

143742



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

APR 28 1998

REPLY TO THE ATTENTION OF:
SE-5J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

(See Service List)

Re: Yeoman Creek Landfill

Dear Sir or Madam:

Enclosed please find a unilateral Administrative Order issued by the U.S. Environmental Protection Agency ("U.S. EPA") under Section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), 42 U.S.C. Section 9601, et seq.

Please note that the Order allows an opportunity for a conference if requested within 3 business days after issuance of the Order, or if no conference is requested, an opportunity to submit comments within 7 business days of issuance of the Order. Previous negotiations have occurred regarding this matter, and should be of significant benefit when developing and implementing the work plans for this matter.

If you have any questions regarding the Order, please contact Stuart P. Hersh, Associate Regional Counsel, at (312) 886-6235, Ralph Dollhopf, On-Scene Coordinator, at (734) 692-7682, or Matthew Ohl, the Remedial Project Manager, at (312) 886-4442.

Sincerely yours,

William E. Muno, Director
Superfund Division

Enclosure

THE SERVICE LETTER

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 5

V-W- '98-C-462

IN THE MATTER OF:) Docket No. V-W- '98-C-462
)
Yeoman Creek Landfill Facility) ADMINISTRATIVE ORDER
Lake County) PURSUANT TO SECTION 106(a)
Waukegan, Illinois) OF THE COMPREHENSIVE
) ENVIRONMENTAL RESPONSE,
Respondents:) COMPENSATION, AND
) LIABILITY ACT OF 1980,
City of Waukegan; Waukegan) AS AMENDED, 42 U.S.C.
Public School District 60;) SECTION 9606(a)
Browning-Ferris Industries,)
of Illinois, Inc.; Browning-)
Ferris Industries, Inc.; The)
Dexter Corporation; Outboard)
Marine Corp.; the Goodyear)
Tire & Rubber Company;)
_____)

I. JURISDICTION AND GENERAL PROVISIONS

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

This Order pertains to property located at 1011 Washington Street, Waukegan, Illinois, (the "Yeoman Creek Landfill Site" or the "Site"). This Order requires the Respondents to conduct time critical removal activities described herein to abate an imminent and substantial endangerment to the public health, welfare or the environment that may be presented by the actual or threatened release of hazardous substances at or from the Site.

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

II. PARTIES BOUND

This Order applies to and is binding upon Respondents and Respondents' heirs, receivers, trustees, successors and assigns. Any change in ownership or corporate status of Respondents including, but not limited to, any transfer of assets or real or personal property shall not alter such Respondents' responsibilities under this Order. Respondents are jointly and severally liable for carrying out all activities required by this Order. Compliance or noncompliance by one or more Respondents with any provision of this Order shall not excuse or justify noncompliance by any other Respondent.

Respondents shall ensure that their contractors, subcontractors, and representatives comply with this Order. Respondents shall be responsible for any noncompliance.

III. FINDINGS OF FACT

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

1. The Site was operated as a municipal landfill from 1958 through 1969. The Edwards Field (south) portion of the Site operated from 1958 through 1963. The Yeoman Creek portion (north) was filled between 1962 and 1969. The Illinois Environmental Protection Agency (IEPA) inspected both portions of the Landfill periodically during the 1970s. IEPA reported repeated violations of leachate discharge and minimum cover thickness regulations throughout this period. Eventually, IEPA enforcement actions resulted in a two foot cover being placed over the entire extent of the Landfill by the City of Waukegan.
2. IEPA conducted additional investigations of the northern portion of the Site between 1978 and 1981. This work resulted in the identification of significant concentrations of polychlorinated biphenyls (PCBs) in landfill leachate, Yeoman Creek surface water, stream sediment and groundwater at the site.

Subsequently, sampling conducted by U.S. EPA during the 1980s confirmed the presence of PCBs in stream sediments and leachate. In December 1989, a number of potentially responsible parties (PRPs) entered into an Administrative Order by Consent (AOC), with IEPA and U.S.EPA, to conduct a Remedial Investigation/ Feasibility Study (RI/FS). The AOC included provisions for certain interim remedial measures including construction of erosion control devices and security fencing at the site. Erosion control and fencing were completed in 1990. In 1991, the AOC was amended by the First Amendment to include the southern (Edwards Field) area as a portion of the facility to be addressed by the AOC.

