

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
901 NORTH 5<sup>TH</sup> STREET  
KANSAS CITY, KANSAS 66101

2012 MAR -7 PM 3:39

IN THE MATTER OF:

EATON CORPORATION  
4200 HIGHWAY 30 EAST  
KEARNEY, NE 68847-9703

EPA ID NO. NED065133167

RESPONDENT.

Proceeding under Section 7003 of the  
Resource Conservation and Recovery Act,  
as amended, 42 U.S.C. § 6973.

EPA Docket No.  
RCRA-07-2011-0024

**ADMINISTRATIVE ORDER ON CONSENT**

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ATTACHMENT 1 - STATEMENT OF WORK

ATTACHMENT 2 - MAP DEPICTING GENERAL LOCATION OF SITE

ATTACHMENT 3 - MAP DEPICTING LOCATION OF TCE PLUME

## **I. INTRODUCTION**

1. This Administrative Order on Consent (AOC) is entered into voluntarily by the United States Environmental Protection Agency (EPA) and Eaton Corporation (Respondent). This AOC provides for the performance of Work (as defined in Section IV (Definitions) below) by Respondent to, among other things, respond to the release of hazardous wastes and/or solid wastes at and/or from Respondent's facility located at 4200 Highway 30 East, Kearney, Nebraska (the "Site"). By entering into this AOC, the mutual objectives of EPA and Respondent are to respond to and/or prevent any potential endangerment to human health and/or the environment from the release, or the threat of a release, of hazardous wastes and/or solid wastes at or from the Site, and to perform Work ordered by EPA pursuant to this AOC that is designed and implemented to protect human health and/or the environment. The Work required to be performed by Respondent is further described in the Statement of Work (SOW) attached hereto as Attachment 1, which is hereby incorporated into this AOC. Respondent shall finance and perform the Work in accordance with this AOC, the SOW, and all plans, standards, specifications, and schedules set forth in this AOC or developed by Respondent and approved by EPA pursuant to this AOC.

2. EPA has determined that Respondent has contributed or is contributing to the past or present handling, storage, treatment, transportation or disposal of hazardous wastes that may present an imminent and substantial endangerment to health or the environment.

3. EPA has notified the State of Nebraska of this action pursuant to Section 7003(a) of RCRA, 42 U.S.C. § 6973(a).

4. Respondent's participation in this AOC shall not constitute or be construed as an admission of liability. Respondent neither admits nor denies the factual allegations and legal conclusions set forth in this AOC. Nothing in this AOC is intended to create, and shall not create, or grant to any party not a party to this AOC, any rights whatsoever, whether as a third party beneficiary or otherwise. This AOC shall not be used for any purposes other than as provided herein.

5. EPA and Respondent acknowledge that this AOC has been negotiated by the parties in good faith and that this AOC is fair, reasonable, and in the public interest.

## **II. JURISDICTION**

6. This AOC is issued under the authority vested in EPA's Administrator by Section 7003 of RCRA, 42 U.S.C. § 6973, which authority has been delegated to EPA's Regional Administrators by Delegations 8-22-A and 8-22-C. This authority has been further delegated to the Director of EPA Region 7's Air and Waste Management Division by Regional Delegations R7-8-0022A and R7-8-0022C.

7. Respondent agrees to undertake and complete the Work pursuant to the terms of this AOC and the Statement of Work. In any action by EPA or the United States to enforce this AOC, Respondent consents to and agrees not to contest EPA's authority or jurisdiction to issue

or enforce this AOC, and agrees not to contest the validity of this AOC. Respondent retains its right to assert claims against any third parties with respect to this Site.

### **III. PARTIES BOUND**

8. This AOC shall apply to and be binding upon EPA, and on Respondent and Respondent's officers, directors, employees, agents, successors, assigns, trustees, receivers, and upon all persons, including but not limited to contractors and consultants, acting on behalf of Respondent, as well as upon subsequent purchasers of the Site. Any change in the ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this AOC.

9. Respondent shall provide a copy of this AOC to any subsequent owners or successors before a controlling interest in ownership rights, stock, assets or the Site is transferred. Respondent shall be responsible for and liable for completing all of the Work required by this AOC, regardless of whether there has been a transfer of ownership or control of the Site or whether said activities are to be performed by employees, agents, contractors, subcontractors, laboratories, or consultants of Respondent. Respondent shall provide a copy of this AOC within seven (7) days of its Effective Date, or the date that such services are retained, to all contractors, subcontractors, laboratories, and consultants that are retained to conduct or monitor any portion of the Work performed pursuant to this AOC. Respondent shall condition all contracts or agreements with contractors, subcontractors, laboratories and/or consultants in connection with this AOC, on compliance with this AOC. Respondent shall ensure that its contractors, subcontractors, laboratories, and consultants comply with this AOC.

10. Not later than sixty (60) days prior to any voluntary transfer by Respondent of any interest in the Site, Respondent shall notify EPA of the proposed transfer. Respondent shall notify EPA of any involuntary transfers immediately upon Respondent's initial receipt of notice of any involuntary transfer. Not later than three (3) days after any transfer, Respondent shall submit copies of the transfer documents to EPA.

