
IN THE MATTER OF:)	SETTLEMENT AGREEMENT
)	
)	
SEERLEY ROAD FIRE SUPERFUND SITE)	
Indianapolis, Marion County, Indiana)	U.S. EPA Region 5
)	CERCLA Docket No. V-W-24-C-001
STEVEN AND JOEL WILLIAMSON)	
SETTLING PARTIES)	PROCEEDING UNDER
)	SECTION 122(h)(1) OF CERCLA
)	42 U.S.C. § 9622(h)(1)

**CERCLA SECTION 122(h)(1) SETTLEMENT AGREEMENT
FOR RECOVERY OF RESPONSE COSTS**

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I. JURISDICTION

1. This Settlement Agreement is entered into pursuant to the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, which authority has been delegated to the Regional Administrators of the EPA by EPA Delegation No. 14-14-D (Cost Recovery Non-Judicial Agreements and Administrative Consent Orders) and redelegated to the Director of the Superfund and Emergency Management Division, Region 5 by Regional Delegation 14-14-D.

2. This Settlement Agreement is made and entered into by EPA and Settling Parties Joel Jr. and Steven Williamson. Each Settling Party consents to and will not contest EPA's authority to enter into this Settlement Agreement or to implement or enforce its terms.

II. BACKGROUND

3. This Settlement Agreement concerns the Seerley Road Fire Superfund Site ("Site") located generally at 5453 Seerley Road, Indianapolis, Indiana 46241. EPA alleges that the Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

4. In response to the release or threatened release of hazardous substances at or from the Site, EPA undertook response actions at the Site pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604. The release occurred when drums of highly flammable, toxic substances known as sodium-potassium alloy (NaK) and potassium metal were disturbed and caught fire in a storage barn. Joel Williamson Jr. as well as his contractor Summit Environmental Contracting (Summit) attempted to contain, address, and dispose of the hazardous substances. The local health and fire departments as well as the Indiana Department of Environmental Management were unsuccessful in addressing the release. Over several months, EPA successfully contained, identified, removed, and disposed of the unusually hazardous substances.

5. In performing response action, EPA has incurred response costs at or in connection with the Site.

6. EPA alleges that Settling Parties are responsible parties pursuant to Section 107(a) of CERCLA and are jointly and severally liable for response costs incurred at the Site.

7. EPA and Settling Parties recognize that this Settlement Agreement has been negotiated in good faith and that this Settlement Agreement is entered into without the admission or adjudication of any issue of fact or law. The actions undertaken by Settling Parties in accordance with this Settlement Agreement do not constitute an admission of any liability by any Settling Party. Settling Parties do not admit and retain the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Settlement Agreement, the validity of the facts or allegations contained in this Section.

III. PARTIES BOUND

8. This Settlement Agreement shall be binding upon EPA and upon Settling Parties and their heirs, successors, and assigns. Any change in ownership or corporate or other legal status of a Settling Party, including but not limited to, any transfer of assets or real or personal property, shall in no way alter such Settling Party's responsibilities under this Settlement

Agreement. Each signatory to this Settlement Agreement certifies that he or she is authorized to enter into the terms and conditions of this Settlement Agreement and to bind legally the party represented by him or her.

IV. DEFINITIONS

9. Unless otherwise expressly provided in this Settlement Agreement, terms used in this Settlement Agreement that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meanings assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Settlement Agreement or its appendices, the following definitions shall apply:

“CERCLA” means the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§ 9601-9675.

“Day” or “day” means a calendar day. In computing any period of time under this Settlement Agreement, where the last day would fall on a Saturday, Sunday, or federal or State holiday, the period shall run until the close of business of the next working day.

“DOJ” means the U.S. Department of Justice and its successor departments, agencies, or instrumentalities.

“Effective Date” means the effective date of this Settlement Agreement as provided by Section XV.

“EPA” means the United States Environmental Protection Agency.

“EPA Hazardous Substance Superfund” means the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

“Interest” means interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest is the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year. Rates are available online at <https://www.epa.gov/superfund/superfund-interest-rates>.

“National Contingency Plan” or “NCP” means 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.

“Paragraph” means a portion of this Settlement Agreement identified by an Arabic numeral or an upper- or lower-case letter.

“Parties” means EPA and Settling Parties.

“Response Costs” means all costs, including but not limited to direct and indirect costs, that EPA or the U.S. Department of Justice on behalf of EPA has paid, or will pay, at or in connection with the release or threatened release of hazardous substances at the Site as described in Paragraph 4, plus accrued Interest on all such costs.