4. Pursuant to the AOC, sampling for the RI was conducted between 1991 and 1993. The RI included provisions for the investigation of the subsurface migration of landfill gases. Measurement parameters used as indicators of landfill gases included percentage of the lower explosive limit (LEL) using an explosimeter and concentration of total organics in air using a flame ionization detector (FID). Gas probes were installed along the perimeters of the Landfill in order to provide locations for measuring these parameters as indicators of landfill gas migration from the site.

5. Elevated LEL readings were obtained from a number of these landfill gas probes. This led to examination of the same parameters in the basements and crawl spaces of structures within 300 feet of the perimeter probes, and resulted in measurement of elevated readings. The following LEL readings were obtained at the 1401-1451 W. Golf Road building between October 1992 and January 1993.

Location	Date	Percent LEL
1401 Golf, basement ambient air	10/2/92	3-5
1401 Golf, SE corner where sump is located	10/2/92	60-100*
1401 Golf, basement ambient air	10/8/92	4-5
1401 Golf, inside north tile	10/8/92	>100
1401 Golf, basement ambient air	1/21/93	1-10
1415 & 1419 Golf, sump inside tile	9/30/92	6
1425 Golf, basement breathing zone	1/21/93	4
1425 Golf, inside south tile	1/21/93	>100
1431 Golf, inside tile	9/30/92	47
1431 Golf, inside tiles	10/7/92	16 & 13
1431 Golf, basement breathing zone	1/20/93	2-3
1431 Golf, gas vent and inside tiles	1/20/93	90-100
1451 Golf, breathing zone basement	9/30/92	5
1451 Golf, inside south tile	9/30/92	47
1451 Golf, floor drain and tiles	10/7/92	87-100
1451 Golf, basement breathing zone	1/21/93	8-10
1451 Golf, cracks in floor	1/21/93	10-100*
1451 Golf, holes	1/21/93	14-100*

*Oxygen levels were not measured in connection with this sample

6. On October 7 and 8, 1992, air samples were collected by the Respondents to the AOC for analyses of chemical constituents from air in a basement sump and ambient air at 1451 W. Golf Road. The following hazardous substances were detected in at least one of these samples: vinyl chloride, cis-1,2-dichloroethylene, benzene, toluene, ethyl benzene, xylenes, and styrene. On October 7, 1992 one landfill gas probe (LFG-202) was similarly sampled. On February 10, 1993, two additional gas probes (LFG-209 and LFG-210) were sampled. Analyses of these samples indicated the presence of trichloroflouromethane, chloroethane, cis-1,2-

dichloroethane, chloroform, benzene, trichloroethylene, toluene, xylenes, styrene, 1,1,2,2-tetrachloroethane, and tetrachloroethylene. Finally, elevated LEL readings were obtained in soil gas samples from gas probes installed between the northern boundary of the Landfill and Golf Road, including a probe at a location 15 feet from the Terrace Nursing Home.

7. In an effort to prevent landfill gases, containing combustible and hazardous substances, from entering basements of occupied, off-site structures along Golf Road, the Respondents installed traps on the footing drains at basement sumps in February 1993. In March and April 1993, vents were installed on these traps. Following these measures, no significant change in the landfill gas measurements was detected within the basements of these off-site structures. For example, in the 1451 W. Golf Road basement, up to 10 percent of the LEL was measured in the breathing zone and up to 100 percent of the LEL was measured at basement floor cracks. At 1401 W. Golf Road up to 6 percent of the LEL was measured in the basement breathing zone, and greater than 100 percent of the LEL was detected at basement floor cracks.

8. In 1994, pursuant to a Second Amendment to the AOC, the Respondents implemented certain additional interim landfill gas control measures within and relating to the 1401 to 1451 W. Golf Road structures adjacent to the Landfill. The Second Amendment provided for, *inter alia*, installation of a building ventilation system (an "Air Exchange Ventilation System" or "AEVS") designed to provide fresh air to the basements and to maintain a positive pressure differential between basement interiors and exteriors where landfill gases emanate, and to achieve certain measurable criteria within these basement structures.

