



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

NOV 19 2010

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Francis X. Lyons, Esq.
BRYAN CAVE LLP
161 North Clark Street
Suite 4300
Chicago, IL 60601-3315

Dear Mr. Lyons:

Enclosed is a file-stamped Agreement for Recovery of Past Response Cost which resolves case docket number CERCLA-05-2011-0001 with the Gilberts/Kedzie Site. As indicated by the filing stamp on its first page, we filed the Agreement for Recovery of Past Response Costs with the Regional Hearing Clerk on NOV 19 2010.

Pursuant to paragraph 16 of the Agreement for Recovery of Past Response Cost, Glen J. Kedzie, GTCS Corp., and Big Timber Landscape Company, must pay the civil penalty within 30 days of the date the Agreement for Recovery for Past Response Cost is filed. Your check must display the case docket number, CERCLA-05-2011-0001 and the billing document number, 2751130B001.

Please direct any questions regarding this case to Steven Kaiser, Associate Regional Counsel, (312) 353-3804.

Sincerely,

Steven P. Kaiser
Associate Regional Counsel

Enclosure

IN THE MATTER OF:

GILBERTS/KEDZIE SITE
Village of Gilberts, County of Kane
State of Illinois

Glenn J. Kedzie, GTCS Corp.
and Big Timber Landscape Company

SETTLING PARTIES

AGREEMENT FOR RECOVERY
OF PAST RESPONSE COSTS

U.S. EPA Region 5

CERCLA Docket No. _____

CERCLA-05-2011-0001

RECEIVED

NOV 19 2010

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

PROCEEDING UNDER SECTION
122(h)(1) OF CERCLA
42 U.S.C. § 9622(h)(1)

I. JURISDICTION

1. This 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, as amended ("CERCLA"), 42 U.S.C. § 9622(h)(1), which authority has been delegated to the Regional Administrators of the EPA by EPA Delegation No. 14-14-D and redelegated to the Superfund Director by Regional Delegation No. 14-14-D.

2. This Agreement is made and entered into by EPA and together with Glenn J. Kedzie, GTCS Corp., and Big Timber Landscape Company, ("Settling Parties"). The Settling Parties consent to and will not contest EPA's authority to enter into this Agreement or to implement or enforce its terms.

II. BACKGROUND

3. This Agreement concerns the Gilberts/Kedzie Site ("Site") located in the Village of Gilberts, Illinois. 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 EPA response action included the removal and off-site disposal of lead-contaminated soils.

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

6. EPA alleges that the Settling Parties are responsible parties pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and are jointly and severally liable for response costs incurred or to be incurred at or in connection with the Site.

7. EPA and the Settling Parties desire to resolve the Settling Parties' alleged civil liability for Past Response Costs associated with the response action. EPA and the Settling Parties recognize that this Agreement has been negotiated in good faith and that this Agreement is entered into without the admission or adjudication of any issue of fact or law.

8. The United States has reviewed the Financial Information submitted by the Settling Parties to determine whether they have an inability or a limited ability to pay response costs incurred and to be incurred at the Site, taking into consideration the ability of the Settling Parties to pay response costs and still maintain his basic business operations, including their overall financial condition and demonstrable constraints on his ability to raise revenues. Based upon the Financial Information provided by the Settling Parties, the United States has determined that the Settling Parties qualify for a reduction in settlement amount and/or an alternative payment method within the meaning of Section 122(g)(7) of CERCLA, 42 U.S.C. § 9622(g)(7), and alone are unable to make the payment specified in Section V (Payment of Response Costs). The Financial Information submitted by Settling Parties is identified in Appendix A, attached hereto.

III. PARTIES BOUND

9. This Agreement shall be binding upon EPA and upon the Settling Parties and their heirs, successors and assigns. Any change in ownership or corporate or other legal status of the Settling Parties, including but not limited to, any transfer of assets or real or personal property, shall in no way alter the Settling Parties' responsibilities under this Agreement. Each signatory to this Agreement certifies that he or she is authorized to enter into the terms and conditions of this Agreement and to bind legally the party represented by him or her.