### **IV. DEFINITIONS**

11. Unless otherwise expressly provided herein, terms used in this AOC that are defined in RCRA shall have the meaning assigned to them in RCRA. Whenever the terms listed below are used in this AOC the following definitions apply:

"AOC" shall mean this Administrative Order on Consent and its attachments, any amendments hereto, and any documents incorporated by reference into this AOC.

"CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 - 9675.

"Data Quality Objectives" shall mean those qualitative and quantitative statements derived from the outputs of a scientific and legally defensible data collection planning process.

“Day” shall mean a calendar day unless expressly stated to be a business day. The term “business day” shall mean a day other than a Saturday, Sunday, or federal or state holiday. In computing any period of time under this AOC, 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.

“Effective Date” shall be the date on which EPA signs this AOC as provided for in Section XXX (Effective Date).

“RCRA” shall mean the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (and as further amended), 42 U.S.C. §§ 6901 - 6992k.

“Site” shall mean the real property where Respondent’s manufacturing facility is located at 4200 Highway 30 East in Kearney, Buffalo County, Nebraska.

“SOW” shall mean the Statement of Work that is attached to this AOC as Attachment 1.

“Work” shall mean all the activities and requirements specified in this AOC including, but not limited to, those requirements set forth in the SOW and in Section IX (Work to Be Performed) of this AOC, but excluding those required by Section XVI (Record Retention).

## **V. FINDINGS OF FACT**

12. Respondent is a corporation organized under the laws of the state of Ohio and is authorized to do business in the state of Nebraska.
13. Since 1969 Respondent has owned the Site and has operated a manufacturing facility - the Eaton Corporation Vehicle Group Plant - at the Site, where it manufactures automotive and heavy-duty engine valves and gears.
14. The Site encompasses more than 57 acres in Buffalo County, Nebraska, and is located within the city limits of Kearney, Nebraska. A map generally depicting the location of the Site is attached as Attachment 2.
15. Although the Site is located in an industrial area of Kearney, Nebraska, there are residences located approximately 2.5 miles northeast of the Site, in the direction of ground water flow, and the predominant land use immediately to the northeast of the Site is agricultural.
16. Respondent used trichloroethylene (TCE) as a degreasing agent in manufacturing processes conducted at the Site.
17. TCE contamination was first detected in the ground water at the Site in 1986 and an on-Site remedial pump and treat system was installed by Respondent that same year to contain and remove the contamination. The apparent source of the TCE contamination was a leak from recirculation lines from former underground TCE storage tanks which were located at the Site.

18. In 1989, Respondent and the Nebraska Department of Environmental Control, now known as the Nebraska Department of Environmental Quality (NDEQ), entered into a Stipulation and Agreement pursuant to which Respondent agreed to conduct a Detailed Site Assessment in an effort to:

- a. define the areal and vertical extent of the ground water contamination;
- b. determine the rate and direction of the movement of the ground water contamination;
- c. identify the sources of contaminants in the soils and ground water; and
- d. evaluate the effectiveness of the response action previously taken by Respondent at the Site.

19. In April 1993, EPA and Respondent entered into, and EPA issued to Respondent, an Administrative Order on Consent for Removal Activities (EPA Docket No. VII-93-F-0020) (the "1993 AOC"), pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a). The 1993 AOC required, among other things, that Respondent:

- a. define the nature and extent of TCE in the ground water in the vicinity of monitoring well S-7, which is located east of Respondent's manufacturing facility;
- b. conduct certain hydrogeological characterization in the vicinity of monitoring well S-7;
- c. contain the TCE in the ground water in the vicinity of monitoring well S-7 to prevent further migration of TCE in the ground water; and
- d. remove, treat, and/or dispose of the TCE in the ground water in the vicinity of monitoring well S-7.

20. Pursuant to the 1993 AOC, in 1996 Respondent installed a two-well ground water extraction system in the downgradient portion of the TCE plume for the purpose of preventing further downgradient migration of TCE from the Site.

21. To maintain adequate containment of the TCE plume, in 1999 Respondent relocated the extraction system approximately 4,000 feet farther downgradient where two new extraction wells were installed and connected to an air-stripping tower whose effluent is normally discharged to the Wood River.

22. In response to a southeastward shift in the movement of the TCE plume, the extraction system was further modified by Respondent in 2003 with the installation of two additional ground water extraction wells approximately 1,500 feet southeast of the 1999 location of the extraction system installed in 1996.

23. Respondent currently operates two ground water extraction systems in an effort to contain the TCE plume; an on-Site system intended to clean up and contain dissolved contamination within the source area, and an off-Site system, consisting of the four wells described in preceding paragraphs 21 and 22, located approximately 3.5 miles downgradient of

the Site. EPA selected that interim remedy as the final remedy for the Site as further set forth in the Final Decision and Response to Comments issued by EPA for the Site on September 23, 2011.

24. The leading edge of the TCE plume that emanated from the on-Site source currently extends approximately 4.5 miles downgradient of the on-Site source area and some amount of residual contamination extends beyond the reach of the off-Site extraction system.

