14-14-B. This authority was further re-delegated by the Regional Administrator of EPA Region III to

the Director, Hazardous Site Cleanup Division, on November 7, 2003, by EPA Region III Delegation 14-14-B.

II. PARTIES BOUND

- 2.1 This Order shall apply to and be binding upon Respondents and their successors and assigns. No change in the ownership or corporate status of Respondents shall alter Respondents' responsibilities under this Order.
- 2.2 Respondents shall provide a copy of this Order to any successors or assigns before a controlling interest in ownership rights or stock or assets in their respective corporation are transferred. Respondents shall provide a copy of this Order to all contractors, subcontractors, laboratories, consultants, and supervisory personnel retained to conduct or monitor any portion of the Work performed pursuant to this Order within seven (7) days of the Effective Date of this Order or on their date of retention, whichever is later, and shall condition all such contracts on compliance with the terms of this Order. Notwithstanding the terms of any contract, Respondents are responsible for complying with this Order and for ensuring that their contractors, subcontractors, laboratories, consultants, supervisory personnel, and agents comply with this Order. Respondents shall be held responsible for noncompliance with any requirement in this Order.
- 2.3 The activities conducted under this Order are subject to approval by EPA and shall provide all appropriate information for the RI/FS and for a Record of Decision that is consistent with CERCLA and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 C.F.R. Part 300. The activities conducted by or on behalf of Respondents under this Order shall be conducted in a manner consistent with all applicable EPA guidance, policies, and procedures and any amendments thereto.

III. STATEMENT OF PURPOSE

- 3.1 In issuing this Order, the objectives of EPA are to:
 - a. determine the nature and extent of soil, groundwater, surface water and sediment contamination at the Site, including an evaluation of the potential for vapor intrusion into buildings overlying or near contaminated groundwater at the Site, and any threat to the public health, welfare, or the environment, caused by the release or threatened release, of hazardous substances, pollutants or contaminants at or from the Site by conducting a Remedial Investigation for the Site; and
 - b. identify and evaluate remedial alternatives to prevent, mitigate or otherwise respond to or remedy all releases or threatened releases of hazardous substances, pollutants, or contaminants at or from the Site, including, but not limited to, soil, groundwater, surface water, sediment and vapor intrusion into buildings overlying or near contaminated groundwater, by conducting a Feasibility Study for the Site.

IV. DEFINITIONS

- 4.1 Unless otherwise expressly provided herein, terms used in this Order that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Order, the following definitions shall apply:
- a. "Affected Property" shall mean all real property at the Site and any other real property where EPA determines, at any time, that access, land, water, or other resource use restrictions and/or Institutional Controls are needed to implement the RI/FS.
 - b. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601, *et seq.*
 - c. "Day" shall mean a calendar day. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.
 - d. "Effective Date" shall be the effective date of this Order as provided in Section XXV.
 - e. "Engineering Controls" shall mean constructed containment barriers or systems that control one or more of the following: downward migration, infiltration or seepage of surface runoff or rain; or natural leaching migration of contaminants through the subsurface over time. Examples include caps, engineered bottom barriers, immobilization processes, vertical barriers, groundwater pump and treat systems and excavation of contaminated soils.
 - f. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.
 - g. "Institutional Controls" shall mean Proprietary Controls and state or local laws, regulations, ordinances, zoning restrictions or other governmental controls or notices that: (i) limit land or resource use to minimize the potential for human exposure to Waste Material at or in connection with the Site; (ii) limit land or resource use to implement, ensure non-interference with, or ensure the protectiveness of the Work pursuant to this Order; and/or (iii) provide information intended to modify or guide human behavior at or in connection with the Site.
 - h. "MDE" shall mean the Maryland Department of the Environment Protection and any successor departments or agencies of the State of Maryland.
 - i. "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

- j. "NPL" or "National Priorities List" shall have the meaning ascribed in 40 C.F.R. § 300.5, and any amendments thereto.
- k. "Order" shall mean this Administrative Order and all documents incorporated by reference into this document including without limitation EPA-approved submissions. EPA-approved submissions (other than progress reports) are incorporated into and become a part of this Order upon approval by EPA. In the event of conflict between this Order and any incorporated documents, this Order shall control.
- l. "Paragraph" shall mean a portion of this Order identified by an Arabic numeral.
- m. "Parties" shall mean EPA and the Respondents.
- n. "Proprietary Controls" shall mean easements or covenants running with the land that (i) limit land or resource use and/or provide access rights and (ii) are created pursuant to common law or statutory law by an instrument that is recorded by the owner in the appropriate land records office.
- o. "Respondents" shall mean Honeywell International Inc. and Mack Trucks, Inc. (Mack (PA)).
- p. "RCRA" shall mean the Resource Conservation and Recovery Act, also known as the Solid Waste Disposal Act, as amended, 42 U.S.C. § 6901, *et seq.*
- q. "RI/FS" shall mean the Remedial Investigation and the Feasibility Study for the Site conducted pursuant to this Order.
- r. "Section" shall mean a portion of this Order identified by a Roman numeral.
- s. "Site" shall mean the Dwyer Property Groundwater Plume Site located north of the intersection of Maryland Route 545, also known as Blue Ball Road, and Maryland Route 279, also known as Elkton Road, in Elkton, Cecil County, Maryland, and all areas where any hazardous substances from the Site have come to be located, as further described in Section V and depicted generally on the map attached as Appendix A.
- t. "State" shall mean the State of Maryland.
- u. "United States" shall mean the United States of America, including all of its departments, agencies, and instrumentalities.
- v. "Unexploded Ordnance" or "UXO" shall mean all ammunition products and components produced for or used by the armed forces for national defense and security that (a) have been primed, fused, armed, or otherwise prepared for action;

- (b) have been fired, dropped, launched, projected, or placed in such a manner as to constitute a hazard to operations, installations, personnel, or material; and (c) remain unexploded, whether by malfunction, design, or any other cause.
- w. "Waste Material" shall mean (1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (2) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (3) any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27); any "hazardous waste" under Section 1004(5) of RCRA, 42 U.S.C. § 6903(5) and (4) any "hazardous waste" under COMAR § 26.13.02.03.
- x. "Work" shall mean all activities Respondents are required to perform under this Order, except those required by Section XIX (Record Preservation).

V. EPA'S FINDINGS OF FACT

5.1 For purposes of this Order, EPA finds the following:

- a. The Site is located north of the intersection of Maryland Route 545, also known as Blue Ball Road, and Maryland Route 279, also known as Elkton Road, in Elkton, Cecil County, Maryland. Dogwood Run flows across the northwest part of the Site.
- b. Beginning in 1933, Triumph Explosives, Inc., and its predecessors (Triumph), manufactured various ordnance and munition products at a former manufacturing facility (Facility) located on the Site.
- c. Triumph produced ordnance product for the United States Army (Army) at the Facility from approximately 1933 to 1945.
- d. In 1935, Triumph began producing floatlights at the Facility for the United States Navy (Navy). By or before 1941 until July 1945, Triumph produced munitions at the Facility for the Army and the Navy.
- e. In 1938, the Triumph Fusee and Fireworks Company changed its name to Triumph Explosives, Inc. Triumph Explosives, Inc. manufactured various munitions and trinitrotoluene-based explosives at the Site.
- f. On October 12, 1942, President Roosevelt issued Executive Order 9254 directing the Secretary of the Navy to take possession and control of the Facility. The Facility was placed in control of Commander A.B. McCrary.
- g. By Executive Order 9306, dated February 27, 1943, the Secretary of the Navy returned the Facility to private management. After the Secretary of the Navy returned the Facility to private management, Triumph continued to manufacture ordnance for the Army and Navy at the Facility until approximately July 1945.