IV. DEFINITIONS

10. Unless otherwise expressly provided herein, terms used in this 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 Agreement or in any appendix attached hereto, the following definitions shall apply:

a. "Agreement" shall mean this Agreement. In the event of conflict between this Agreement and any appendix, the Agreement shall control.

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 Agreement, 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. "EPA" shall mean the United States Environmental Protection Agency and any successor departments, agencies or instrumentalities of the United States.

e. "Interest" shall mean 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 shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

f. "Paragraph" shall mean a portion of this Agreement identified by an Arabic numeral or a lower case letter.

g. "Parties" shall mean EPA and the Settling Parties.

h. "Past Response Costs" shall mean 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 incurred at or in connection with the Site for the response action at the Site outlined in paragraph 4 above, or for enforcement activities or any other activities related to the response action at the Site through the execution of this Agreement, plus accrued Interest on all such costs through such date.

i. "Section" shall mean a portion of this Agreement identified by a Roman numeral.

j. "Settling Parties" shall mean Glenn J. Kedzie, GTCS Corp., and Big Timber Landscape Company.

k. "Site" shall mean the Gilberts, Kedzie site, encompassing, located in the Village of Gilberts, County of Kane, State of Illinois, and described more fully in Attachment B.

l. "United States" shall mean the United States of America, including its departments, agencies and instrumentalities.

V. PAYMENT OF RESPONSE COSTS

11. Within 15 business days after the Settling Parties receive notice from EPA that this Agreement has been signed by EPA and approved by the Attorney General or his/her designee, the Settling Parties shall deposit \$3,000.00 in the escrow account maintained by attorney Ronald O. Roeser (the "Escrow Account").

a. If the Agreement is not made effective after public comment, the monies placed in escrow, together with accrued interest thereon, shall be returned to the Settling Parties.

b. If the Agreement is made effective after public comment, the Settling Parties shall, within 15 days after receiving notice that the Agreement is effective, order the Escrow agent to pay the monies in the Escrow Account to be paid to EPA in accordance with Paragraphs 12 and 13 below.

c. If the Agreement is made effective after public comment and GTCS Corp., its successor or assignees conveys title to the property on which the Site is located on or before December 1, 2029, then GTCS Corp. shall pay additional response costs according to the schedule set forth below:

i. \$10,000 if the consideration for the transfer of title is equal to or less than \$200,000;

ii. \$15,000 if the consideration for the transfer of title is greater than \$200,000 but less than \$220,000;

iii. \$20,000 if the consideration for the transfer of title is equal to or greater than \$220,000 but less than \$240,000;

iv. \$30,000 if the consideration for the transfer of title is equal to or greater than \$240,000 but less than \$260,000; and,

v. \$30,000 plus .5 of the proceeds in excess of \$260,000 if the proceeds are in an amount equal to or greater than \$260,000.

d. If the Agreement is made effective after public comment, the Settling Parties shall not object to EPA recording against the title to the Site the Notice of Lien and Notice of Settlement in the form appended hereto as Attachment C. As further consideration for this settlement, the Settling Parties waive any further notice requirements and all objections to the recording of the Notice of Lien and Notice of Settlement.

12. Payment shall be made to EPA by Electronic Funds Transfer ("EFT") in accordance with current EFT procedures which EPA Region 5 agrees to provide to the Settling Parties at the time it gives notice that the Agreement has been made effective, and shall be accompanied by a statement identifying the name and address of the party making payment, the Site name, the EPA Region and Site/Spill ID Number B58R, and the EPA docket number for this action.

13. At the time of payment, the Settling Parties shall also send notice that payment has been made to EPA in accordance with Section XII (Notices and Submissions). Such notice shall reference the EPA Region and Site/Spill ID Number B58R and the EPA docket number for this action.

14. The total amount to be paid pursuant to Paragraph 11 shall be deposited in the EPA Hazardous Substance Superfund.

VI. FAILURE TO COMPLY WITH AGREEMENT

15. **Interest on Late Payments.** If the Settling Parties fail to make any payment required by Paragraph 11 by the required due date, Interest shall continue to accrue on the unpaid balance through the date of payment.