25. Information obtained by Respondent and available to EPA at this time indicates that the geology at the Site is characterized by unconsolidated alluvial deposits of Pleistocene age overlying sedimentary rocks of Tertiary age (Ogallala Formation) and/or Cretaceous age (Pierre Shale). The unconsolidated deposits are comprised of a surface layer of alluvial sediments and possibly glacial drift. Four geological layers occur at the Site, which are described as:

- a. Layer 1 - A Surficial Soil Layer: This material is characterized as a silty clay or silty sand with a thickness of 0 to 5 feet.
- b. Layer 2 - Alluvial Sediments Layer: This layer underlies the surficial soil layer at the Site. It is characterized as a sand and gravel unit with a thickness varying from 50 to 54 feet. The static saturated thickness of this layer is approximately 25 to 30 feet.
- c. Layer 3 - Unconsolidated/Semiconsolidated Alluvial Sediments Layer: This layer underlies Layer 2. The upper 20 to 45 feet contains interbedded silts and sandy clays that grade into the underlying silty sand, sand, sandstone, and gravel. The finer-grained upper portion may not be laterally extensive, but when present, may create confined to semi-confined conditions for the Ogallala Formation which is present at the base of Layer 3. Total thickness of this layer varies from 72 to 145 feet.
- d. Layer 4 - Bedrock: Bedrock at the Site is likely the Pierre Shale which consists of shale interbedded with some siltstone. The thickness of this layer is unknown.

26. Ground water beneath the Site and in the surrounding area is reported to be under unconfined conditions. The ground water in the surrounding area is used for both residential potable and agricultural irrigation purposes.

27. Numerous irrigation and residential wells are located downgradient of the on-Site source area. Irrigation and residential wells in this area may be completed in either geological Layer 2 or 3. A 1999 assessment of the potential risk of exposure to irrigation water containing TCE (Tin Shed well) showed the risk level to be in the acceptable range. Current TCE levels within the plume are significantly lower than those evaluated at the Tin Shed well.

28. While the TCE plume is currently known to exist in Layer 2, TCE and its degradation products are dense non-aqueous phase liquids which are heavier than water and tend to sink through the ground water. Wells that penetrate both Layers 2 and 3 and having long, uncased intervals, can serve as conduits for the vertical migration of contamination down into previously uncontaminated ground water. No such migration has been established to have occurred so far.

29. In 1986 through 1988, and in 2002, TCE contamination was detected in certain Layer 2 domestic wells downgradient of the Site. Three of these domestic wells were abandoned in 1992 and replaced by Respondent with deeper wells which extend into Layer 3. These wells were fitted with wellhead carbon filtration devices and ultraviolet light units by Respondent as an additional protective measure. Continued maintenance of those devices is no longer necessary as the wells are not impacted above drinking water standards. The residential wells in the area immediately downgradient of the Site are now all installed in Layer 3.

30. In 2002, TCE was detected in an additional residential well screened in Layer 2 and Respondent also abandoned and replaced that well with one screened in Layer 3. Currently, there are no known shallow (Layer 2) residential wells located within the existing plume footprint. The ground water in Layer 2 contains elevated levels of nitrates. Nitrates are known to cause adverse health effects in children. The nitrates are related to the extensive agricultural operations in the area and bear no relation to Respondent's industrial operations.

31. The presence and use of residential wells within Layer 2 and Layer 3 demonstrate that both ground water units are current and potential future sources of potable residential water. The presence and potential for migration of Site-derived TCE within Layer 2 at levels above health-based standards may present an imminent and substantial endangerment to health or the environment through human consumption of contaminated groundwater derived from wells installed within the contaminated portion of the aquifer or inhalation of TCE vapors intruding into residences that may overlie the plume. Currently there are no known residences located within the plume footprint.

32. Chronic (long-term) exposure to TCE may adversely affect the human neurological system, liver, and kidneys. Chronic exposure to TCE has also been associated with impaired human immune system function and reproductive and developmental toxicity. TCE is classified as a probable human carcinogen (2A) by the International Agency for Research on Cancer (IARC). Human and animal studies support that TCE is a potential kidney carcinogen and may increase liver cancer risks and non-Hodgkin's lymphoma (National Research Council (NRC), 2006; IARC 1995). TCE is currently being re-assessed under EPA's Integrated Risk Information System (IRIS) program. (See also *IARC Monographs on the Evaluation of Carcinogenic Risks to Humans*, Vol. 63, "Dry-Cleaning, Some Chlorinated Solvents and Other Industrial Chemicals," 1995, pp. 75-221, <http://monographs.iarc.fr/ENG/Monographs/vol63/mono63.pdf>, and *Assessing the Human Health Risks of Trichloroethylene: Key Scientific Issues*, Committee on Human Health Risks of Trichloroethylene, National Research Council, 1996.)

## **VI. CONCLUSIONS OF LAW AND DETERMINATIONS**

33. Based on the Findings of Fact set forth above, and the administrative record supporting this AOC, EPA has determined that:

- a. Respondent is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).
- b. The contaminant of concern, TCE, as it occurs at and downgradient of the Site, is a "solid waste" as defined in Section 1004(27) of RCRA, 42 U.S.C. § 6903(27),

and a "hazardous waste" as defined in Section 1004(5) of RCRA, 42 U.S.C. § 6903(5).

- c. The presence of solid wastes and/or hazardous wastes at and around the Site resulted from the past handling, storage, treatment, transportation, and/or disposal of solid and/or hazardous wastes.
- d. Respondent contributed to the handling, storage, treatment, transportation and/or disposal of solid and/or hazardous wastes at the Site.
- e. Conditions at the Site may present an imminent and substantial endangerment to human health and/or the environment within the meaning of Section 7003(a) of RCRA, 42 U.S.C. § 6973(a), as: (i) TCE is present in the ground water at the Site and has migrated, and may continue to migrate; (ii) there are residential and irrigation wells in use within the aquifer where the TCE plume is located; and (iii) unacceptable human exposures to hazardous wastes from the Site may result.
- f. The actions required by this AOC may be necessary to protect human health and/or the environment.