- h. NOMA Electric Corporation consolidated with Triumph Industries, Inc. on May 21, 1946. On this same date, Triumph Industries, Inc. changed its name to NOMA Electric Corporation, a State of Maryland corporation (NOMA (MD)).
- i. On May 31, 1949, the NOMA (MD) merged with and became known as NOMA Electric Corporation, a State of New York corporation (NOMA (NY)).
- j. In 1953, NOMA (NY) changed its name to Northeast Capital Corporation. Northeast Capital Corporation merged into Mack Trucks, Inc., a State of New York corporation (Mack (NY)), in 1959.
- k. On July 20, 1967, Mack (NY) established a wholly owned subsidiary, Hamubo Trucks, Inc., as a new Delaware corporation.
- l. On August 18, 1967, Mack (NY) filed a "Consent to Use of Name" with the Delaware Secretary of State, providing that Hamubo Trucks, Inc. may use the name "Mack Trucks, Inc."
- m. On August 18, 1967, Hamubo Trucks, Inc. amended its Certificate of Incorporation, changing its name to "Mack Trucks, Inc." (Mack (DE)).
- n. On September 1, 1967, Mack (NY) merged into Signal Oil and Gas Company (Signal). Upon this merger, Mack (NY) became a wholly-owned subsidiary of Signal.
- o. On July 22, 1968, Signal changed its name to Signal Companies, Inc., a Delaware corporation.
- p. On October 25, 1985, Signal Companies, Inc. merged into Allied Corporation, a New York Corporation, the surviving corporation being known as Allied-Signal, Inc., a New York corporation.
- q. On December 1, 1999, AlliedSignal, Inc. merged into Honeywell International, Inc.
- r. Honeywell International, Inc. is a corporation incorporated under the laws of the State of Delaware.
- s. On December 10, 1974, Mack (DE) established a wholly owned subsidiary, Herodo Trucks, Inc., a Pennsylvania corporation.
- t. On December 19, 1974, the corporate name of Herodo Trucks, Inc. was changed to Mack Trucks, Inc. (Mack (PA)).
- u. Effective January 1, 1975, Mack (DE) was merged with and into Mack (PA).

- v. Manufacturing operations at the Site resulted in the contamination of soils and groundwater at the Site.
- w. In March 1989, the Maryland Department of the Environment (MDE) completed a Preliminary Site Assessment (PSA). Analytical results from the PSA revealed the presence of volatile organic compounds (VOCs), including tetrachloroethene (PCE), trichloroethene (TCE), and *trans*-1,2-dichloroethene (*trans*-1,2-DCE), above their respective Maximum Contaminant Levels (MCLs), promulgated at 40 C.F.R. Part 141 pursuant to Section 1412 of the Safe Drinking Water Act, 42 U.S.C. Section 300g-1, in groundwater.
- x. In January 2011, MDE completed an Expanded Remedial Investigation (ERI). Sampling results from the ERI revealed the presence of contaminants in groundwater including, but not limited to: PCE (4,750 micrograms per liter (ug/L)), TCE (255,000 ug/L), 1,1-Dichloroethylene (1,1-DCE) (19.8 ug/L), 1,1,2,2-Tetrachloroethane (1,1,2,2-TCA) (4.0 ug/L), 1,1,2-Trichloroethane (1,1,2-TCA) (58.0 ug/L), carbon tetrachloride (226 ug/L), *cis*-1,2-Dichloroethylene (*cis*-1,2-DCE) (3,300 ug/L), ethylene dibromide (EDB) (74.7 ug/L), naphthalene (1.1 ug/L), vinyl chloride (VC) (240 ug/L) and perchlorate (49 ug/L).
- y. In 2011, the MDE ERI documented the presence of up to 2.6 feet of Dense Non-Aqueous Liquid (DNAPL) composed of TCE in two wells located adjacent to the playground of the Rudy Park Public Housing Development.
- z. The February 2013 EPA Abbreviated Trip Report documented analytical results from samples collected from waste piles and drums. The sampling revealed the presence of arsenic at 26,100 mg/Kg and lead at concentrations up to 87,700 mg/Kg.
- aa. Groundwater data collected during the ERI show that contaminated groundwater has migrated off the former manufacturing Facility property. The extent of groundwater contamination has not been fully delineated laterally or vertically.
- bb. EPA proposed the Site for inclusion on the National Priorities List (NPL) pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, in October 2010, 53 Fed. Reg. 64,976 (October 21, 2010). EPA included the Site on the NPL in March 2011, 47 Fed. Reg. 13,089 (March 10, 2011).
- cc. EPA has determined that additional investigation of the Site is necessary to characterize the extent of contamination before EPA selects a remedy to address Site-related contamination.
- dd. EPA notified Respondent Honeywell of its potential liability in connection with the Site in June 2011, and sent a "Special Notice" letter on October 2, 2012, to Honeywell offering it the opportunity to enter into an Administrative Order on Consent covering the performance of the RI/FS at the Site. Honeywell did not submit

- a “good faith offer” to conduct or finance the RI/FS as requested by EPA’s Special Notice Letter.
- ee. By letter dated March 19, 2015, EPA requested that Honeywell reconsider EPA’s request to conduct the RI/FS. Honeywell did not submit a good faith offer to conduct or finance the RI/FS as requested by EPA’s March 2015 letter.
- ff. EPA notified Respondent Mack (PA) of its potential liability in connection with the Site in March 2012 and by letter dated September 1, 2015, waived “Special Notice” procedures for the negotiation of an agreement to conduct or finance the RI/FS.

VI. EPA’S CONCLUSIONS OF LAW

- 6.1 For purposes of this Order, and based on EPA’s Finding of Fact set forth above, EPA has determined the following:
- a. The Dwyer Property Groundwater Plume Site is a “facility” as defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).
 - b. The contamination found at the Site, as identified in EPA’s Findings of Fact above, includes the following “hazardous substances”, as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14) and which are all listed as “hazardous substances” in Section 302.4 of the NCP, 40 C.F.R. § 302.4: PCE, TCE, *trans*-1,2-DCE, 1,1-DCE, 1,1,2,2-TCA, 1,1,2-TCA, carbon tetrachloride, *cis*-1,2-DCE, EDB, naphthalene, and VC.
 - c. The conditions described in Paragraph 5.1 above constitute an actual and/or threatened “release” of a hazardous substance from the Site as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), and within the meaning of Section 106(a) of CERCLA, 42 U.S.C. § 9606(a). In addition, there is a threat of further release of hazardous substances at and from the Site within the meaning of Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).
 - d. Each of the Respondents is a “person” as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).
 - e. Each of the Respondents is a liable party within the meaning of Section 107 of CERCLA, 42 U.S.C. § 9607.
 - f. The actions required by this Order are necessary to the protect public health, welfare or the environment, and if carried out in compliance with this Order will be consistent with the NCP.

VII. NOTICE

- 7.1 EPA has notified the State of Maryland (the State) that this Order is being issued and that EPA is the lead agency for coordinating, overseeing, and enforcing the response actions required by this Order.

VIII. DETERMINATION

- 8.1 Based on EPA's Findings of Fact and EPA's Conclusions of Law, set forth in Sections V and VI above, and the Administrative Record supporting the issuance of this Order, the Director of the Hazardous Site Cleanup Division has determined that the release or threatened release of hazardous substances at the Site may present an imminent and substantial endangerment to the public health or welfare or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

IX. ORDER

- 9.1 Based on EPA's Findings of Fact, EPA's Conclusions of Law and the Administrative Record supporting the issuance of this Order, it is hereby ordered that the Respondents shall comply with all provisions of this Order and any modifications hereto, including, but not limited to, all documents incorporated by reference into this Order.

X. NOTICE OF INTENT TO COMPLY

- 10.1 On or before the Effective Date of this Order, each of the Respondents shall notify EPA in writing, in accordance with Section XIV (Notices and Submissions), of its unequivocal commitment to comply with this Order. If either of the Respondents does not unequivocally commit to comply with the terms of this Order, then that Respondent shall be deemed to have violated this Order and to have failed or refused to comply with this Order. Each Respondent's written notice shall describe, using facts that exist on or prior to the Effective Date of this Order, any "sufficient cause" defenses asserted by Respondent under Sections 106(b) and 107(c)(3) of CERCLA, 42 U.S.C. §§ 9606(b) and 9607(c)(3). The absence of a response by EPA to the notice required by this Paragraph shall not be deemed to be an acceptance of Respondent's assertions.

XI. WORK TO BE PERFORMED

- 11.1 EPA acknowledges that some of the Work required under this Order has been or currently is being performed by EPA and that EPA may have available some of the information and data required by this Order. This previous work may be used by

Respondents to meet certain requirements of this Order, upon submission to and formal approval by EPA.