9. After initial construction and operation of the AEVS, periodic reviews of conditions within the 1401 to 1451 W. Golf Road structures were conducted. These reviews indicated that performance criteria for the AEVS established by the Second Amendment were not being satisfied. Consequently, various operational modifications to this system have been implemented since the initial date of installation.

10. During a December 1997 to January 1998 review of Site conditions, U.S. EPA remedial and emergency response personnel determined that operation of this system has not resulted in

satisfaction of the performance criteria established by the 1994 Second Amendment to the AOC, and that further modifications were not likely to expeditiously achieve satisfactory performance. Specifically, on a significant number of days, exceedance of the Second Amendment's landfill gas action level of 100 parts per million (ppm) have been measured. In addition, although the ventilation system installed by Respondents within the 1401 to 1451 W. Golf Road structures supplies more fresh air into the basements than it exhausts, smoke tube readings used to measure positive pressure differentials in the basements of these structures, indicate that positive pressure differentials may not be maintained. Finally, on certain occasions, the Respondents failed to comply with specific requirements of the AOC as amended regarding notification; response, and mitigation when the system did not perform as expected or designed.

11. Landfill gas, containing hazardous substances exceeding the toxicity indicator criteria provided in Second Amendment to the AOC, and containing combustible gas which in some cases exceeds 100 percent of the LEL, continues to be measured entering off-site structures at 1401 W. Golf Road, adjoining the Landfill. Monitoring frequency for this structure was changed on January 20, 1998, until February 27, 1998, from monthly to daily, and from February 27, 1998 to the present from daily to three times per week. Additional landfill gas monitoring parameters are also being measured.

12. During March and April, 1998, and at the request of U.S. EPA, Respondents initiated routine monitoring of landfill gas probes near and beyond the northern perimeter of the Landfill, along Sunset Avenue (W. Golf Road) and North Butrick Street, to within 65 feet of residential and commercial structures. This monitoring included use of a methane meter. Monitoring results consistently demonstrate that methane gas is present in air throughout these soils, at levels up to 79 percent methane gas, at and beyond the landfill perimeter. These measured levels of up to 79 percent methane gas in the air in soils are approximately 30 times higher than the State of Illinois regulatory limit for methane gas in the air in soils, 2.5 percent methane.

13. On January 16, 1998, the U.S.EPA Remedial Project Manager (RPM) requested that the Respondents submit a design for the installation of an active gas extraction system which will

capture gas before it migrates laterally off-site into residential and commercial structures. On April 9, 1998, Respondents represented a willingness to negotiate an order with U.S. EPA relating to developing and implementing an active gas extraction system. Thereafter the parties entered into discussions regarding the technical and legal terms of an agreed order, to facilitate implementing this time critical phase of work. On April 21, 1998, Respondents verbally notified U.S. EPA that they no longer desired to enter into an agreed order.

IV. CONCLUSIONS OF LAW AND DETERMINATIONS

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

1. The Yeoman Creek Landfill Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).
2. Vinyl chloride, cis-1,2-dichloroethylene, benzene, toluene, ethyl benzene, xylenes, styrene trichloroflouromethane, chloroethane, chloroform, benzene, trichloroethylene, toluene, xylenes, 1,1,2,2-tetrachloroethane, and tetrachloroethylene are "hazardous substances" as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).
3. Each Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).
4. Each Respondent is a person who arranged for disposal or transport for disposal of hazardous substances at the Yeoman Creek Landfill Site, or is a present owner or operator of the Yeoman Creek Landfill Site, or was an owner or operator of the Site at the time of disposal. Each Respondent, therefore, may be liable under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and are potentially responsible persons (PRPs) for the purposes of Sections 106 and 122 of CERCLA, 42 U.S.C. Sections 9606 and 9622.
5. Conditions described in the Findings of Fact above constitute an actual or threatened "release" of a hazardous substance from the Facility into the "environment" as defined by Sections 101(8) and (22) of CERCLA, 42 U.S.C. Sections 9601(8) and (22).