#### **VII. ORDER ON CONSENT**

34. Based upon the administrative record for the Site and the Findings of Fact (Section V) and Conclusions of Law and Determinations (Section VI) set forth above, and in consideration of the promises set forth herein, the provisions and requirements of this AOC are hereby agreed to and ordered. Respondent shall comply with all provisions of this AOC, including, but not limited to, all attachments to this AOC and all documents incorporated by reference into this AOC.

35. Respondent shall finance and perform the Work in accordance with this AOC, and all plans, standards, specifications, and schedules set forth in this AOC or developed by Respondent and approved by EPA pursuant to this AOC.

#### **VIII. CONTRACTORS AND PROJECT COORDINATORS**

36. Selection of Contractors and Personnel. All Work performed by, or on behalf of, Respondent under this AOC shall be under the direction and supervision of qualified personnel.

37. On or before the Effective Date, and before the Work begins, Respondent shall notify EPA in writing of the names, titles, and qualifications of the personnel, including contractors, subcontractors, consultants, and laboratories, to be used in carrying out the Work.

38. Project Coordinators. Respondent shall notify EPA in writing within ten (10) days of the Effective Date of the name, address, phone number, e-mail address, and qualifications of its Project Coordinator. EPA's Project Coordinator is:

Brad Roberts  
U.S. Environmental Protection Agency, Region 7  
AWMD/WRAP  
901 North 5<sup>th</sup> Street  
Kansas City, Kansas 66101  
(913) 551-7279  
roberts.bradley@epa.gov.

The Project Coordinators shall be responsible for overseeing the implementation of this AOC. EPA and Respondent have the right to change their respective Project Coordinators. Respondent shall notify EPA of any proposed change in Project Coordinator at least ten (10) business days prior to the effective date of such change.

39. EPA will approve/disapprove of Respondent's Project Coordinator (original or replacement) based upon that person's qualifications and ability to effectively perform this role. The qualifications of the persons undertaking the Work for Respondent shall be subject to EPA's review and approval, for verification that such persons meet EPA's minimum technical background and experience requirements. All persons performing Work under the direction and supervision of Respondent's Project Coordinator must possess all necessary professional licenses required by federal and state law.

40. EPA's Project Coordinator shall be EPA's designated representative for this AOC and the Work. Unless otherwise provided in this AOC, all reports, correspondence, notices, or other submittals relating to or required under this AOC shall be in writing and shall be sent to EPA's Project Coordinator at the address specified in paragraph 38, unless notice is given in writing to Respondent of a change in address. In addition to providing submittals to EPA's Project Coordinator, Respondent shall, contemporaneous with providing the submittal to EPA, provide one copy of each submittal made to EPA pursuant to this AOC to:

Ed Southwick  
Supervisor, RCRA/Federal Facilities Unit  
Remediation Section, Waste Mgmt. Div.  
Nebraska Department of Environmental Quality  
1200 N Street, Suite 400, P.O. Box 98922  
Lincoln, Nebraska 68509-8922  
(402) 471-2181  
ed.southwick@nebraska.gov.

Reports, correspondence, notices or other submittals shall be delivered by U.S. Postal Service, private courier service, or email, as specified by EPA's Project Coordinator. All submittals and correspondence shall include a reference to EPA Docket No. RCRA 07-2011-0024.

41. Respondent shall undertake and complete all of the Work to the satisfaction of EPA, pursuant to this AOC and Section 7003 of RCRA, 42 U.S.C. § 6973. All the Work performed pursuant to this AOC shall be under the direction and supervision of Respondent's Project Coordinator and shall be in accordance with the terms of this AOC.

42. The Work undertaken pursuant to this AOC shall be conducted in compliance with all applicable EPA guidances, policies and procedures, and with this AOC and the attached SOW, and is subject to EPA approval.

## **IX. WORK TO BE PERFORMED**

### **Task I - Remedy Operation and Maintenance Plan**

43. Within sixty (60) days after the Effective Date, Respondent shall submit to EPA for review and approval a Remedy Operation and Maintenance Plan (O&M Plan), prepared in accordance with Task I of the SOW.

44. Following Respondent's receipt of EPA's approval of the O&M Plan, and in accordance with the schedule contained therein, Respondent shall implement all activities required by the EPA-approved O&M Plan.

### **Task II - Quality Assurance Project Plan (QAPP), Sampling and Analysis Plan (SAP), and Health and Safety Plan (HSP)**

45. Within sixty (60) days after the Effective Date, Respondent shall submit to EPA for review and approval a QAPP prepared in accordance with Task II of the SOW.

46. Within sixty (60) days after the Effective Date, Respondent shall submit to EPA for review and approval a Sampling and Analysis Plan (SAP) prepared in accordance with Task II of the SOW.

47. Within sixty (60) days after the Effective Date, Respondent shall submit to EPA for review and comment a Health and Safety Plan (HSP) prepared in accordance with Task II of the SOW.