11.2 Designation of Contractors and Project Coordinators

- a. Selection of Contractors, Personnel. All Work performed under this Order shall be performed under the direction and supervision of qualified personnel. Within thirty (30) days of the Effective Date of this Order, Respondents shall submit in writing for EPA review and acceptance or disapproval the names, titles, and qualifications of the personnel, including contractors, subcontractors, consultants and laboratories to be used in carrying out the Work. With respect to any proposed contractors, subcontractors, consultants, and laboratories, Respondents shall demonstrate that the proposed contractors, subcontractors, consultants, and laboratories have a quality system which complies with ANSI/ASQC E4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs," (American National Standard, January 5, 1995, or most recent version), by submitting a copy of the proposed contractor's Quality Management Plan (QMP). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans" (QA/R-2) (EPA/240/B-01/002, March 2001 or subsequently issued guidance) or equivalent documentation as determined by EPA. The qualifications of the persons undertaking the Work for Respondents shall be subject to EPA's review, for verification that such persons meet minimum technical background and experience requirements. If EPA disapproves in writing of any person's technical qualifications, Respondents shall notify EPA of the identity and qualifications of the replacements within fourteen (14) days of the written notice from EPA. If EPA subsequently disapproves of the replacement, EPA reserves the right to terminate this Order and to conduct a complete RI/FS, and to seek reimbursement for response costs and penalties. During the course of the RI/FS, Respondents shall notify EPA in writing of any changes or additions in the personnel used to carry out such Work, providing their names, titles, and qualifications. EPA shall have the same right to disapprove changes and additions to personnel as it has hereunder regarding the initial notification.
- b. Within thirty (30) days after the Effective Date of this Order, Respondents shall designate a Project Coordinator who shall be responsible for all activities by Respondents required by this Order and shall submit to EPA for review and acceptance or disapproval the designated Project Coordinator's name, address, email address, telephone number, and qualifications. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during activities at the Site required by this Order. EPA retains the right to disapprove of the designated Project Coordinator. If EPA disapproves of the designated Project Coordinator, Respondents shall retain a different Project Coordinator and shall notify EPA of that person's name, address, email address, telephone number, and qualifications within thirty (30) days following EPA's disapproval. Respondents shall have the right to change their Project Coordinator, subject to EPA's right to disapprove. Respondents shall notify EPA

thirty (30) days before such a change is made. The initial notification may be made orally, but shall be promptly followed by a written notification within two (2) days. Receipt by Respondents' Project Coordinator of any notice or communication from EPA relating to this Order shall constitute receipt by Respondents.

- c. EPA has designated Robert Wallace of the EPA Region III's Hazardous Site Cleanup Division as its Project Coordinator for this Order. EPA will notify Respondents of a change of its Project Coordinator. Except as otherwise provided in this Order, Respondents shall direct all submissions required by this Order to the EPA Project Coordinator at the following address:

Robert Wallace (3HS22)
Remedial Project Manager
Hazardous Site Cleanup Division
United States Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103
Phone: (215) 814-3278
Fax: (215) 814-3002
Email: wallace.robert@epa.gov

- d. MDE has designated Phillip Anderson as its Project Coordinator with respect to this Site. Except as otherwise provided in this Order, Respondents shall direct all submissions required by this order to the MDE Project coordinator at the following address:

Phillip Anderson
Project Officer
Maryland Department of the Environment
Land Restoration Program
1800 Washington Boulevard, Suite 625
Baltimore, Maryland 21230-1719
Phone: (410) 537-3448
Fax: (410) 537-3472
Email: panderson@maryland.gov

- e. EPA's Project Coordinator shall have the authority lawfully vested in a Remedial Project Manager (RPM) by the NCP. In addition, EPA's Project Coordinator shall have the authority consistent with the NCP, to halt any Work required by this Order, and to take any necessary response action when s/he determines that conditions at the Site may present an immediate endangerment to public health or welfare or the environment. The absence of the EPA Project Coordinator from the area under study pursuant to this Order shall not be cause for the stoppage or delay of Work.

- f. All activities required of Respondents under the terms of this Order shall be performed only by qualified persons possessing all necessary permits, licenses, and other authorizations required by applicable law.

11.3

- a. Respondents shall conduct an RI/FS for the Site in accordance with the provisions of this Order, the EPA-approved RI/FS Work Plan, CERCLA, the NCP and all applicable EPA guidance, policies and procedures including, but not limited to the "Interim Final Guidance for Conducting Remedial Investigations and Feasibility Studies Under CERCLA", OSWER Directive No. 9355.3-01, October 1988 or subsequently issued guidance (hereinafter RI/FS Guidance); "Evaluating the Vapor Intrusion into Indoor Air Pathway from Groundwater and Soils" (EPA 530-F-02-052, November 2002); EPA, Region 3, Hazardous Site Cleanup Division, Interim Final Vapor Intrusion Framework, June 2009; "Guidance for Data Useability in Risk Assessment" (OSWER Directive No. 9285.7-05, October 1990 or subsequently issued guidance); and guidance referenced therein, as may be amended or modified by EPA.
- b. The Remedial Investigation (RI) shall consist of collecting data to determine and characterize the nature and extent of the contamination on the Site and emanating from the Site to other properties; performing an assessment of potential buried unexploded ordnance (UXO) at the Site; conducting an evaluation of the potential for vapor intrusion into buildings overlying or near contaminated groundwater at the Site; assessing risk to human health and the environment; and performing treatability testing as necessary to evaluate the potential performance and cost of the treatment technologies that are being considered. As part of the RI, a Human Health Risk Assessment (HHRA), a Screening Level Ecological Risk Assessment (SLERA), and a Baseline Ecological Risk Assessment (BERA) shall be prepared. Data or other information developed by EPA during RI work that EPA conducts may be used to meet certain requirements of this Order, where appropriate, as determined by EPA in its sole discretion.
- c. The Feasibility Study (FS) shall determine and evaluate (based on treatability testing, where appropriate) alternatives for remedial action to prevent, mitigate, or otherwise respond to or remedy the release or threatened release of hazardous substances, pollutants, or contaminants at or from the Site, including vapor intrusion into buildings overlying or near contaminated groundwater at the Site. The alternatives evaluated must include, but shall not be limited to, the range of alternatives described in the NCP, and shall include remedial actions that utilize permanent solutions and alternative treatment technologies or resource recovery technologies to the maximum extent practicable.
- d. In evaluating the alternatives, Respondents shall address the factors required to be taken into account by Section 121 of CERCLA, 42 U.S.C. § 9621, and Section 300.430(e) of the NCP, 40 C.F.R. § 300.430(e). In accordance with the schedules established in this Order or in the EPA-approved RI/FS Work Plan, Respondents shall

submit to EPA three (3) copies (with an additional electronic copy in a format specified by EPA) and to the State two (2) copies of all plans, reports and other deliverables required under this Order and the EPA-approved RI/FS Work Plan. All plans, reports, and other deliverables will be reviewed and approved by EPA pursuant to Section XII (EPA Approval of Plans and Other Submissions). Upon EPA's request, Respondents shall also provide copies of plans, reports, and other deliverables to Community Advisory Groups, Technical Assistance Grant recipients, and any other entities as directed by EPA. Upon request by EPA, Respondents shall submit in electronic form all portions of any plan, report, or other deliverable. Respondents are required to submit pursuant to provisions of this Order.

1. RI/FS Work Plan. Within forty-five (45) days after the Respondents receive EPA acceptance of Respondents' personnel, Respondents shall submit an RI/FS Work Plan to EPA for review and approval. Upon its approval by EPA pursuant to Section XII (EPA Approval of Plans and Other Submissions), the RI/FS Work Plan shall be incorporated into and become enforceable under this Order. Respondents shall implement the EPA-approved RI/FS Work Plan in accordance with the terms, conditions, and schedules contained therein and shall prepare and submit the RI and FS Reports for EPA's review and approval as specified in the EPA-approved RI/FS Work Plan and its accompanying schedule. The RI/FS Work Plan shall include, but not be limited to, the following:
 - i. A comprehensive summary of known Site conditions;
 - ii. A discussion of data gaps;
 - iii. The methodology and logistics for obtaining information in order to meet the objectives of the RI/FS;
 - iv. Data Quality Objectives;
 - v. A Sampling and Analysis Plan. This plan shall consist of a Field Sampling Plan (FSP) and a Quality Assurance Project Plan (QAPP), as described in applicable guidance including, without limitation, "EPA Guidance for Quality Assurance Project Plans" (QA/G-5)(EPA/600/R-02/009, December 2002 or subsequently issued guidance), and "EPA Requirements for Quality Assurance Project Plans" (QA/R-5) (EPA 240/B-01/003, Reissued May 2006 or subsequently issued guidance);
 - vi. A Site Health and Safety Plan. This plan ensures the protection of on-site workers and the public during performance of on-site Work under this Order. This plan shall be prepared in accordance with EPA's Standard Operating Safety Guide (PUB 9285.1-03, PB 92-963414, June 1992 or subsequently issued guidance). This plan

shall have procedures for surveying and screening the Site for UXO and procedures for responding to UXO if found on the Site. In addition, this plan shall conform to all currently applicable Occupational Safety and Health Administration (OSHA) regulations found at 29 C.F.R. Part 1910. If EPA determines that it is appropriate, this plan shall also include contingency planning;