16. **Stipulated Penalty.**

a. If any amounts due to EPA under Paragraph 11 are not paid by the required date because the Settling Parties have failed to comply with paragraph 11 of this Agreement, and The Settling Parties have not caused the sum of \$3,000.00, with interest, to be paid to EPA in accordance with paragraphs 12 and 13 within five days of receiving notice that payment was not received, then the Settling Parties shall be in violation of this Agreement and shall pay to EPA, as a stipulated penalty, in addition to the Interest required by Paragraph 15, Five Hundred (\$500.00) Dollars per violation per day that such payment is late.

b. Stipulated penalties are due and payable within 30 days of the date of demand for payment of the penalties by EPA. All payments to EPA under this Paragraph shall be identified as "stipulated penalties" and shall be made payable to "EPA Hazardous Substance Superfund." The check, or a letter accompanying the check, shall reference the name and address of the party making payment, the Site name, the EPA Region and Site Spill ID Number, and the EPA Docket Number for this action. The Settling Parties shall send the check (and any accompanying letter) to:

United States Environmental Protection Agency
Superfund Payments
Cincinnati Finance Center
P.O. Box 979076
Saint Louis, MO 63197-9000

c. At the time of each payment, Settling Parties shall also send notice that payment has been made to EPA in accordance with Section XII (Notices and Submissions). Such notice shall identify the EPA Region and Site Spill ID Number B58R and the EPA Docket Number for this action.

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.

17. 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 Agreement, any Settling Party who fails or refuses to comply with the requirements of this 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 Agreement, Settling Parties shall be jointly and severally liable for reimbursing the United States for all costs of such action, including but not limited to costs of attorney time.

18. 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 Agreement. Payment of stipulated penalties shall not excuse the Settling Parties from payment as required by Section V or from performance of any other requirements of this Agreement.

VII. COVENANT NOT TO SUE BY EPA

19. Covenant Not to Sue 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 Past Response Costs. This covenant shall take effect upon receipt by EPA of all amounts required by Section V (Payment of Response Costs) and any amounts due under Section VI (Failure to Comply with Agreement). This covenant not to sue is conditioned upon the satisfactory performance by Settling Parties of their obligations under this Agreement. With respect to Settling Parties individually, this covenant not to sue is also conditioned upon the veracity and completeness of the Financial Information provided to EPA by each Settling Party. If the Financial Information submitted by any Settling Party is subsequently determined by EPA to be false or, in any material respect, inaccurate, as to that Settling Party, this covenant not to sue and the contribution protection in Section X of this Agreement shall be null and void. Such action to revoke the covenant not to sue shall not in any way foreclose the United States' right to pursue any other causes of action arising from Settling Party's false or materially inaccurate information. This covenant not to sue extends only to Settling Parties and does not extend to any other person.

VIII. RESERVATIONS OF RIGHTS BY EPA

20. EPA reserves, and this Agreement is without prejudice to, all rights against Settling Parties with respect to all matters not expressly included within the Covenant Not to Sue by EPA in Paragraph 19. Notwithstanding any other provision of this Agreement, EPA reserves all rights against Setting Parties with respect to:

- a. liability for failure of Settling Parties to meet a requirement of this Agreement;
- b. liability for costs incurred or to be incurred by the United States that are not within the definition of Past Response Costs;
- c. liability for injunctive relief or administrative order enforcement under Section 106 of CERCLA, 42 U.S.C. § 9606;

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.

21. Nothing in this 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, which the United States may have against any person, firm, corporation or other entity not a signatory to this Agreement.

22. Notwithstanding any other provision of this Agreement, the United States reserves, and this Agreement is without prejudice to, the right to reinstitute or reopen proceedings against any individual Settling Party in this action or in a new action, or to commence a new action seeking relief other than as provided in this Agreement, if the Financial Information provided by any such Settling Party, or the financial certification made by any such Settling Party in Section XII is false or, in an material respect, inaccurate.

IX. COVENANT NOT TO SUE BY SETTLING PARTIES

23. 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 Past Response Costs or this 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 Past Response Costs were incurred, including any claim under the United States Constitution, the Constitution of the State of Illinois, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; and

c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to Past Response Costs.