“RCRA” means the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901-6992 (also known as the Resource Conservation and Recovery Act).

“Section” means a portion of this Settlement Agreement identified by a Roman numeral.

“Settlement Agreement” means this Settlement Agreement and the attached Appendix A (Site Map). In the event of conflict between the body of this Settlement Agreement and Appendix A, the Settlement Agreement controls.

“Settling Parties” means Steven Williamson and Joel I. Williamson Junior.

“Site” means Seerley Road Fire Superfund Site, encompassing approximately 68 acres, as shown in Appendix A, and described below:

Property located at 5453 Seerley Road, Indianapolis, Marion County, Indiana 46241, on Parcel No. 2000294 near the interchange of interstate highways 465 and 70, and approximately 1 mile east of the Indianapolis International Airport as the bird flies. The coordinates for the entrance to the Site are approximately 39.716463 North, -86.255181 West. The coordinates of where the barn formerly stood with the drums of hazardous substances are approximately 39.715886 North, -86.256444 West. The Site property consists of the single legal Parcel No. 2000294 containing farm fields, three uninhabited houses, and several barns and other structures. The houses are associated with addresses 5452 Seerley Road, 5453 Seerley Road, and 5459 Seerley Road. The barn where the drums were located, the release occurred, and the removal was performed, is more closely physically aligned with the 5453 Seerley Road home. The Site presently consists of approximately 68.69 acres.

“United States” means the United States of America and each department, agency, and instrumentality of the United States, including EPA.

V. PAYMENT OF RESPONSE COSTS

10. **Payment by Settling Parties for Response Costs.** Within 30 days after the Effective Date, Settling Parties shall pay to EPA \$800,000.00.

11. Settling Parties shall make payment to EPA by Fedwire Electronic Funds (EFT) Transfer to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read “D 68010727
Environmental Protection Agency”

Such payment shall reference Site/Spill ID Number C59J and the EPA docket number for this action.

12. **Deposit of Payment.** The total amount to be paid by Settling Parties pursuant to Paragraph 10 shall be deposited by EPA in the EPA Hazardous Substance Superfund.

VI. FAILURE TO COMPLY WITH SETTLEMENT AGREEMENT

13. **Interest on Late Payments.** If any Settling Party fails to make any payment required by Paragraph 10 (Payment by Settling Parties for Response Costs) by the required due date, Interest shall continue to accrue on the unpaid balance through the date of payment.

14. Stipulated Penalty

a. If any amounts due to EPA under Paragraph 10 (Payment by Settling Parties for Response Costs) are not paid by the required date, Settling Parties shall be in violation of this Settlement Agreement and shall pay to EPA, as a stipulated penalty, in addition to the Interest required by Paragraph 15 (Interest on Late Payments), \$100 per violation per day that such payment is late.

b. Stipulated penalties are due and payable within 30 days after the date of demand for payment of the penalties by EPA. Settling Parties shall make all payments required by this Section to EPA by Fedwire EFT to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read "D 68010727
Environmental Protection Agency"

Each such payment shall reference "stipulated penalties," Site/Spill ID Number C59J, and the EPA docket number for this action.

c. Settling Parties shall send to EPA, in accordance with Section 28 (Notices and Submissions), a notice of this payment including these references.

d. Penalties shall accrue as provided in this Paragraph regardless of whether EPA has notified Settling Parties of the violation or made a demand for payment but need only be paid upon demand. All penalties shall begin to accrue on the day after payment is due and shall continue to accrue through the date of payment. Nothing in this Settlement Agreement shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement Agreement.

15. In addition to the Interest and stipulated penalty payments required by this Section and any other remedies or sanctions available to EPA by virtue of Settling Parties' failure to comply with the requirements of this Settlement Agreement, any Settling Party who fails or refuses to comply with the requirements of this Settlement Agreement shall be subject to enforcement action pursuant to Section 122(h)(3) of CERCLA, 42 U.S.C. § 9622(h)(3). If the United States, on behalf of EPA, brings an action to enforce this Settlement Agreement, Settling

Parties shall reimburse the United States for all costs of such action, including but not limited to costs of attorney time.

16. The obligations of Settling Parties to pay amounts owed to EPA under this Settlement Agreement are joint and several. In the event of the insolvency of any Settling Party or the failure by any Settling Party to make the payments required under this Settlement Agreement, the remaining Settling Parties shall be responsible for such payments.

17. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive payment of any portion of the stipulated penalties that have accrued pursuant to this Settlement Agreement. Payment of stipulated penalties shall not excuse Settling Parties from payment as required by Section V (Payment of Response Costs) or from performance of any other requirements of this Settlement Agreement.

VII. COVENANTS BY EPA

18. **Covenants for Settling Parties by EPA.** Except as specifically provided in Section VIII (Reservations of Rights by EPA), EPA covenants not to sue or take administrative action against Settling Parties pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), to recover Response Costs. These covenants take effect upon the Effective Date. These covenants are conditioned upon the satisfactory performance by Settling Parties of their obligations under this Settlement Agreement. These covenants extend only to Settling Parties and do not extend to any other person.

VIII. RESERVATIONS OF RIGHTS BY EPA

19. EPA reserves, and this Settlement Agreement is without prejudice to, all rights against Settling Parties with respect to all matters not expressly included within Paragraph 18 (Covenants for Settling Parties by EPA). Notwithstanding any other provision of this Settlement Agreement, EPA reserves, and this Settlement Agreement is without prejudice to, all rights against Settling Parties with respect to:

- a. liability for failure of Settling Parties to meet a requirement of this Settlement Agreement;
- b. liability for costs incurred or to be incurred by the United States that are not within the definition of Response Costs;
- c. liability for injunctive relief or administrative order enforcement under Section 106 of CERCLA, 42 U.S.C. § 9606, relating to the release or threatened release of hazardous substances at the Site other than those described in Paragraph 4;
- d. criminal liability; and
- e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments.

20. Nothing in this Settlement Agreement is intended to be nor shall it be construed as a release, covenant not to sue, or compromise of any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, that the United States may have

against any person, firm, corporation or other entity not a signatory to this Settlement Agreement.

IX. COVENANTS BY SETTLING PARTIES

21. **Covenants by Settling Parties.** Settling Parties covenant not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to Response Costs and this Settlement Agreement, including but not limited to:

a. any direct or indirect claim for reimbursement from the EPA Hazardous Substance Superfund based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claims arising out of the response actions at the Site for which the Response Costs were incurred, including any claim under the United States Constitution, the Indiana Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, or at common law; and

c. any claim pursuant to Section 107 or 113 of CERCLA, 42 U.S.C. § 9607 or 9613, Section 7002(a) of RCRA, 42 U.S.C. § 6972(a), or state law for Response Costs.

22. Settling Parties agree not to assert any claims and to waive all claims or causes of action (including but not limited to claims or causes of action under Sections 107(a) and 113 of CERCLA) that they may have for Response Costs relating to the Site against each other or any other person who is a potentially responsible party under CERCLA at the Site. This waiver shall not apply with respect to any defense, claim, or cause of action that a Settling Party may have against any person if such person asserts a claim or cause of action relating to the Site against such Settling Party.

X. EFFECT OF SETTLEMENT/CONTRIBUTION

23. Except as provided in Paragraph 22, nothing in this Settlement Agreement shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Settlement Agreement. Except as provided in Section IX (Covenants by Settling Parties), each of the Parties expressly reserves any and all rights (including, but not limited to, pursuant to Section 113 of CERCLA, 42 U.S.C. § 9613), defenses, claims, demands, and causes of action that it may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto. Nothing in this Settlement Agreement diminishes the right of the United States, pursuant to Section 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613 (f)(2)-(3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2).

24. The Parties agree that this Settlement Agreement constitutes an administrative settlement pursuant to which each Settling Party has, as of the Effective Date, resolved liability to the United States within the meaning of Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), and is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, or as may be otherwise provided by law, for the “matters addressed” in this Settlement Agreement. The “matters addressed” in this Settlement Agreement are Response Costs.

25. The Parties further agree that this Settlement Agreement constitutes an administrative settlement pursuant to which each Settling Party has, as of the Effective Date, resolved liability to the United States within the meaning of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B).

26. Each Settling Party shall, with respect to any suit or claim brought by it for matters related to this Settlement Agreement, notify EPA in writing no later than 60 days prior to the initiation of such suit or claim. Each Settling Party also shall, with respect to any suit or claim brought against it for matters related to this Settlement Agreement, notify EPA in writing within 10 days after service of the complaint or claim upon it. In addition, each Settling Party shall notify EPA within 10 days after service or receipt of any Motion for Summary Judgment and within 10 days after receipt of any order from a court setting a case for trial, for matters related to this Settlement Agreement.