- vii. A plan for identifying and characterizing all ecological zones and potential receptors, and the laboratory testing methods (e.g., bioassays) to be used to evaluate impacts to biological systems, as described in the April 1998 Guidelines for Ecological Risk Assessment (EPA/630/R-95/002F);
 - viii. A plan to perform the HHRA based on the data collected during the investigation of the Site, including the assessment of UXO and evaluation of the potential for vapor intrusion;
 - ix. A plan to perform a SLERA and a BERA based on the data collected during the investigation of the Site.
 - x. Plans to perform a SLERA and a BERA that include plans for identifying and characterizing all ecological zones and potential receptors and the laboratory testing methods (e.g., bioassays) to be used to evaluate impacts to biological systems;
 - xi. A strategy for identifying the need for and carrying out treatability studies;
 - xii. A preliminary listing and discussion of applicable and relevant and appropriate requirements (ARARs); other advisories, criteria, and guidance to be considered pursuant to Section 300.400(g)(3) of the NCP, 40 C.F.R. § 300.400(g)(3) (TBCs); and a plan for refinement of ARARs and TBCs throughout the RI/FS process, including proposed clean-up levels; and
 - xiii. A schedule for expeditious completion of the RI and FS Reports, including projected start-up and delivery dates for milestone field work, treatability studies, written reports (including draft and final RI and FS Reports), and for meetings with EPA to present progress information about the Site.
2. Upon request of Respondents, EPA will confer with the Respondents for the purpose of pre-scoping the RI/FS Work Plan and for the discussion of or distribution of relevant EPA guidance documents and policies regarding the performance of an RI/FS. Any delays in the holding of such a meeting

shall not excuse any delay in Respondent's obligation to comply with the Work.

3. Respondents shall prepare and submit to EPA and MDE for review and to EPA for approval pursuant to Section XII, (EPA Approval of Plans and Other Submissions) the following:
 - i. Site Characterization. Following EPA approval or modification of the RI/FS Work Plan (EPA-approved RI/FS Work Plan), Respondents shall implement its provisions to characterize the Site. Respondents shall complete the Site Characterization and submit all plans, reports and other deliverables in accordance with the schedules and deadlines established in this Order and the EPA-approved RI/FS Work Plan. Site characterization shall specifically include an evaluation of the potential for vapor intrusion into buildings overlying or adjacent to contaminated groundwater at the Site.
 - ii. Reuse Assessment. Respondents shall perform the Reuse Assessment in accordance with the EPA-approved RI/FS Work Plan and applicable guidance. The Reuse Assessment should provide sufficient information to develop realistic assumptions of the reasonably anticipated future uses for the Site. Respondents shall prepare the Reuse Assessment in accordance with EPA guidance including, but not limited to "Reuse Assessments: A Tool To Implement The Superfund Land Use Directive," OSWER Directive 9355.7-06P, June 4, 2001 or subsequently issued guidance.
 - iii. Baseline Human Health Risk Assessment and Ecological Risk Assessment. Respondents shall perform the Baseline Human Health Risk Assessment and Ecological Risk Assessment (Risk Assessments) in accordance with the EPA-approved RI/FS Work Plan and applicable EPA guidance including, but not limited to, "Interim Final Risk Assessment Guidance for Superfund, Volume I - Human Health Evaluation Manual (Part A)," (RAGS, EPA-540-1-89-002, OSWER Directive 9285.7-01A, December 1989); "Interim Final Risk Assessment Guidance for Superfund, Volume I - Human Health Evaluation Manual (Part D, Standardized Planning, Reporting, and Review of Superfund Risk Assessments)," (RAGS, EPA 540-R-97-033, OSWER Directive 9285.7-01D, January 1998); "Ecological Risk Assessment Guidance for Superfund: Process for Designing and Conducting Ecological Risk Assessments" (ERAGS, EPA-540-R-97-006, OSWER Directive 9285.7-25, June 1997); "OSWER Draft Guidance for Evaluating the Vapor Intrusion to Indoor Air

Pathway from Groundwater and Soils (Subsurface Vapor Intrusion Guidance),” RAGS, EPA 530-D-02-004 November 2002), and the EPA Technical Documents and Tools Prepared to Support Guidance Development located at:

<http://www.epa.gov/oswer/vaporintrusion/guidance.html#Item5>.

The Respondents shall submit to EPA for review and approval the Risk Assessments (human health and ecological) consistent with the schedule in the RI/FS Workplan:

- iv. Draft Remedial Investigation Report. Respondents shall submit to EPA for review and approval pursuant to Section XII (EPA Approval of Plans and Other Submissions), a Draft RI Report consistent with the RI/FS Work Plan. The Draft RI Report shall contain the Risk Assessments. Respondents shall submit this Draft within thirty (30) days of EPA approval of the Baseline Human Health Risk Assessment and Ecological Risk Assessment described in Paragraph 11.3.d.3.iii.

- v. Development and Screening of Alternatives. Respondents shall develop an appropriate range of waste management options that will be evaluated through the development and screening of alternatives, as provided in the EPA-approved RI/FS Work Plan. In accordance with the schedules or deadlines established in this Order and the EPA-approved RI/FS Work Plan, Respondents shall provide EPA and MDE with the following deliverables for review and approval pursuant to Section XII (EPA Approval of Plans and Other Submissions) within sixty (60) days of receipt of EPA approval of the RI Report:
 - A. Memorandum on Remedial Action Objectives. The Memorandum on Remedial Action Objectives shall include remedial action objectives for Engineering Controls as well as for Institutional Controls.

 - B. Memorandum on Development and Screening of Alternatives. The Memorandum shall summarize the development and screening of remedial alternatives, including institutional controls that may become components of the remedial action.

- vi. Detailed Analysis of Alternatives. Respondents shall conduct a detailed analysis of remedial alternatives, as described in the EPA-approved RI/FS Work Plan within forty-five (45) days of the EPA-approved memoranda described in Paragraph 11.3.d.3.v. This analysis shall include:

- A. A preliminary report on comparative analysis of remedial alternatives; and
 - B. An alternatives analysis for Institutional Controls and screening.
- vii. Draft Feasibility Study Report. Within forty-five (45) days after Respondents submit the EPA-approved analysis described in Paragraph 11.3.d.3.vi, Respondents shall submit to EPA and MDE, for review and approval by EPA, a Draft FS Report which reflects the findings in the Risk Assessments. Respondents shall refer to Table 6-5 of the RI/FS Guidance for report content and format. The FS Report, as amended, and the administrative record, shall provide the basis for the Proposed Remedial Action Plan to be issued by EPA under CERCLA Sections 113(k) and 117(a), 42 U.S.C. §§ 9613(k) and 9617(a), and shall document the development and analysis of remedial alternatives.
4. Work Takeover. In the event that EPA takes over some of the Work, but not the preparation of the RI Report or the FS Report, Respondents shall incorporate and integrate information supplied by EPA into the final RI and FS Reports.
5. Community Relations Plan. Respondents shall cooperate with EPA in providing information relating to the Work required hereunder to the public. EPA will prepare a community relations plan in accordance with EPA guidance and the NCP. As requested by EPA, Respondents shall provide information supporting EPA's community relations plan and shall participate in the preparation of such information for dissemination to the public and in public meetings which may be held or sponsored by EPA to explain activities at or concerning the Site.

11.4 Modification of the RI/FS Work Plan

- a. If, at any time during performance of the Work under this Order, Respondents identify a need for additional information, Respondents shall submit a memorandum documenting the need for additional information to the EPA Project Coordinator within twenty (20) days of such identification. EPA in its sole discretion will determine whether the additional information will be collected by Respondents and whether it will be incorporated into plans, reports, and other deliverables.
- b. In addition to the authorities in the NCP, in the event that EPA determines that unanticipated or changed circumstances at the Site, or conditions posing an immediate threat to human health or welfare or the environment, warrant changes in the EPA-approved RI/FS Work Plan, EPA will modify or amend, or direct

Respondents to modify or amend, the EPA-approved RI/FS Work Plan accordingly. Respondents shall implement the EPA-approved RI/FS Work Plan as modified or amended.

- c. EPA may determine that in addition to tasks defined in the EPA-approved RI/FS Work Plan, other additional Work may be necessary to accomplish the objectives of the RI/FS. EPA may require, pursuant to this Order, that the Respondents perform these response actions in addition to those required by the EPA-approved RI/FS Work Plan, including any approved modifications, if EPA determines that such actions are necessary for a complete RI/FS. Respondents shall implement the additional tasks which EPA determines necessary. The additional Work shall be completed according to the standards, specifications, and schedule set forth or approved by EPA in written modifications to the EPA-approved RI/FS Work Plan, or written Work Plan supplements. EPA reserves the right to conduct the Work itself at any point, to seek reimbursement for the costs associated with the Work from Respondents, and/or to seek any other appropriate relief.
- d. Nothing in this paragraph shall be construed to limit EPA's authority to require performance of further response actions at the Site.