24. Nothing in this Agreement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. 300.700(d).

25. Settling Parties agree not to assert any claims and to waive all claims or causes of action that they may have for all matters relating to the Site, including for contribution, against any person where the person's liability to Settling Parties with respect to the Site is based solely on having arranged for disposal or treatment, or for transport for disposal or treatment, of hazardous substances at the Site, or having accepted for transport for disposal or treatment of hazardous

substances at the Site, if all or part of the disposal, treatment, or transport occurred before April 1, 2001, and the total amount of material containing hazardous substances contributed by such person to the Site was less than 110 gallons of liquid materials or 200 pounds of solid materials.

26. The waiver in Paragraph 25 shall not apply with respect to any defense, claim, or cause of action that a Settling Party may have against any person meeting the above criteria if such person asserts a claim or cause of action relating to the Site against such Settling Party. This waiver also shall not apply to any claim or cause of action against any person meeting the above criteria if EPA determines:

a. that such person has failed to comply with any EPA requests for information or administrative subpoenas issued pursuant to Section 104(e) or 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) or 9622(e), or Section 3007 of the Solid Waste Disposal Act (also known as the Resource Conservation and Recovery Act or "RCRA"), 42 U.S.C. § 6972, or has impeded or is impeding, through action or inaction, the performance of a response action or natural resource restoration with respect to the Site, or has been convicted of a criminal violation for the conduct to which this waiver would apply and that conviction has not been vitiated on appeal or otherwise; or

b. that the materials containing hazardous substances contributed to the Site by such person have contributed significantly, or could contribute significantly, either individually or in the aggregate, to the cost of response action or natural resource restoration at the Site.

X. EFFECT OF SETTLEMENT/CONTRIBUTION PROTECTION

27. Nothing in this Agreement shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Agreement. The Parties expressly reserve any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action that they may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto.

28. EPA and Settling Parties agree that the actions undertaken by Settling Parties in accordance with this 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 Agreement, the validity of the facts or allegations contained in Section II of this Agreement.

29. The Parties agree that this Settlement Agreement constitutes an administrative settlement for purposes of Sections 113(f)(2) and 122(H)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), and that Settling Parties are entitled, as of the effective date of this Agreement, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4) or as otherwise provided by law, for "matters addressed" in this Agreement. The "matters addressed" in this Agreement are Past Response Costs.

30. Each Settling Party agrees that with respect to any suit or claim for contribution brought by it for matters related to this Agreement, it will notify EPA in writing no later than 60 days prior to the initiation of such suit or claim. Each Settling Party also agrees that, with respect to any suit or claim for contribution brought against it for matters related to this Agreement, it will notify EPA in writing within 30 days of service of the complaint or claim upon it. In addition, each Settling Party shall notify EPA within 30 days of service or receipt of any Motion for Summary Judgment and within 30 days of receipt of any order from a court setting a case for trial, for matters related to this Agreement.

31. 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 covenant not to sue by EPA set forth in Section VII.

XI. RETENTION OF RECORDS

32. Until 7 years after the effective date of this Agreement, each Settling Party shall preserve and retain all records, reports, or information (hereinafter referred to as "records") now in its possession or control, or which come into its possession or control, that relate in any manner to response actions taken at the Site or to the liability of any person under CERCLA with respect to the Site, regardless of any corporate retention policy to the contrary.

33. After the conclusion of the 7-year document retention period in the preceding paragraph, Settling Parties shall notify EPA at least 90 days prior to the destruction of any such records and, upon request by EPA, Settling Parties shall deliver any such records to EPA. Settling Parties may assert that certain records are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Settling Parties assert such a privilege, they shall provide EPA with the following: 1) the title of the record; 2) the date of the record; 3) the name, title, affiliation (*e.g.*, company or firm), and address of the author of the record; 4) the name and title of each addressee and recipient; 5) a description of the subject of the record; and 6) the privilege asserted. If a claim of privilege applies only to a portion of a record, the record shall be provided to EPA in redacted form to mask the privileged information only. Settling Parties shall retain all records that they claim to be privileged until EPA has had a reasonable opportunity to dispute the privilege claim and any such dispute has been resolved in Settling Parties' favor. However, no records created or generated pursuant to the requirements of this or any other settlement with the EPA pertaining to the Site shall be withheld on the grounds that they are privileged.