6. The conditions at the Yeoman Creek Landfill Site present an imminent and substantial threat to the public health, or welfare, and the environment and meet the criteria for a removal action provided for in the National Contingency Plan (NCP), as amended, 40 C.F.R. § 300.415(b)(2). Forty C.F.R. § 300.415(b)(2)(I), (iv), (v), and (vi) respectively, specifically allows removal actions for:

- a) Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances or pollutants or contaminants;

Numerous VOCs have been detected in landfill gas monitored at gas probes on the landfill; in soils adjacent to the landfill and in occupied, off-site structures to which the gas has migrated. These detections have continued to be monitored within portions of off-site structures at levels exceeding the 100 ppm health-based indicator threshold despite interim response actions and modifications thereof by the Respondents since 1994 to control the gas at the receptor location (basements). Potential exposure for occupants of these structures will continue until interim or final response actions prevent landfill gas from reaching the structures. Vinyl chloride and benzene are classified by U.S. EPA as group A known human carcinogens and are known hazardous substance constituents of the landfill gas at Yeoman Creek. Others, such as chloroform and trichloroethylene are classified as group B2 probable human carcinogens. Styrene is considered to be a group C possible human carcinogen. In addition, non-cancer health effects are associated with exposure to some of the above hazardous substances.

- b) High levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface, that may migrate;

In addition to the hazardous substances in migrating landfill gas described in paragraph a), high levels of methane, a major component of landfill gas, have been detected in probes at and beyond the landfill perimeter and within the basements of adjacent off-site structures. While methane has no inherent toxicity, it is highly explosive and functions as an asphyxiant upon its displacement of oxygen in confined, occupied spaces. At the Yeoman Creek Landfill Site, methane concentrations

frequently exceed 100 percent of the LEL (5 percent methane in air) in the basements of off-site structures. In addition, air measurements in soil probes off-site have readings as high as 79 percent methane gas.

- c) Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released;

Landfill gas migration rates are directly influenced by a number of meteorological and weather-related factors, including barometric pressure fluctuations, precipitation, and soil saturation and freezing differentials. Generally, worst case conditions for lateral migration of landfill gas are present when surface soils on and off the landfill are frozen, preventing gas from escaping vertically before building pressure forces it to lateral, off-site locations.

- d) Threat of fire or explosion;

Landfill gas typically contains high concentrations (up to approximately 75 percent) of methane. When methane accumulates in confined spaces at concentrations between 100 percent of its LEL, 5 percent methane, and upper explosive limit (UEL=15 percent methane), an explosive atmosphere exists. The occurrences of fires and explosions in structures adjoining landfills and attributed to migration of landfill gas are well documented; they are almost always violent and frequently result in death and/or serious personal injury. For this reason, Illinois regulations require landfill facilities to manage landfill gas, such that 50 percent of the LEL for methane (2.5 percent methane) can not be measured in soil air or ambient air at or beyond the landfill boundary and that 25 percent of the LEL (1.25 percent methane) cannot be detected within structures on or near the landfill.

Methane gas, consistent with methane in landfill gas monitored in soils at and beyond the Landfill boundary, have been routinely monitored entering off-Site structures adjacent to the Site at levels exceeding 100 percent of the LEL, therefore constituting a serious threat of catastrophic fire and/or explosion. Interim building ventilation systems of the type previously installed by the Respondents are not considered to be an appropriate form of gas management. Rather, they are considered temporary mitigative

options pending construction and timely completion of active gas extraction systems. The continuing serious threat of fire and/or explosion in off-site structures adjacent to the Yeoman Creek Landfill Site remains even with operation of the ventilation system. These threats will continue to exist until installation and operation of an active gas management system, which will be operated to substantially eliminate methane gas between the Landfill perimeter and any structures beyond the Landfill.

V. ORDER

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

1. Notice of Intent to Comply

Respondents shall notify U.S. EPA in writing within 5 calendar days after the effective date of this Order of Respondents' irrevocable intent to comply with this Order. Failure of each Respondent to provide such notification within this time period shall be a violation of this Order.