48. Respondent shall conduct the work required by the EPA-approved O&M Plan in accordance with the EPA-approved QAPP and SAP, and the EPA-reviewed HSP.

### **Task III - Remedy Performance 5-Year Review**

49. Beginning five (5) years from the Effective Date, and every five (5) years thereafter until this AOC has been terminated pursuant to Section XXVII (Termination and Satisfaction), Respondent shall submit to EPA for review and approval a Remedy Performance 5-Year Review prepared in accordance with Task III of the SOW. Nothing in this paragraph will limit Respondent's ability to submit data to EPA supporting early termination of operation and maintenance of the off-site extraction system, as described in Task I of the SOW.

50. As provided in this AOC and the SOW, if EPA determines, at any time, that any response action taken by Respondent to respond to the release of hazardous wastes at or from the Site is not adequately protective of public health and the environment, EPA may select further response actions for the Site in accordance with the requirements of RCRA or other applicable authorities.

51. If EPA selects further response actions as provided for in the preceding paragraph, such further response actions shall be conducted in accordance with Section XXVI (Additional Work) of this AOC.

#### **Task IV - Remedy Completion Report**

52. Within sixty (60) days after completion of all Work required by this AOC, Respondent shall submit to EPA for review and approval a Remedy Completion Report (RC Report) prepared in accordance with Task IV of the SOW. When EPA determines, after EPA's review of the RC Report, that all of the Work has been fully performed in accordance with this AOC, EPA will provide written notice to Respondent.

53. If EPA determines that any of the Work has not been completed in accordance with this AOC, EPA will notify Respondent, provide a list of the deficiencies, and require Respondent to correct such deficiencies. Subject to Respondent's right to invoke the Dispute Resolution procedures set forth in Section XVII (Dispute Resolution), Respondent shall correct such deficiencies and shall submit to EPA for review and approval a revised RC Report in accordance with EPA's notice. Failure by Respondent to correct the deficiencies identified by EPA shall be a violation of this AOC.

#### **Task V - Institutional Controls**

54. Within sixty (60) days after the Effective Date, Respondent shall submit to EPA for review and approval an Institutional Control Implementation and Assurance Plan (ICIAP) prepared in accordance with Task V of the SOW.

55. Following Respondent's receipt of EPA's approval of the ICIAP, and in accordance with the schedule contained therein, Respondent shall implement all activities required by the ICIAP.

#### **Semi-Annual Progress Reports**

56. Following the Effective Date, Respondent shall, by the fifteenth (15<sup>th</sup>) day of July and January of each year while this AOC is in effect, submit to EPA written progress reports concerning actions undertaken pursuant to this AOC. These reports shall be prepared in accordance with Task I, paragraph 18, of the SOW.

### **X. EPA APPROVAL OF DELIVERABLES**

57. Deliverables required by this AOC shall be submitted to EPA for approval or modification pursuant to paragraph 58. All deliverables must be submitted to EPA by the due date specified in this AOC or in accordance with schedules developed and approved by EPA

pursuant to this AOC.

58. After review of any deliverable that is required pursuant to this AOC, EPA will: (a) approve, in whole or in part, the submission; (b) approve the submission upon specified conditions; (c) modify the submission to cure the deficiencies; (d) disapprove, in whole or in part, the submission, directing that Respondent modify the submission; or (e) any combination of the above. However, EPA will not modify a submission without first providing Respondent at least one notice of deficiency and an opportunity to cure, except where EPA determines that to do so would seriously disrupt the Work or where EPA has disapproved previous submission(s) due to material defects and EPA determines that the deficiencies in the submission under consideration indicate a bad faith lack of effort to submit an acceptable deliverable.

59. In the event of approval, approval upon conditions, or modification by EPA, pursuant to paragraph 58(a), (b), (c), or (e), Respondent shall proceed to take any action required by the deliverable, as approved or modified by EPA subject only to Respondent's right to invoke the Dispute Resolution procedures set forth in Section XVII (Dispute Resolution) with respect to the modifications or conditions made by EPA. In the event that EPA modifies the submission to cure the deficiencies pursuant to paragraph 58(c) and EPA determines that the submission has a material defect, EPA retains its right to seek stipulated penalties, as provided in Section XVIII (Penalties). Any EPA disapproval, approval upon conditions, and/or direction to modify a deliverable as provided above would be subject to Respondent's right to invoke the Dispute Resolution procedures set forth in Section XVII (Dispute Resolution).

60. Resubmission of a Deliverable. Upon receipt of a notice of disapproval, in whole or in part, pursuant to paragraph 58(d), Respondent shall, within ten (10) days or such longer time as specified by EPA in such notice, correct the deficiencies and resubmit the deliverable for approval. Any stipulated penalties applicable to the submission, as provided in Section XVIII (Penalties), shall accrue during the 10-day opportunity to cure period or otherwise specified period but shall not be payable unless the resubmission is disapproved or modified due to a material defect as provided in paragraphs 58 and 59.

61. Notwithstanding the receipt of a notice of disapproval pursuant to paragraph 58(d), Respondent shall proceed, at the direction of EPA, to take any action required by any non-deficient portion of the submission. Implementation of any non-deficient portion of a submission shall not relieve Respondent of any liability for stipulated penalties for the deficient portion of the deliverable under Section XVIII (Penalties).