XII. CERTIFICATIONS

34. Each Settling Party hereby certifies individually that, to the best of its knowledge and

belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, reports, or information relating to its potential liability regarding the Site since notification of potential liability by the United States regarding the Site and that it has fully complied with any and all EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

35. Each Settling Party further certifies individually that it has submitted Financial Information that fairly, accurately, and materially sets forth its financial circumstances, and that those circumstances have not materially changed between the time the Financial Information was submitted to EPA and the time Settling Party executes this Agreement.

XII. NOTICES AND SUBMISSIONS

36. Whenever, under the terms of this 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. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of this Agreement with respect to EPA and the Settling Parties.

As to EPA:

Steven P. Kaiser
Associate Regional Counsel
U.S. EPA (C-14J)
77 W. Jackson Boulevard
Chicago, Illinois 60604

contact in the Regional Comptroller's Office

Cyprian Ejasa, Financial Specialist
Program Accounting and Analysis Section
U.S. EPA (MF-10J)
77 W. Jackson Boulevard
Chicago, Illinois 60604

As to Settling Parties:

Francis X. Lyons, Esq.
BRYAN CAVE LLP
Suite 4300
161 North Clark Street
Chicago, Illinois 60601-3315

Ronald O. Roeser, Esq.
ROESER & VUCHA
920 Davis Road
Suite 100
Elgin, Illinois 60123-1344

XIII. INTEGRATION

37. This Agreement constitutes the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Agreement. The Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Agreement.

XIV. PUBLIC COMMENT

38. This Agreement shall be subject to a public comment period of not less than 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 modify or withdraw its consent to this Agreement if comments received disclose facts or considerations which indicate that this Agreement is inappropriate, improper or inadequate.

XV. ATTORNEY GENERAL APPROVAL

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

XVI. EFFECTIVE DATE

40. The effective date of this Agreement shall be the date upon which EPA issues written notice that the public comment period has closed and that comments received, if any, do not require modification of or EPA withdrawal from this Agreement.

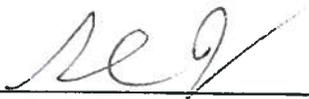
IT IS SO AGREED:

U.S. Environmental Protection Agency

By: Richard C. Karl
Richard Karl, Director
Superfund Division
U.S. EPA, Region 5

10-8-10
Date

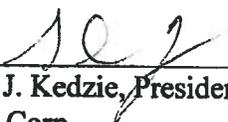
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REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

By: 
Glenn J. Kedzie, Individually

1/25/10
Date

By: 
Glenn J. Kedzie, President
Big Timber Landscape Company, Inc.

1/25/10
Date

By: 
Glenn J. Kedzie, President
GTCS Corp.

1/25/10
Date

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U.S. ENVIRONMENTAL
PROTECTION AGENCY

Agreement for Recovery of Past Response Costs: Gilberts/Kedzie Site, Gilberts, Illinois

Attachment A
Documents Relied Upon To Determine Ability to Pay

Glenn J. Kedzie

Federal Income Tax Returns
2004, 2005, 2006 and 2007

DOJ Financial Statement of Debtor
(September 12, 2007)

Big Timber Landscape Company, Inc.

Federal Income Tax Returns
2005, 2006 and 2007

Profit & Loss Statement
January through August 2009
(September 15, 2009)