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

Respondents shall perform the removal actions themselves or retain a contractor to implement the removal actions. Respondents shall notify U.S. EPA of Respondents' qualifications or the name and qualifications of such contractor, whichever is applicable, within 10 calendar days of the effective date of this Order. Respondents shall also notify U.S. EPA of the name and qualifications of any other contractors or subcontractors retained to perform work under this Order at least 7 calendar days prior to commencement of such work. U.S. EPA retains the right to disapprove of the Respondents or any of the contractors and/or subcontractors retained by the Respondents. If U.S. EPA disapproves a selected contractor, Respondents shall retain a different contractor within 5 calendar days following U.S. EPA's disapproval and shall notify U.S. EPA of that contractor's name and qualifications on the date such contractor is retained, but no later than 5 calendar days following U.S. EPA's disapproval.

Within 7 calendar days after the effective date of this Order, Respondents shall designate a Project Coordinator who shall be responsible for administration of all the Respondents' actions required by the Order, and shall submit the designated coordinator's name, address, telephone number, and qualifications to U.S. EPA. The Project Coordinator shall be present on-site or readily available during site work. U.S. EPA retains the right to disapprove of any Project Coordinator named by the Respondents. If U.S. EPA disapproves a selected Project Coordinator, Respondents shall retain a different Project Coordinator within 5 calendar days following U.S. EPA's disapproval and shall notify U.S. EPA of that person's name and qualifications within 5 calendar days of U.S. EPA's disapproval. Receipt by Respondents' Project Coordinator of any notice or communication from U.S. EPA relating to this Order shall constitute receipt by all Respondents.

The U.S. EPA has designated Ralph Dollhopf of the Emergency Response Branch, Region 5, as its On-Scene Coordinator (OSC) and Matthew J. Ohl, as its Remedial Project Coordinator (RPM). Respondents shall direct all submissions required by this Order to the OSC at U.S. Environmental Protection Agency, Emergency Response Branch, Response Section 1, 9311 Gröhe Road, Grosse Ile, Michigan, 48138, "dollhopf.ralph@epamail.gov" and the RPM at U.S. Environmental Protection Agency, 77 West Jackson Blvd., SR-6J, Chicago, IL 60604-3590, "ohl.matthew@epamail.gov" by electronic mail and by certified or express mail. Respondents shall also send a copy of all submissions to Stuart P. Hersh, Assistant Regional Counsel, 77 West Jackson Boulevard, C-14J, Chicago, Illinois, 60604-3590, and to Gregg Ratliff, IEPA, 1021 North Grand Avenue East, Springfield, Illinois 62702. All Respondents are encouraged to make their submissions to U.S. EPA on recycled paper (which includes significant postconsumer waste paper content where possible) and using two-sided copies.

U.S. EPA, IEPA and Respondents shall have the right, subject to the requirements of this paragraph 2 of this Section V., to change their designated OSC, RPM, Project Coordinator, or addressee. Each party to this Order shall notify all other parties to this Order as early as possible before such a change is made, but in no case less than 24 hours before a change. The initial notification may be made orally, but it shall be promptly followed by a written notice.

3. Work to Be Performed

Respondents shall perform, at a minimum, the following first phase of response activities for this Site:

- 1) Develop and implement a site health and safety plan and emergency contingency plan;
- 2) Implement appropriate site security measures;
- 3) Design, construct, operate, and maintain an interim, active landfill gas management system designed to intercept laterally-migrating landfill gas from the perimeter of the Yeoman Creek Landfill Site, to those off-site soils and structures impacted by laterally-migrating landfill gas. The initial phase of this system shall be designed to intercept laterally-migrating gas from the Site to soils and structures located along the northern boundary of the Site, adjacent to Sunset Avenue (W. Golf Road), but may be extended based upon continuing evaluation of conditions and monitoring results. The performance of this system shall be such that methane concentrations shall not exceed 25 percent of the LEL in air in any portion of any off-site structure (including floor cracks, sumps and floor drains), and shall not exceed 50 percent of the LEL in either ambient air or air within soil, as measured at and beyond the landfill property boundary, or within 100 feet of the waste burial boundary, whichever is less. After initial construction and operation of this landfill gas management system, the continued operation of this system may be modified, under the conditions, criteria and terms approved in writing by the RPM/OSC, to permit intermittent or continuous passive operation of the system, as demonstrated to be appropriate;
- 4) Develop and implement a monitoring plan, including installation of a system of monitoring probes, designed to allow appropriate evaluation of the gas extraction system performance;
- 5) Develop and implement a Landfill Site gas monitoring

plan, including provisions for routine monitoring (including dedicated probe placement, if necessary) of all Site perimeters and, where warranted, off-site structures which could be impacted by lateral off-site migration of landfill gas from the Yeoman Creek Site.