11.5 Off-Site Shipment of Waste Material. Respondents shall, prior to any off-site shipment of Waste Material from the Site to an out-of-state waste management facility, provide written notification of such shipment of Waste Material to the appropriate state environmental official in the receiving facility's state and to EPA's Project Coordinator. However, this notification requirement shall not apply to any off-site shipments when the total volume of all such shipments will not exceed ten (10) cubic yards.

- a. Respondents shall include in the written notification the following information: (1) the name and location of the facility to which the Waste Material is to be shipped; (2) the type and quantity of the Waste Material to be shipped; (3) the expected schedule for the shipment of the Waste Material; and (4) the method of transportation. Respondents shall notify the state in which the planned receiving facility is located of major changes in the shipment plan, such as a decision to ship the Waste Material to another facility within the same state, or to a facility in another state.
- b. Before shipping any hazardous substances, pollutants, or contaminants from the Site to an off-site location, Respondents shall obtain EPA's determination that the proposed receiving facility is operating in compliance with the requirements of CERCLA Section 121(d)(3), 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440. Respondents shall send hazardous substances, pollutants, or contaminants from the Site only to an off-site facility that complies with the requirements of the statutory provision and regulation cited in the preceding sentence.
- c. The identity of the receiving facility and state will be determined by Respondents following the award of the contract for the RI/FS. Respondents shall provide the

information required by Paragraphs 11.5.a. and 11.5.b. as soon as practicable after the award of the contract and before the Waste Material is actually shipped.

- 11.6 Meetings. Respondents shall make presentations at, and participate in, meetings at the request of EPA during the initiation, conduct, and completion of the RI/FS. In addition to discussion of the technical aspects of the RI/FS, topics will include anticipated problems or new issues. Meetings will be scheduled at EPA's discretion.
- 11.7 Progress Reports. In addition to the plans, reports, and other deliverables set forth in this Order, until the termination of this Order, Respondents shall provide to EPA and MDE monthly progress reports in electronic form or two (2) copies in written form. These progress reports shall be submitted to EPA and MDE by Respondents by the 15th day of every month following the Effective Date of this Order. At a minimum, with respect to the preceding month, these progress reports shall (1) describe the actions which have been taken to comply with this Order during that month; (2) include all results of sampling and tests and all other data received by Respondents; (3) describe Work planned for the next two months with schedules relating such Work to the overall project schedule for RI/FS completion; and (4) describe all problems encountered and any anticipated problems, any actual or anticipated delays, and actions developed and implemented to address any actual or anticipated problems or delays.
- 11.8 Emergency Response and Notification of Releases.
- a. Upon the occurrence of any event during performance of the Work which, pursuant to Section 103 of CERCLA, 42 U.S.C. § 9603, requires reporting to the National Response Center, Respondents shall immediately orally notify the EPA Project Coordinator (or, in the event of the unavailability of the EPA Project Coordinator, the Respondents shall notify the EPA Region III Hotline at (1-800-438-2474 or (215) 814-9106) in addition to the reporting required by CERCLA Section 103. Within fourteen (14) days of the onset of such an event, Respondents shall also furnish EPA with a written report setting forth the events which occurred and the measures taken, and to be taken, in response thereto. The reporting requirements of this paragraph are in addition to, not in lieu of, reporting under Section 103 of CERCLA and Section 304 of the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. § 11004.
 - b. In the event of any action or occurrence during performance of the Work which causes or threatens to cause a release of Waste Material from the Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Respondents shall immediately take all appropriate action to prevent, abate, or minimize the threat and shall immediately notify EPA as provided in the immediately preceding sub-paragraph (11.8(a)). Respondents shall take these actions in accordance with all applicable provisions of this Order, including, but not limited to, the Health and Safety Plan. In the event that EPA determines that (a) the activities performed pursuant to this Order, (b) significant changes in conditions at the Site, or (c) emergency circumstances occurring at the Site pose a threat to human health or the environment, EPA may

direct Respondents to stop further implementation of any actions pursuant to this Order or to take other and further actions reasonably necessary to abate the threat.

- c. Nothing in this paragraph 11.8 shall be deemed to limit any authority of the United States to take, direct, or order all appropriate action to protect human health and the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances on, at, or from the Site.

- 11.9 Respondents shall finance and perform the Work in accordance with this Order and all Work Plans and other plans, standards, specifications, and schedules set forth herein or developed by Respondents and approved by EPA pursuant to this Order.

XII. EPA APPROVAL OF PLANS AND OTHER SUBMISSIONS

- 12.1 EPA reserves the right to comment on, modify, and direct changes for all plans, reports, or other items Respondents must submit under this Order (Submissions) to EPA and MDE.
- 12.2 After review of any Submission, EPA may (a) approve the Submission; (b) approve the Submission with modifications; (c) disapprove the Submission and direct Respondents to resubmit the document after incorporating EPA's comments; or (d) disapprove the Submission and assume responsibility for performing all or any part of the Work prescribed by this Order.
- 12.3 Upon receipt of a notice of approval with modifications under Paragraph 12.2(b) or disapproval under Paragraph 12.2(c), Respondents shall, within twenty-one (21) days or such other time EPA specifies in its notice, correct the deficiencies and resubmit the document for approval. Notwithstanding the notice of disapproval, Respondents shall proceed to take all actions required by the non-deficient portion of the Submission unless EPA directs otherwise. Implementation of any non-deficient portion of a Submission shall not relieve Respondents of any liability for civil penalties for any deficient portion of the Submission.
- 12.4 If any Submission or re-Submission is disapproved by EPA, Respondents shall be deemed to be in violation of this Order and EPA may, in its sole discretion, seek statutory penalties, perform its own studies, complete the RI/FS (or any portion of the RI/FS) under CERCLA and the NCP, and seek reimbursement from the Respondents and/or other potentially responsible parties for its costs; and/or seek any other appropriate relief. Performance of any portion of the Work required by this Order by EPA shall not release Respondents from complying with all other requirements of this Order.
- 12.5 All Submissions shall be incorporated into and enforceable under this Order upon approval or modification by EPA. The approved or modified portion of a Submission shall be incorporated into and become enforceable under this Order should EPA approve or modify only a portion of Submission.

12.6 A "responsible official" of each Respondent, or his/her duly authorized representative participating in the oversight of RI/FS activities, shall sign a certification to the final RI and FS reports in accordance with the requirements of this provision.

a. For a corporation, a "responsible official" means a president, secretary, treasurer, vice president in charge of a principal business function, other person who performs similar policy or decision-making functions for the corporation, or, if authority to sign documents has been assigned or delegated to him/her in accordance with corporate procedures, the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars when the Consumer Price Index was 345.3). For a partnership or sole proprietorship, "responsible official" means a general partner or the proprietor, respectively.

b. A person is a "duly authorized representative" within the meaning of this subsection only if:

1. The authorization is made in writing by a responsible corporate official;
2. The authorization specifies either an individual or a position within the Respondent's organization responsible for overseeing performance of the RI/FS; and
3. The written authorization has been approved by EPA prior to the certification.

c. The certification required by this provision shall be in the following form:

"Except as provided below, I certify that the information contained in or accompanying this [type of Submission] is true, accurate and complete."

"As to those portions of this [type of Submission] for which I cannot personally verify their accuracy, I certify that this [type of Submission] and all attachments were prepared at my direction and with my review, in accordance with a system designed to assure that qualified personnel gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is true, accurate, and complete to the best of my knowledge, information, and belief."

"This certification shall not apply to information contained herein that was inserted into this [type of Submission] by EPA, or was required by EPA to be inserted into this [type of Submission], over my objection."

- 12.7 Neither the failure of EPA to expressly approve or disapprove of Respondents' Submissions within a specified time period, nor the absence of comments on these Submissions, shall be construed as approval by EPA. Regardless of whether EPA expressly approves Respondents' deliverables, Respondents remain responsible for preparing Submissions in accordance with the requirements of this Order.