Attachment B
Legal Description of the Site

That part of the northwest quarter of Section 23, Township 42 North, Range 7 east of the third Principal Meridian, described as follows: beginning at the northeast corner of said northeast quarter; thence west 19.2 chains to the easterly line of the right of way of the Chicago and Northwestern Railway Company; thence south $25 \frac{5}{8}$ degrees east along the easterly line of said right of way 20.56 chains to the north line of the plat of Rutlandville; thence north $64 \frac{3}{8}$ degrees east along the north line of said plat 11.1 chains to the east line of said northeast quarter; thence north along the section line 13.73 chains to the point of beginning, (excepting one square acre off the northeast corner thereof also (excepting that part of the east half of the northeast quarter of Section 23, Township 42 North, Range 7 east of the Third Principal Meridian, described as follows: commencing at the intersection of the north line of the east half of said Road, a distance of 358.76 feet for the place of beginning; thence continuing southerly along said center line, a distance of 237.95 feet; thence southwesterly along a line that forms an angle of 65 degrees 38 minutes to the right with prolongation of the last described course, a distance of 460.38 feet; thence northerly parallel with the center line of Galligan Road, a distance of 131.25 feet; thence northeasterly along a line that forms an angle of 54 degrees 48 minutes to the right with the prolongation of the last described course, a distance of 513.22 feet to the place of beginning.), and also excepting that part of the northeast quarter of Section 23, Township 42 North, Range 7 east of the Third Principal Meridian, described as follows: beginning at the northwesterly corner of Block 10 of Rutlandville, according to the plat there of recorded in Plat Book 1, page 18; thence south 60 degrees 21 minutes 03 seconds west thence north 30 degrees 00 minutes 00 seconds west along the northwesterly extension of said center line, 80.00 feet; thence north 60 degrees 21 minutes 03 seconds east, 123.00 feet; thence north 8 degrees 02 minutes 34 seconds east, 197.90 feet; thence north 60 degrees 21 minutes 03 seconds east, 100.00 feet to the northwesterly extension of the easterly line of said Block 10; thence south 30 degrees 00 minutes 00 seconds east, 264.00 feet to the northeasterly corner of said Block 10; thence south 60 degrees 00 minutes 00 seconds east, 264.00 feet to the northeasterly corner of said Block 10; thence south 60 degrees 00 minutes 00 seconds east, 264.00 feet to the northeasterly corner of said Block 10; thence south 60 degrees 21 minutes 03 seconds west along the northerly line of said Block 10 to the point of beginning in the Village of Gilberts, Rutland Township, Kane County, Illinois.

Attachment C
Notice of Lien/Notice of Claim

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY - REGION 5**

Notice of Lien and Notice of Claim Under the Comprehensive
Environmental Response, Compensation and Liability
Act of 1980, As Amended.

In the Matter of:

Gilberts/Kedzie Superfund Site
Village of Gilberts, County of Kane,
State of Illinois

Pursuant to an Agreement For Recovery Of Past Response Costs under Section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. Section 9601 *et seq.*, as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), the owner, Glenn Kedzie, has agreed to pay to the United States Treasury at the time of the sale or conveyance of the real property described below, certain sums according to the following schedule: \$10,000 if the consideration for the transfer of title is equal to or less than \$200,000; \$15,000 if the consideration for the transfer of title is greater than \$200,000 but less than \$220,000; \$20,000 if the consideration for the transfer of title is equal to or greater than \$220,000 but less than \$240,000; \$30,000 if the consideration for the transfer of title is equal to or greater than \$240,000 but less than \$260,000; and, \$30,000 plus .5 of the proceeds in excess of \$260,00 if the proceeds are in an amount equal to or greater than \$260,000.

As provided by Section 107(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. Section 9601 *et seq.*, as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), notice is hereby given that the sums set forth above for which the owner, Glenn Kedzie, is liable under Section 107(a) of CERCLA, constitute a lien in favor of the United States upon all real property and rights to such property which belongs to Glenn Kedzie and is subject to or affected by the response actions at the Gilberts/Kedzie Superfund Site, located in the Village of Gilberts, County of Kane, State of Illinois. The property includes, but is not limited to, the real estate described in the following legal description and all associated buildings and fixtures:

LEGAL DESCRIPTION

That part of the northwest quarter of Section 23, Township 42 North, Range 7 east of the third Principal Meridian, described as follows: beginning at the northeast corner of said northeast quarter; thence west 19.2 chains to the easterly line of the right of way of the Chicago and Northwestern Railway Company; thence south 25 5/8 degrees east along the easterly line of said right of way 20.56 chains to the north line of the plat of Rutlandville; thence north 64 3/8 degrees east along the north line of said plat 11.1 chains to the east line of said northeast quarter; thence north along the section line 13.73 chains to the point of beginning, (excepting one square acre off the northeast corner thereof also (excepting