3.1 Work Plan and Implementation

Within 14 calendar days after the effective date of this Order, the Respondents shall submit to U.S. EPA for approval a draft Work Plan for performing the removal activities set forth above. The draft Work Plan shall provide a description of, and an expeditious schedule for, the activities required by this Order.

U.S. EPA may approve, disapprove, require revisions to, or modify the draft Work Plan. If U.S. EPA requires revisions, Respondents shall submit a revised draft Work Plan within 7 calendar days of notification. Respondents shall implement the Work Plan as finally approved in writing by U.S. EPA in accordance with the schedule approved by U.S. EPA. Once approved, or approved with modifications, the Work Plan, the schedule, and any subsequent modifications shall be fully enforceable under this Order. Respondents shall notify U.S. EPA at least 48 hours prior to performing any on-site work pursuant to the U.S. EPA approved Work Plan.

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

3.2 Health and Safety Plan

Within 14 calendar days after the effective date of this Order, the Respondents shall submit a plan for U.S. EPA review and comment that ensures the protection of the public health and safety during performance of on-site work under this Order. This plan shall comply with applicable Occupational Safety and Health Administration ("OSHA") regulations found at 29 C.F.R. Part 1910. If U.S. EPA determines it is appropriate, the plan shall also include contingency planning. Respondents shall incorporate all changes to the plan recommended by U.S. EPA, and implement the plan during the pendency of the removal action.

3.3 Quality Assurance and Sampling

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

Upon request by U.S. EPA, Respondents shall allow U.S. EPA or its authorized representatives to take split and/or duplicate samples of any samples collected by Respondents or their contractors or agents while performing work under this Order. Respondents shall notify U.S. EPA not less than 4 calendar days in advance of any sample collection activity. U.S. EPA shall have the right to take any additional samples that it deems necessary.

3.4 Reporting

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

Any Respondent that owns any portion of the Site, and any

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

3.5 Final Report

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

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

Under penalty of law, I certify that, to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of this report, the information submitted is true, accurate, and complete.

4. Access to Property and Information

Respondents shall provide or obtain access as necessary to the Site and all appropriate off-site areas, and shall provide access to all records and documentation related to the conditions at the Site and the activities conducted pursuant to this Order. Such access shall be provided to U.S. EPA and State of Illinois

employees, contractors, agents, consultants, designees, and representatives. These individuals shall be permitted to move freely at the Site and appropriate off-site areas in order to conduct activities which U.S. EPA determines to be necessary. Respondents shall submit to U.S. EPA, upon request, the results of all sampling or tests and all other data generated by Respondents or their contractors, or on the Respondents' behalf during implementation of this Order.

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

5. Record Retention, Documentation, Availability of Information

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

6. Off-Site Shipments

All hazardous substances, pollutants or contaminants removed off-site pursuant to this Order for treatment, storage or disposal shall be treated, stored, or disposed of at a facility in

compliance, as determined by U.S. EPA, with the U.S. EPA Off-Site Rule, 40 C.F.R. § 300.440, 58 Federal Register 49215 (Sept. 22, 1993). This provision does not preclude on-Site consolidation of waste consistent with the ROD and applicable law and regulations.

7. Compliance With Other Laws

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

8. Emergency Response and Notification of Releases

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

Respondents shall submit a written report to U.S. EPA within 10 calendar days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. Respondents shall also comply with any other notification requirements, including those in CERCLA Section 103, 42 U.S.C. § 9603, and Section 304 of the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. § 11004.

VI. AUTHORITY OF THE U.S. EPA ON-SITE COORDINATOR AND REMEDIAL PROJECT MANAGER

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

VII. PENALTIES FOR NONCOMPLIANCE

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

VIII. REIMBURSEMENT OF COSTS

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

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

U.S. Environmental Protection Agency
Superfund Accounting
P.O. Box 70753
Chicago, Illinois 60673

Respondents shall simultaneously transmit a copy of the check to the Director, Superfund Division, U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, Illinois, 60604-3590. Payments shall be designated as "Response Costs - Yeoman Creek Landfill Site" and shall reference the payers' name and address, the U.S. EPA site identification number 05Z2, and the docket number of this Order.