XIII. QUALITY ASSURANCE, SAMPLING, ACCESS TO INFORMATION AND SITE ACCESS

- 13.1 Quality Assurance. Respondents shall assure that Work performed, samples taken, and analyses conducted conform to the requirements of the EPA-approved RI/FS Work Plan, the QAPP, and guidance identified therein. Respondents will assure that field personnel used by Respondents are properly trained in the use of field equipment and in chain of custody procedures. Respondents shall only use laboratories which have a documented quality system that complies with "EPA Requirements for Quality Management Plans" (QA/R-2) (EPA/240/B-01/002, March 2001) or equivalent documentation as determined by EPA.
- 13.2 Sampling.
- a. All results of sampling, tests, modeling, or other data generated by Respondents, or on Respondents' behalf, during the period that this Order is effective, shall be submitted to EPA in the first monthly progress report as described in Paragraph 11.7 of this Order following Respondents' receipt of the sampling results. EPA will make available to Respondents validated data generated by EPA unless it is exempt from disclosure by any federal or state law or regulation.
 - b. At EPA's verbal or written request, or the request of EPA's oversight assistant, Respondents shall provide EPA or its designated representatives with duplicate and/or split samples of any material sampled in connection with the implementation of this Order, or allow EPA (or its designated representatives) or the State to take such duplicate or split samples.
 - c. Respondents shall notify EPA and the State at least sixty (60) days prior to conducting sampling-related field work and/or field activities to be performed by Respondents pursuant to this Order unless EPA agrees that a shorter notification period is acceptable.
- 13.3 Access to Information.
- a. Respondents shall provide to EPA and MDE, upon request, copies of all data, records, reports, photographs, documents and information (including data, records, reports, photographs, documents and information in electronic form) within Respondents' possession or control or that of their agents, contractors, or consultants relating to activities at the Site, the RI/FS, or to the implementation of this Order including, but not limited to, sampling, analysis, chain of custody

records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Work. EPA shall be permitted to copy all such documents and other items. Respondents shall also make available to EPA for purposes of investigation, information gathering, or testimony, their employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

- b. Respondents may assert business confidentiality claims covering part or all of the documents or information submitted to EPA and the State under this Order to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Such an assertion shall be adequately substantiated in accordance with 40 C.F.R. § 2.204(e)(4) at the time the assertion is made. Documents or information determined to be confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies documents or information when they are submitted to EPA and the State, or if EPA has notified Respondents that the documents or information are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2, Subpart B, the public may be given access to such documents or information without further notice to Respondents. Respondents shall segregate and clearly identify all documents or information submitted under this Order for which Respondents assert business confidentiality claims.
- c. The Respondents may withhold those records and documents covered by any privilege or protection recognized under federal law and applied by federal courts in actions commenced by the United States. In the event that the Respondents withhold a document as privileged, the Respondents shall provide EPA with the title of the document, the date of the document, the name(s) of the author(s) and addressee(s)/recipient(s), a description of the nature of the document and identification of the privilege asserted at the time such document is required to be provided to EPA.
- d. No claim of confidentiality shall be made with respect to any data including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at or around the Site. Nor shall such claims be made for Site safety data; Site monitoring data; operational logs; hazardous waste manifests; identities of treatment, storage and/or disposal facilities used; identities of transporters used; identities of any contractors or subcontractors used in performing Work required by this Order.
- e. Respondents may not object to the gathering, generating, or evaluating of any data by EPA or the State in the performance or oversight of the Work.

13.4 Site Access

- a. Respondents shall use their best efforts to obtain all access agreements with respect to any Affected Property within thirty (30) days after the Effective Date of this Order, or as otherwise specified in writing by the EPA Project Coordinator. Such agreements shall provide access at all reasonable times to such Affected Property for Respondents and their employees, agents, consultants, contractors and other authorized and designated representatives to conduct the Work, and for EPA and MDE and their designated representatives to conduct the activities outlined in Paragraph 13.4.c. Agreements for such access shall specify that Respondents are not EPA's or MDE's representative with respect to liability associated with Site activities. Copies of such agreements shall be provided to EPA and MDE upon request prior to Respondents' initiation of field activities.
- b. In accordance with law and regulation, as appropriate, EPA and its employees, agents, contractors, consultants, and other authorized and designated representatives shall have the authority to enter and freely move about the location where Work is being performed at all reasonable times for the purpose of, inter alia: inspecting records, operating logs, and contracts related to the Site; reviewing the progress of the Respondents in carrying out the terms of this Order; conducting such tests as EPA deems necessary; using a camera, sound recording, or other documentary type equipment; and verifying the data submitted to EPA by the Respondents. The Respondents shall permit such persons to inspect and copy all records, files, photographs, documents, and other writings, including all sampling and monitoring data in any way pertaining to the Work. Confidentiality claims for any material so copied may be asserted in accordance with Paragraph 13.3.b of this Order. Nothing herein shall be interpreted as limiting the inspection and information gathering authority of EPA under Federal law.
- c. Access Requirements. The following is a list of activities for which access is required regarding the Affected Property:
 1. Monitoring of the Work;
 2. Verifying any data or information submitted to EPA;
 3. Conducting investigations regarding contamination at or near the Site;
 4. Obtaining samples;
 5. Assessing the need for, planning, or implementing additional response actions at or near the Site;

6. Assessing implementation of quality assurance and quality control practices as defined in the approved construction quality assurance quality control plan;
 7. Implementing the Work pursuant to the conditions set forth in Section XXIII (Enforcement/Work Takeover);
 8. Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Respondents or their agents, consistent with Paragraph 13.3 (Access to Information);
 9. Assessing Respondents' compliance with this Order;
 10. Determining whether the Affected Property is being used in a manner that is prohibited or restricted under this Order; and
 11. Implementing, monitoring, maintaining, reporting on, and enforcing any Institutional Controls.
- d. Respondents shall immediately notify EPA if, after using their best efforts, they are unable to obtain such agreements within the time referenced in Paragraph 13.4.a. For purposes of Paragraph 13.4, "best efforts" includes the payment of reasonable sums of money in consideration of access. Respondents shall describe in writing their efforts to obtain access. If Respondents cannot obtain access agreements, EPA may, in its sole discretion, either (i) obtain access for Respondents or assist Respondents in gaining access, to the extent necessary to effectuate the response actions described herein, using such means as EPA deems appropriate; or (ii) perform those tasks or activities itself. If EPA performs those tasks or activities with EPA contractors and does not terminate this Order, Respondents shall perform all other tasks or activities not requiring access to that property. Respondents shall integrate the results of any such tasks or activities undertaken by EPA into its Submissions.

13.5 Reservation of Authority. Notwithstanding any other provision of this Order, EPA retains all of its access authorities and rights, including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

XIV. NOTICES AND SUBMISSIONS

14.1 Whenever, under the terms of this Order, written notice is required to be given or a report, Work Plan, or other document is required to be sent by (a) Respondents to EPA and/or the State, or (b) EPA to Respondents, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Party in writing. All notices and submissions shall be considered effective upon receipt, unless otherwise provided. Written notice as specified herein shall

constitute complete satisfaction of any written notice requirement of the Order with respect to EPA and Respondents, respectively.

As to EPA:

Robert Wallace (3HS22)
Remedial Project Manager
Hazardous Site Cleanup Division
United States Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103
Phone: (215) 814-3278
Fax: (215) 814-3002
Email: wallace.robert@epa.gov

As to MDE:

Phillip Anderson
Project Officer
Maryland Department of the Environment
Land Restoration Program
1800 Washington Boulevard, Suite 625
Baltimore, Maryland 21230-1719
Phone: (410) 537-3448
Fax: (410) 537-3472
Email: panderson@maryland.gov

- 14.2 At the time Respondents provide notice of their intent to comply with the terms of this Order pursuant to Section X of this Order, Respondents shall designate the individual(s), and his/her(their) address(es), to whom written notice shall be given pursuant to 14.1 above.
- 14.3 Respondents shall notify EPA and the State at least thirty (30) days prior to conducting non-sampling related field work and/or field activities pursuant to this Order unless EPA agrees that a shorter notification period is acceptable.
- 14.4 Respondents shall notify EPA and the State at least sixty (60) days prior to conducting sampling related field work and/or field activities pursuant to this Order unless EPA agrees that a shorter notification period is acceptable.

XV. MODIFICATION

- 15.1 The EPA Project Coordinator may make modifications to any plan or schedule in writing or by oral direction and shall have as its effective date the date of the EPA Project Coordinator's written or oral direction. Any other requirements of this Order may be modified in writing by signature of the Director of EPA Region III's Hazardous Site Cleanup Division.
- 15.2 If Respondents seek permission to deviate from any EPA-approved Work Plan or schedule, Respondents' Project Coordinator shall timely submit a written request to EPA for approval outlining the proposed modification and its basis. Respondents may not proceed with the requested deviation until receiving approval from the EPA Project Coordinator pursuant to Paragraph 15.1.
- 15.3 No informal advice, guidance, suggestion, or comment by the EPA Project Coordinator or other EPA representatives regarding reports, plans, specifications, schedules, or any other writing submitted by Respondents shall relieve Respondents of their obligation to obtain any formal approval required by this Order, or to comply with all requirements of this Order, unless it is formally modified.