that part of the east half of the northeast quarter of Section 23, Township 42 North, Range 7 east of the Third Principal Meridian, described as follows: commencing at the intersection of the north line of the east half of said Road, a distance of 358.76 feet for the place of beginning; thence continuing southerly along said center line, a distance of 237.95 feet; thence southwesterly along a line that forms an angle of 65 degrees 38 minutes to the right with prolongation of the last described course, a distance of 460.38 feet; thence northerly parallel with the center line of Galligan Road, a distance of 131.25 feet; thence northeasterly along a line that forms an angle of 54 degrees 48 minutes to the right with the prolongation of the last described course, a distance of 513.22 feet to the place of beginning.), and also excepting that part of the northeast quarter of Section 23, Township 42 North, Range 7 east of the Third Principal Meridian, described as follows: beginning at the northwesterly corner of Block 10 of Rutlandville, according to the plat there of recorded in Plat Book 1, page 18; thence south 60 degrees 21 minutes 03 seconds west thence north 30 degrees 00 minutes 00 seconds west along the northwesterly extension of said center line, 80.00 feet; thence north 60 degrees 21 minutes 03 seconds east, 123.00 feet; thence north 8 degrees 02 minutes 34 seconds east, 197.90 feet; thence north 60 degrees 21 minutes 03 seconds east, 100.00 feet to the northwesterly extension of the easterly line of said Block 10; thence south 30 degrees 00 minutes 00 seconds east, 264.00 feet to the northeasterly corner of said Block 10; thence south 60 degrees 00 minutes 00 seconds east, 264.00 feet to the northeasterly corner of said Block 10; thence south 60 degrees 00 minutes 00 seconds east, 264.00 feet to the northeasterly corner of said Block 10; thence south 60 degrees 21 minutes 03 seconds west along the northerly line of said Block 10 to the point of beginning in the Village of Gilberts, Rutland Township, Kane County, Illinois.

This lien shall continue until the liability for the costs is satisfied, or becomes unenforceable through the operation of the Statute of Limitations as provided by Section 113 of CERCLA, 42 U.S.C. Section 9613.

IN WITNESS WHEREOF, the United States has caused this instrument to be executed through the United States Environmental Protection Agency, through the Director of the Superfund Division of the United States Environmental Protection Agency, Region 5.

Dated at Chicago, Illinois, this 8 day of NOVEMBER 2010.



Richard Karl, Director
Superfund Division
U.S. EPA, Region 5
Chicago, Illinois 60604

**GILBERTS/KEDZIE SUPERFUND SITE
VILLAGE OF GILBERTS
COUNTY OF KANE
STATE OF ILLINOIS**

United States of America)
State of Illinois)
County of Cook)

On this 8TH day of NOVEMBER, 2010, there appeared personally before me, the undersigned Notary, RICHARD KARL, known to me to be the Director of the Superfund Division of the United States Environmental Protection Agency, Region 5, and acknowledge that he signed the foregoing NOTICE OF FEDERAL LIEN in a representative capacity as a free and voluntary act and deed of the United States and its said Agency for the uses and purposes therein mentioned. Given under my hand and official seal and year first stated above.



John V Fagiolo
NOTARY PUBLIC in and for the
State of Illinois

My Commission Expires: 3/13/14

This instrument was prepared by Steven P. Kaiser, Associate Regional Counsel, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312-353-3804).

AGREEMENT FOR RECOVERY OF PAST RESPONSE COSTS
Glenn J. Kedzie, GTCS Corp., and Big Timber Landscape Company
Docket Number CERCLA-05-2011-0001

CERTIFICATE OF SERVICE

I certify that I filed the original and one copy of the Agreement for Recovery of Past Response Costs in this matter with the Regional Hearing Clerk (E-13J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, that I mailed by Certified Mail, Return Receipt Requested, the second copy to Respondent, addressed as follows:

Francis X. Lyons, Esq.
BRYAN CAVE LLP
161 North Clark Street
Suite 4300
Chicago, IL 60601-3315

RECEIVED
NOV 19 2010
REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

On the 19 day of November, 2010


Elizabeth Rosado
Administrative Assistant
EPA – Region 5

CERTIFIED MIAL RECEIPT NUMBER: 7001 0320 0006 1563 8543