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

IX. RESERVATION OF RIGHTS

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

X. OTHER CLAIMS

By issuance of this Order, the United States and U.S. EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents. The United States or U.S. EPA shall not be a party or be held out as a party to any contract entered into by the Respondents or their directors, officers, employees, agents, successors,

representatives, assigns, contractors, or consultants in carrying out activities pursuant to this Order.

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

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

XI. MODIFICATIONS

Modifications to any plan or schedule may be made in writing by the OSC and RPM or at the OSC's and RPM's oral direction. If the OSC or RPM makes an oral modification, it will be memorialized in writing within 10 calendar days; however, the effective date of the modification shall be the date of the OSC's or RPM's oral direction. The rest of the Order, or any other portion of the Order, may only be modified in writing by signature of the Director, Superfund Division, Region 5.

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

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

XII. NOTICE OF COMPLETION

After submission of the Final Report, Respondents may request that U.S. EPA provide a Notice of Completion of the work required

by this Order. If U.S. EPA determines, after U.S. EPA's review of the Final Report, that all work has been fully performed in accordance with this Order, except for certain continuing obligations required by this Order (e.g., record retention), U.S. EPA will provide written notice to the Respondents. If U.S. EPA determines that any removal activities have not been completed in accordance with this Order, U.S. EPA will notify the Respondents, provide a list of the deficiencies, and require that Respondents modify the Work Plan to correct such deficiencies. The Respondents shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the U.S. EPA notice. Failure to implement the approved modified Work Plan shall be a violation of this Order.

XIII. ACCESS TO ADMINISTRATIVE RECORD

The Administrative Record supporting these removal actions is available for review during normal business hours in the U.S. EPA Record Center, Region 5, 77 W. Jackson Blvd., Seventh Floor, Chicago, Illinois. Respondents may contact Stuart P. Hersh, Associate Regional Counsel, at (312)886-6235 to arrange to review the Administrative Record. An index of the Administrative Record is attached to this Order.

XIV. OPPORTUNITY TO CONFER

Within 3 business days after issuance of this Order, Respondents may request a conference with U.S. EPA. Any such conference shall be held within 4 business days from the date of the request, unless extended by agreement of the parties. At any conference held pursuant to the request, Respondents may appear in person or be represented by an attorney or other representative.

If a conference is held, Respondents may present any information, arguments or comments regarding this Order. Regardless of whether a conference is held, Respondents may submit any information, arguments or comments (including justifications for any assertions that the Order should be withdrawn against a Respondent), in writing to U.S. EPA within 2 business days following the conference, or within 7 business days of issuance

of the Order if no conference is requested. This conference is not an evidentiary hearing, does not constitute a proceeding to challenge this Order, and does not give Respondents a right to seek review of this Order. Requests for a conference shall be directed to Stuart P. Hersh, Associate Regional Counsel, at (312) 886-6235. Written submittals shall be directed as specified in Section V.2 of this Order.

XV. SEVERABILITY

If a court issues an order that invalidates any provision of this Order or finds that Respondents have sufficient cause not to comply with one or more provisions of this Order, Respondents shall remain bound to comply with all provisions of this Order not invalidated by the court's order.

XVI. EFFECTIVE DATE

This Order shall be effective 10 business days following issuance unless a conference is requested as provided herein. If a conference is requested, this Order shall be effective 4 business days after the day of the conference.

IT IS SO ORDERED

BY: _____

W. E. Muno

William E. Muno, Director
Superfund Division
United States
Environmental Protection Agency
Region 5

DATE: _____

4/28/88

bcc: Stuart P. Hersh (C-14J)
Ralph Dollhopf, OSC (SE-GI)
Matthew Ohl, RPM (SR-6J)
John Maritote, EESS (SE-5J)
Arlene Lilly, EPS, EESS (SE-5J)
Records Center (SMR-7J)
ERB Read File
Noemi Emeric, Public Affairs (P-19J)
Howard Levin, Accounting (MP-10J)
Docket Analyst, ORC (C-14J)

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