62. In the event that a resubmitted deliverable, or portion thereof, is disapproved by EPA, EPA may again require Respondent to correct the deficiencies, in accordance with the preceding paragraphs. EPA also retains the right to modify or develop the plan, report or other item. Respondent shall implement any action as required in a deliverable which has been modified or developed by EPA, subject only to Respondent's right to invoke the procedures set forth in Section XVII (Dispute Resolution).

63. If upon resubmission, a deliverable is disapproved or modified by EPA due to a material defect, Respondent shall be deemed to have failed to submit such deliverable timely and adequately unless Respondent invokes the dispute resolution procedures set forth in Section XVII (Dispute Resolution) and EPA's action to disapprove or modify a deliverable is overturned pursuant to that Section. The provisions of Section XVII (Dispute Resolution) and Section XVIII (Penalties) shall govern the implementation of the Work and accrual and payment of any stipulated penalties during Dispute Resolution. If EPA's disapproval or modification is upheld, stipulated penalties shall accrue for such violation from the date on which the initial submission was originally required, as provided in Section XVIII (Penalties).

64. All deliverables required to be submitted to EPA under this AOC, shall, upon approval or modification by EPA, be incorporated into and be enforceable under this AOC. In the event that EPA approves or modifies a portion of a deliverable required to be submitted to EPA under this AOC, the approved or modified portion shall be enforceable under this AOC.

## **XI. WORK PLAN MODIFICATION**

65. If at any time during the implementation of the Work, Respondent identifies a need for a compliance date modification or revision of any Work Plan required by this AOC, Respondent shall submit a letter to EPA's Project Coordinator documenting the need for the modification or revision. EPA, in its discretion, will determine if the modification or revision is warranted and may provide written approval or disapproval. Any EPA-approved modified compliance date or Work Plan modification is incorporated by reference into this AOC.

66. Emergency Response. In the event of any action or occurrence during the performance of the Work that constitutes an emergency situation or may present an immediate threat to human health and the environment, Respondent shall immediately take all appropriate action to minimize such emergency or threat, and shall immediately notify EPA's Project Coordinator. Respondent shall take such immediate and appropriate actions in consultation with EPA's Project Coordinator. Respondent shall then submit to EPA written notification of such emergency or threat at the Site within three (3) business days of such discovery. Respondent shall thereafter submit to EPA for approval, within twenty (20) days, a plan to mitigate this threat. EPA will approve or modify this plan, and Respondent shall implement this plan as approved or modified by EPA. In the case of an extreme emergency, Respondent may act as it deems appropriate, at its own risk, to protect human health or the environment.

## **XII. QUALITY ASSURANCE**

67. Within sixty (60) days after the Effective Date, Respondent shall submit to EPA for review and approval a Quality Assurance Project Plan (QAPP) in accordance with Task II of the SOW. The QAPP shall address quality assurance, quality control, and chain of custody procedures for all sampling, monitoring and analytical activities undertaken by Respondent pursuant to this AOC. Respondent shall follow *EPA Requirements for Quality Assurance Project Plans* (EPA QA/R-5) (EPA/240/B-01/003, March 2001, reissued May 2006), *Guidance for Quality Assurance Project Plans* (EPA QA/G-5) (EPA/240/R-02/009, December 2002), and *EPA Requirements for Quality Management Plans* (EPA QA/R-2) (EPA/240/B-01/002, March

2001) as well as other applicable documents identified by EPA. Upon EPA's approval, the QAPP shall be incorporated into this AOC.

68. As part of any Work Plan submitted to EPA by Respondent pursuant to this AOC, Respondent shall include Data Quality Objectives for any data collection activity to ensure that data of known and appropriate quality are obtained and that data are sufficient to support their intended use as required by this AOC.

69. Respondent shall ensure that laboratories used by it for analyses perform such analyses according to the latest approved edition of *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods (SW-846)* or other methods approved by EPA. If methods other than EPA methods are to be used, Respondent shall specify all such protocols in the applicable Work Plan. EPA may reject any data that does not meet the requirements of an approved Work Plan and EPA analytical methods and may require resampling and additional analysis.

70. Respondent shall ensure that all laboratories it uses for analyses participate in a quality assurance/quality control (QA/QC) program equivalent to the program that EPA follows. Respondent shall, upon EPA's request, make arrangements for EPA to conduct a performance and QA/QC audit of the laboratories chosen by Respondent, whether before, during, or after sample analyses. Upon EPA's request, Respondent shall have its laboratories perform analyses of samples provided by EPA to demonstrate laboratory QA/QC and performance. If the audit reveals deficiencies in a laboratory's performance or QA/QC, Respondent shall submit a plan to address the deficiencies and EPA may require resampling and additional analysis.

71. EPA reserves the right to require a change in laboratories for reasons which may include, but shall not be limited to, QA/QC, performance, conflict of interest, or confidential agency audit information. In the event that EPA requires a laboratory change, Respondent shall propose to EPA two alternative laboratories within thirty (30) days. Once EPA approves of the laboratory change, Respondent shall ensure that laboratory service shall be made available within fifteen (15) days.

### **XIII. DOCUMENT CERTIFICATION**

72. Any report or other document submitted by Respondent pursuant to this AOC which makes recommendations as to whether or not further actions are necessary, or makes any representation concerning Respondent's compliance or noncompliance with any requirement of this AOC shall be certified by a responsible corporate officer of Respondent. A responsible corporate officer means: a president, secretary, treasurer; or vice-president in charge of a principal business function, or any other person who performs policy or decision-making functions for Respondent.