XVI. FINAL RI/FS, PROPOSED PLAN, PUBLIC COMMENT, RECORD OF DECISION, AND ADMINISTRATIVE RECORD

- 16.1 EPA has established an Administrative Record file that contains documents that support for the issuance of this Order. It is available for review by appointment on weekdays between the hours of 9:00 am and 4:00 pm at the EPA office in Philadelphia by contacting the EPA Remedial Project Manager at (215) 814-3278.
- 16.2 EPA retains the responsibility for the release to the public of the EPA-approved RI and FS reports. EPA retains responsibility for the preparation and release to the public of the proposed remedial action plan for the Site and Record of Decision for the Site in accordance with CERCLA and the NCP.
- 16.3 EPA will determine the contents of the Administrative Record file for selection of the remedial action for the Site. Respondents shall submit to EPA documents developed during the course of the RI/FS upon which, among other information, selection of the response action may be based. Upon request by EPA, Respondents shall provide copies of plans, task memoranda for further action, quality assurance memoranda and audits, raw data, field notes, laboratory analytical reports and other reports. Upon request by EPA, Respondents additionally shall submit any previous studies conducted under state, local, or other federal authorities relating to selection of the response action, and all

communications between Respondents and state, local or other federal authorities concerning selection of the response action. Upon request by EPA, Respondents shall establish a community information repository at or near the Site to house one copy of the Administrative Record.

XVII. OVERSIGHT

- 17.1 During the implementation of the requirements of this Order, Respondents and their contractors and subcontractors shall be available for such conferences and inspections with EPA as EPA may determine are necessary for EPA to adequately oversee the Work being carried out and/or to be carried out.
- 17.2 Respondents and their employees, agents, contractors, representatives, and consultants shall cooperate with EPA in EPA's efforts to oversee Respondents' implementation of this Order.

XVIII. OTHER APPLICABLE LAWS

- 18.1 Respondents shall comply with all applicable local, state, and federal laws and regulations when performing the RI/FS. As provided in Section 121(e) of CERCLA, 42 U.S.C. § 9621(e), and Section 300.400(e) of the NCP, no local, state, or federal permit shall be required for any portion of the Work conducted entirely on-Site (*i.e.*, within the areal extent of contamination or in very close proximity to the contamination and necessary for implementation of the Work). Where any portion of the Work that is not on-Site requires any permits, Respondents shall submit timely and complete applications and take all other actions necessary to obtain all such permits. This Order is not, and shall not be construed to be, a permit issued pursuant to any federal, state or local statute or regulation.

XIX. RECORD PRESERVATION

- 19.1 During the conduct of this Order and for a minimum of ten (10) years after commencement of construction of any remedial action which is selected following the completion of the RI/FS, Respondents shall preserve and retain all non-identical copies of documents, records and other information (including documents, records, or other information in electronic form) which: (a) are now in their possession or control; (b) come into their possession or control; or (c) are in the possession or control of any officers, directors, employees, agents, contractors, consultants, successors, or assigns that relate in any manner to the Site, regardless of any corporate retention policy to the contrary. Until ten (10) years after commencement of construction of any remedial action, Respondents shall also instruct their contractors and agents to preserve all documents, records, and other information of whatever kind, nature, or description relating to performance of the requirements of this Order.

- 19.2 At the conclusion of this ten (10) year document retention period, Respondents shall notify EPA at least ninety (90) days prior to the destruction of any such documents, records, or other information, and upon request by EPA, Respondents shall deliver, at no cost to EPA, any such documents, records or other information to EPA.

XX. DELAY IN PERFORMANCE

- 20.1 Any delay in performance of this Order that, in EPA's judgment, is not properly justified by Respondents under the terms of the following paragraph shall be considered a violation of this Order. Any delay in performance of this Order shall not affect Respondents' obligations to perform all obligations fully under the terms and conditions of this Order.
- 20.2 Respondents shall notify EPA of any delay or anticipated delay in performing any requirement of this Order. Such notification shall be made by telephone and email to EPA's Project Coordinator within forty-eight (48) hours after Respondents first knew or should have known that a delay might occur. Respondents shall adopt all reasonable measures to avoid or minimize any such delay. Within five (5) business days after notifying EPA by telephone and email, Respondents shall provide written notification fully describing the nature of the delay, the anticipated duration of the delay, any justification for the delay, all actions taken or to be taken to prevent or mitigate the delay or the effect of the delay, a schedule for implementation of any measures to be taken to mitigate the effect of the delay, and any reason why Respondents should not be held strictly liable for failing to comply with any relevant requirements of this Order. Increased costs or expenses associated with implementation of the activities called for in this Order are not a justification for any delay in performance.

XXI. FINANCIAL ASSURANCE

- 21.1 In order to ensure completion of the Work, Respondents shall secure financial assurance, initially in the amount of \$3.75 million (Estimated Cost of the Work). The financial assurance must be one or more of the mechanisms listed below, in a form substantially identical to the relevant sample documents available under "Financial Assurance" at <http://cfpub.epa.gov/compliance/resources/policies/cleanup/superfund/index.cfm>, and satisfactory to EPA. Respondents may use multiple mechanisms if they are limited to trust funds, surety bonds guaranteeing payment, and/or letters of credit.
- a. A trust fund: (1) established to ensure that funds will be available as and when needed for performance of the Work required by this Order; (2) administered by a trustee that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency; and (3) governed by an agreement that requires the trustee to make payments from the fund only when the Director of EPA Region III's Hazardous Site Cleanup Division advises the trustee in writing that: (i) payments are necessary to fulfill Respondent's obligations

under the Order; or (ii) funds held in trust are in excess of the funds that are necessary to complete the performance of Work in accordance with this Order;

- b. A surety bond, issued by a surety company among those listed as acceptable sureties on federal bonds as set forth in Circular 570 of the U.S. Department of the Treasury, guaranteeing payment or performance in accordance with Paragraph 21.5 (Access to Financial Assurance); or
 - c. An irrevocable letter of credit, issued by an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency, guaranteeing payment in accordance with Paragraph 21.5 (Access to Financial Assurance).
- 21.2 Standby Trust. If Respondents seeks to establish financial assurance by using a surety bond or a letter of credit, Respondents shall at the same time establish and thereafter maintain a standby trust fund, which must meet the requirements specified in Paragraph 21.1.a, and into which payments from the other financial assurance mechanism can be deposited if the financial assurance provider is directed to do so by EPA pursuant to Paragraph 21.5 (Access to Financial Assurance). An originally signed duplicate of the standby trust agreement must be submitted, with the other financial mechanism, to EPA in accordance with Paragraph 21.3. Until the standby trust fund is funded pursuant to Paragraph 21.5 (Access to Financial Assurance), neither payments into the standby trust fund nor annual valuations are required.
- 21.3 Within thirty (30) days after the Effective Date, Respondents shall submit to EPA proposed financial assurance mechanisms in draft form in accordance with Paragraph 21.1 for EPA's review. Within ninety (90) days after the Effective Date, or thirty (30) days after EPA's approval of the form and substance of Respondents' financial assurance, whichever is later, Respondents shall secure all executed and/or otherwise finalized mechanisms or other documents consistent with the EPA-approved form of financial assurance and shall submit such mechanisms and documents to EPA's Project Coordinator.
- 21.4 Respondents shall diligently monitor the adequacy of the financial assurance. If Respondents become aware of any information indicating that the financial assurance provided under this Section is inadequate or otherwise no longer satisfies the requirements of this Section, Respondents shall notify EPA of such information within thirty (30) days of Respondents becoming so aware. If EPA determines that the financial assurance provided under this Section is inadequate or otherwise no longer satisfies the requirements of this Section, EPA will notify Respondents of such determination. Respondents shall, within thirty (30) days after notifying EPA or receiving notice from EPA under this Paragraph, secure and submit to EPA for approval a proposal for a revised or alternative financial assurance mechanism that satisfies the requirements of this Section. Respondents shall follow the procedures of Paragraph 21.6 in seeking approval of, and submitting documentation for, the revised or alternative financial assurance mechanism. Respondents' inability to secure and submit to EPA financial assurance in accordance with this Section shall in no way excuse performance of any

other requirements of this Order, including, without limitation, the obligation of Respondents to complete the Work in accordance with the terms of this Order.