27. In any subsequent administrative or judicial proceeding initiated by EPA, or by the United States on behalf of EPA, for injunctive relief, recovery of response costs, or other relief relating to the Site, Settling Parties shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the Covenants by EPA set forth in Section VII.

28. Effective upon signature of this Settlement Agreement by a Settling Party, such Settling Party agrees that the time period commencing on the date of its signature and ending on the date EPA receives from such Settling Party the payment(s) required by Section V (Payment of Response Costs) and, if any, Section VI (Failure to Comply with Settlement Agreement) shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by the United States related to the “matters addressed” as defined in Paragraph 24, and that, in any action brought by the United States related to the “matters addressed,” such Settling Party will not assert, and may not maintain, any defense or claim based upon principles of statute of limitations, waiver, laches, estoppel, or other defense based on the passage of time during such period. If EPA gives notice to Settling Parties that it will not make this Settlement Agreement effective, the statute of limitations shall begin to run again commencing 90 days after the date such notice is sent by EPA.

XI. NOTICES AND SUBMISSIONS

29. Whenever, under the terms of this Settlement Agreement, notice is required to be given or a document is required to be sent by one Party to another, 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 Parties in writing. Except as otherwise provided, notice by email in accordance with this Section satisfies any notice requirement of this Settlement Agreement regarding such Party.

As to EPA: Amanda Urban
urban.amanda@epa.gov
Associate Regional Counsel
Office of Regional Counsel

Region 5, EPA
77 West Jackson Blvd
Chicago IL 60606

As to Settling Parties: Steve Williamson
9030 East County Road 700 S.
Indianapolis, IN 46231

Joel Williamson
2837 Elite Drive
Indianapolis, IN 46241

David Shelton
DeFur Voran
400 S. Walnut Street, Suite 200
Muncie IN 47305

XII. INTEGRATION/APPENDIX

30. This Settlement Agreement, including the attached Appendix A, which is the map of the Site, constitutes the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Settlement Agreement. The Parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Settlement Agreement.

XIII. PUBLIC COMMENT

31. This Settlement Agreement shall be subject to a public comment period of at least 30 days pursuant to Section 122(i) of CERCLA, 42 U.S.C. § 9622(i). In accordance with Section 122(i)(3) of CERCLA, EPA may withhold its consent or seek to modify this Settlement Agreement if comments received disclose facts or considerations that indicate that this Settlement Agreement is inappropriate, improper, or inadequate.

XIV. ATTORNEY GENERAL APPROVAL

32. The Attorney General or his or her designee has approved the settlement embodied in this Settlement Agreement in accordance with Section 122(h)(1) of CERCLA, 42 U.S.C. § 9622(h)(1).

XV. EFFECTIVE DATE

33. The effective date of this Settlement Agreement is the date upon which EPA issues written notice that the public comment period pursuant to Paragraph 31 has closed and the United States has determined not to withhold its consent or seek to modify this Settlement Agreement based on the comments received, if any. This notice will also inform Settling Parties that payment is now due in accordance with Paragraph 10 (Payment by Settling Parties for Response Costs).

IT IS SO AGREED:

U.S. ENVIRONMENTAL PROTECTION AGENCY:

Dated

Douglas Ballotti
Director, Superfund & Emergency Management Division
Environmental Protection Agency, Region 5

Signature Page for Settlement Agreement Regarding Seerley Road Fire Superfund Site

FOR STEVEN WILLIAMSON:

9-11-23

Dated

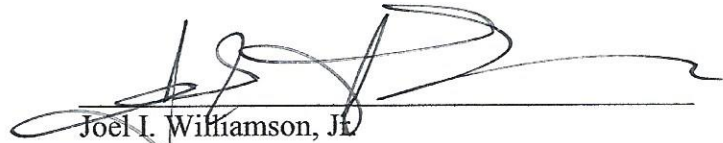
A handwritten signature in blue ink, appearing to read "Steven Williamson", written over a horizontal line.

Steven Williamson
9030 East County Road 700 S.
Indianapolis, IN 46231

Signature Page for Settlement Agreement Regarding Seerley Road Fire Superfund Site

FOR JOEL I. WILLIAMSON, JR.:

9/11/13
Dated



Joel I. Williamson, Jr.
2837 Elite Drive
Indianapolis, IN 46241

APPENDIX A: The Site Property: Parcel 200294