73. The certification required by paragraph 72 above, shall be in the following form:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information

submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

#### **XIV. SAMPLING, ACCESS, AND DATA AVAILABILITY**

74. All results of sampling, testing, modeling or other data generated (including raw data if requested) by Respondent, or on Respondent's behalf, during implementation of this AOC shall be validated by Respondent and submitted to EPA within sixty (60) days of Respondent's receipt of the data or in accordance with a schedule approved by EPA pursuant to this AOC.

Respondent shall tabulate data chronologically by media. EPA will make available to Respondent data generated by EPA for the purposes of oversight of the Work unless it is exempt from disclosure by any federal or state law or regulation. Upon request by EPA, Respondent shall submit all or any portion of any deliverable that Respondent is required to submit pursuant to this AOC in electronic form.

75. Respondent shall orally notify EPA at least thirty (30) days prior to conducting field sampling. At EPA's request, Respondent shall allow split or duplicate samples to be taken by EPA or EPA's representative.

76. **Site Access.** Pursuant to Section 3007(a) of RCRA, 42 U.S.C. § 6927(a), Respondent shall provide access to the Site at reasonable times to EPA and its authorized representatives. Respondent shall also provide access at reasonable times for EPA and its authorized representatives to all records and documentation in Respondent's possession or control, including those records and documents in the possession or control of Respondent's contractors and employees, related to the conditions at the Site and the actions conducted pursuant to this AOC. Respondent shall use its best efforts to gain access to areas owned by or in the possession of someone other than Respondent, as necessary to implement this AOC, as described in paragraph 78. Such access shall be provided to EPA and its authorized representatives. These individuals shall be permitted to move freely about the Site and appropriate off-Site areas in order to conduct actions that EPA determines to be necessary. EPA and its authorized representatives will notify Respondent of their presence on the Site by presenting their credentials. All parties with access to the Site under this paragraph will comply with all approved health and safety plans and regulations.

77. Pursuant to this Section, any denial of access at reasonable times to any portion of Site owned or controlled by Respondent where a request for access was made for the purposes of determining compliance with this AOC and/or enforcing the requirements of RCRA or this

AOC, shall be construed as a violation of the terms of this AOC subject to the penalty provisions outlined in Section XVIII (Penalties) of this AOC.

78. Access Agreements. Where action under this AOC is to be performed in areas owned by, or in possession of, someone other than Respondent, Respondent shall use its best efforts to obtain all necessary access agreements within sixty (60) days of approval of any Work Plan for which access is necessary or as otherwise specified, in writing, by EPA's Project Coordinator. Any such access agreement shall provide for access by EPA and its authorized representatives to move freely in order to conduct actions that EPA determines to be necessary. The access agreement shall specify that Respondent is not EPA's representative with respect to any liabilities associated with activities to be performed. Respondent shall provide EPA's Project Coordinator with copies of any access agreements. Respondent shall immediately notify EPA if, after using Respondent's best efforts, it is unable to obtain such agreements within the time required. "Best efforts," as used in this paragraph, shall include, at a minimum, a certified letter from Respondent to the present owner of such property requesting access agreements to permit Respondent, EPA, and EPA's representatives to enter such property, and the offer of payment of reasonable compensation in consideration of granting access. Respondent shall, within ten (10) days of its receipt of a denial of access, submit in writing, a description of its efforts to obtain access. EPA may, at its discretion, assist Respondent in obtaining access. In the event that EPA obtains access, Respondent shall undertake the Work on such property.

79. Confidential Business Information. Respondent may assert a claim of business confidentiality covering part or all of the information submitted to EPA pursuant to this AOC. Such a claim shall be asserted in accordance with 40 C.F.R. § 2.203 and in the manner described in 40 C.F.R. § 2.203(b) and substantiated with the information described in 40 C.F.R. § 2.204(e)(4). Information that EPA determines is confidential will be given the protection specified in 40 C.F.R. Part 2. If no such claim or substantiation accompanies the information when it is submitted to EPA, it may be made available to the public by EPA or the state without further notice to Respondent. Respondent agrees not to assert confidentiality claims with respect to any data related to Site conditions, sampling, monitoring or the Work performed pursuant to this AOC.

80. Privileged Documents. Respondent may assert that certain documents, records, or other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Respondent asserts such a privilege, in lieu of providing such documents, Respondent shall provide EPA with the following: (a) the title of the document, record, or information; (b) the date of the document, record, or information; (c) the author's name and title; (d) the name and title of each addressee and recipient; (e) a description of the contents; and (f) the privilege asserted by Respondent. However, no data or deliverables created or generated pursuant to this AOC shall be withheld on the grounds that they are privileged.

81. All data, information, and records created or maintained relating to any solid waste or hazardous waste found at the Site shall be made available to EPA upon request unless Respondent asserts a claim that such documents are legally privileged from disclosure. Respondent shall have the burden of demonstrating to EPA by clear and convincing evidence that such privilege exists.

82. No claim of confidentiality shall be made with respect to any data, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at or around the Site.