21.5 Access to Financial Assurance.

- a. If EPA determines that Respondents (1) have ceased implementation of any portion of the Work, (2) are seriously or repeatedly deficient or late in their performance of the Work, or (3) are implementing the Work in a manner that may cause an endangerment to human health or the environment, EPA may issue a written notice (Performance Failure Notice) to Respondents and their financial assurance provider regarding Respondents' failure to perform. Any Performance Failure Notice issued by EPA will specify the grounds upon which such notice was issued and will provide Respondents a period of ten (10) days within which to remedy the circumstances giving rise to EPA's issuance of such notice. If, after expiration of the ten (10) day period specified in this Paragraph, Respondents have not remedied to EPA's satisfaction the circumstances giving rise to EPA's issuance of the relevant Performance Failure Notice, then, in accordance with any applicable financial assurance mechanism, EPA may at any time thereafter direct the financial assurance provider to immediately: (1) deposit any funds assured pursuant to this Section into the standby trust fund; or (2) arrange for performance of the Work in accordance with this Order.
- b. If EPA is notified by the provider of a financial assurance mechanism that it intends to cancel the mechanism, and Respondents fail to provide an alternative financial assurance mechanism in accordance with this Section at least thirty (30) days prior to the cancellation date, EPA may, prior to cancellation, direct the financial assurance provider to deposit any funds guaranteed under such mechanism into the standby trust fund for use consistent with this Section.

21.6 Modification of Amount, Form, or Terms of Financial Assurance. Respondents may submit, on any anniversary of the Effective Date or at any other time agreed to by the Parties, a request to reduce the amount, or change the form or terms, of the financial assurance mechanism. Any such request must be submitted to the EPA individual(s) referenced in Paragraph 21.3, and must include an estimate of the cost of the remaining Work, an explanation of the bases for the cost calculation, a description of the proposed changes, if any, to the form or terms of the financial assurance, and any newly proposed financial assurance documentation in accordance with the requirements of Paragraphs 21.1 and 21.2. EPA will notify Respondents of its decision to approve or disapprove a requested reduction or change. Respondents may reduce the amount of the financial assurance mechanism only in accordance with EPA's approval. Within thirty (30) days after receipt of EPA's approval of the requested modifications pursuant to this Paragraph, Respondents shall submit to the EPA individual(s) referenced in Paragraph 21.3 all executed and/or otherwise finalized documentation relating to the amended, reduced, or alternative financial assurance mechanism. Upon EPA's approval, the Estimated Cost of the Work shall be deemed to be the estimate of the cost of the remaining Work in the approved proposal.

- 21.7 Release, Cancellation, or Discontinuation of Financial Assurance. Respondents may release, cancel, or discontinue any financial assurance provided under this Section only (a) after receipt of documentation issued by EPA certifying completion of the Work; or (b) in accordance with EPA's written approval of such release, cancellation, or discontinuation.

XXII. OTHER CLAIMS

- 22.1 The United States, by issuance of this Order, assumes no liability for any injuries or damages to persons or property resulting from acts or omissions by Respondents, or their directors, officers, employees, agents, representatives, successors, assigns, contractors, or consultants in carrying out any action or activity pursuant to this Order. Neither EPA nor the United States may be deemed to be a party to any contract entered into by Respondents or their directors, officers, employees, agents, successors, assigns, contractors, or consultants in carrying out any action or activity pursuant to this Order.
- 22.2 Nothing in this Order constitutes a satisfaction of or release from any claim or cause of action against Respondents or any person not a party to this Order, for any liability such person may have under CERCLA, other statutes, or common law, including but not limited to any claims of the United States under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607.
- 22.3 Nothing in this Order shall be deemed to constitute preauthorization of a claim within the meaning of Section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2), or 40 C.F.R. § 300.700(d).
- 22.4 No action or decision by EPA pursuant to this Order shall give rise to any right to judicial review, except as set forth in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

XXIII. ENFORCEMENT/WORK TAKEOVER

- 23.1 Any willful violation, or failure or refusal to comply with any provision of this Order may subject Respondents to civil penalties of up to \$37,500 per violation per day, as provided in Section 106(b)(1) of CERCLA, 42 U.S.C. § 9606(b)(1), and the Civil Monetary Penalty Inflation Adjustment Rule, 69 Fed. Reg. 7121, 40 C.F.R. Part 19.4. In the event of such willful violation, or failure or refusal to comply, 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. In addition, nothing in this Order shall limit EPA's authority under Section XXI (Financial Assurance). 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 failure to comply, as provided in Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3).

XXIV. RESERVATIONS

- 24.1 Nothing in this Order shall limit the power and authority of 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 in this Order shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Respondents in the future to perform additional activities pursuant to CERCLA or any other applicable law. EPA reserves the right to bring an action against Respondents under Section 107 of CERCLA, 42 U.S.C. § 9607, for recovery of any response costs incurred by the United States in connection with the Site. This reservation shall include, but not be limited to, past costs, future costs, direct costs, indirect costs, the costs of oversight, as well as accrued interest as provided in Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).
- 24.2 Notwithstanding any other provision of this Order, at any time during the RI/FS, EPA may perform its own studies, complete the RI/FS (or any portion of the RI/FS) as provided in CERCLA and the NCP, and seek reimbursement from Respondents for its costs, or seek any other appropriate relief.
- 24.3 Nothing in this Order shall preclude EPA from taking any additional enforcement actions, including modification of this Order or issuance of additional orders, and/or additional remedial or removal actions as EPA may deem necessary, or from requiring Respondents in the future to perform additional activities pursuant to CERCLA, or any other applicable law.
- 24.4 Notwithstanding any provision of this Order, EPA hereby retains all of its information gathering, inspection, and enforcement authorities and rights under CERCLA, RCRA, and any other applicable statutes or regulations.
- 24.5 Nothing in this Order shall constitute or be construed as a release from any claim, cause of action, or demand in law or equity against any person for any liability it may have arising out of or relating in any way to the Site. Nothing herein shall constitute a finding that Respondents are the only responsible parties with respect to the release and threatened release of hazardous substances at or from the Site.
- 24.6 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.

XXV. EFFECTIVE DATE AND COMPUTATION OF TIME

- 25.1 This Order shall be effective fourteen (14) days after this Order is signed by the Director, Hazardous Site Cleanup Division (Director) or his/her delegate, unless a conference is requested pursuant to Paragraph 26.1, below. If such conference is timely requested, this Order shall become effective on the fourteenth (14th) day following the day of the conference, unless the Effective Date is modified in writing by EPA. All times for performance of ordered activities shall be calculated from the Effective Date.

XXVI. OPPORTUNITY TO CONFER

- 26.1 Respondents may, within seven (7) days after this Order is signed by the Director or his/her delegate, request a conference with EPA to discuss this Order. The purpose and scope of the conference shall be limited to issues involving the implementation of the Work required by this Order and the extent to which Respondents intend to comply with this Order.
- 26.2 At any conference held pursuant to Respondents' request, Respondents may appear in person or by an attorney or other representative. Respondents may also submit written comments or statements of position on any matter pertinent to this Order within seven (7) days following the conference, or at least five (5) days prior to the Effective Date if Respondents do not request a conference. Any written comments or statements should be submitted to Brian M. Nishitani, Senior Assistant Regional Counsel, at the address set forth below. This conference is not an evidentiary hearing and does not constitute a proceeding to challenge this Order. It does not give Respondents a right to seek review of this Order or to seek resolution of potential liability, and no official stenographic record of the conference will be made.
- 26.3 Requests for a conference must be submitted to:

Brian M. Nishitani
Senior Assistant Regional Counsel
United States Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103
Phone: (215) 814-2675
Fax: (215) 814-2603
Email: nishitani.brian@epa.gov

XXVII. TERMINATION AND SATISFACTION

- 27.1 This Order will be terminated by EPA if Respondents demonstrate in writing and certify to the satisfaction of EPA that all Work and activities required under this Order have been performed fully in accordance with this Order and EPA has approved the

certification in writing. Such an approval by EPA, however, shall not relieve Respondents of any remaining obligations under the Order, including, but not limited to, those requirements set forth in Section XIX (Record Preservation). Respondents' written submission under this paragraph shall include a sworn statement by a responsible official(s) of each Respondent which states the following: "I certify that the information contained in or accompanying this submission is true, accurate, and complete."

It is so ORDERED.

BY: Cecil A. Rodrigues DATE: 9/23/2015
Cecil A. Rodrigues
Director, Hazardous Site Cleanup Division
U.S. Environmental Protection Agency
Region III