83. Nothing in this AOC shall be construed to limit EPA's right of access, entry, inspection, and information gathering pursuant to applicable law, including but not limited to RCRA and CERCLA.

#### **XV. COMPLIANCE WITH OTHER LAWS**

84. Respondent shall perform all actions required by this AOC in accordance with all applicable local, state, and federal laws and regulations. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations in a timely manner so as not to delay the Work required by this AOC.

#### **XVI. RECORD RETENTION**

85. Respondent shall preserve all documents and information, including raw data, relating to the Work performed under this AOC, or relating to any solid waste or hazardous waste found at the Site, for ten (10) years following termination of this AOC.

86. Respondent shall acquire and retain copies of all documents that relate to the Site that are in the possession of its employees, agents, accountants, contractors or attorneys.

87. Respondent shall make available to EPA all employees and persons, including contractors, who engage in activities under this AOC and ensure their cooperation with EPA with respect to this AOC.

88. Following the expiration of the ten-year retention period and ninety (90) days before any document or information is destroyed, Respondent shall notify EPA that such documents and information are available to EPA for inspection, and upon request, shall provide the originals or copies (at no cost) of such documents and information to EPA. Notification shall be in writing and shall reference EPA Docket No. RCRA-07-2011-0024 and shall be addressed to the Chief of EPA Region 7's Waste Remediation and Permitting Branch, 901 North 5<sup>th</sup> Street, Kansas City, Kansas 66101. In addition, Respondent shall provide documents and information retained under this Section at any time before expiration of the ten-year retention period at the written request of EPA.

89. All documents pertaining to this AOC shall be stored by Respondent in a centralized location at the Site, or an alternative location mutually approved by Respondent and EPA, to promote easy access by EPA or its representatives.

## **XVII. DISPUTE RESOLUTION**

90. Respondent shall raise any disputes concerning the Work required under this AOC to EPA in writing, within fifteen (15) days after receiving written notice from EPA regarding any aspect of the Work required under this AOC that Respondent disputes. EPA and Respondent shall expeditiously and informally attempt to resolve any disagreements. EPA's and Respondent's Project Coordinators shall first confer in an effort to resolve the dispute. If the Project Coordinators are unable to informally resolve the dispute within three (3) days of the first conference, Respondent shall notify EPA, within the next five (5) days, in writing of its objections. Written objections shall identify Respondent's objections, state the basis for those objections, and provide all data, analyses, and information relied upon by Respondent. EPA and Respondent then have an additional fourteen (14) days (or such other period of time as agreed to by the parties) from EPA's receipt of the objections to reach agreement. If an agreement is not reached within the fourteen (14) days (or such other period of time as agreed to by the parties), Respondent may request in writing, within five (5) days, a determination resolving the dispute by the Director of EPA Region 7's Air and Waste Management Division ("Division Director"). The request should provide all information that Respondent believes is relevant to the dispute. If such request is submitted within five (5) days, the Division Director will issue a written determination. EPA's final decision shall be incorporated into and become an enforceable part of this AOC and shall no longer be subject to dispute pursuant to this AOC. Respondent shall proceed in accordance with the Division Director's decision regarding the matter in dispute, regardless of whether Respondent agrees with the decision. If Respondent does not agree to perform or does not actually perform the Work in accordance with EPA's decision, EPA reserves the right in its sole discretion to conduct the Work itself, seek reimbursement from Respondent, seek enforcement of this AOC, seek stipulated penalties, and/or any other appropriate relief. Any disputes arising under this AOC are not subject to judicial review until such time as EPA seeks to enforce this AOC.

91. If EPA and Respondent reach agreement on the dispute at any stage, the agreement shall be set forth in writing and shall, upon signature of both parties, be incorporated into and become an enforceable part of this AOC.

92. The existence of a dispute and EPA's consideration of matters placed in dispute shall not excuse, toll, or suspend any compliance obligation or deadline required pursuant to this AOC during the pendency of the dispute resolution process except as agreed by EPA in writing. The invocation of dispute resolution does not stay the accrual of stipulated penalties under this AOC.

## **XVIII. PENALTIES**

93. Stipulated Penalties. Upon Respondent's failure to comply with any requirement of this AOC, Respondent shall be liable for stipulated penalties in the amounts set forth below unless a Force Majeure event has occurred as defined in Section XIX (Force Majeure) and EPA has approved the extension of a deadline as required by Section XIX (Force Majeure). Compliance with this AOC by Respondent shall include completion of an activity or any matter under this AOC in accordance with this AOC, and within the specified time schedules approved under this AOC.

- (a) \$200 per day for the first through fourteenth days of non-compliance;
- (b) \$500 per day for the fifteenth through thirtieth days of non-compliance; and
- (c) \$2,000 per day for the thirty-first and each succeeding day of non-compliance thereafter.

94. Penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs, and shall continue to accrue through the final day of correction of the violation or completion of the activity. Unless Respondent invokes the Dispute Resolution procedures set forth in Section XVII (Dispute Resolution), payment of penalties shall be due within thirty (30) days of Respondent's receipt of a written demand for payment from EPA. Nothing herein shall prevent the simultaneous accrual of separate stipulated penalties for separate violations of this AOC, even where those violations concern the same event (e.g., submission of a Work Plan that is late and is of unacceptable quality).

95. If payment is not made within thirty (30) days of the date of Respondent's receipt from EPA of a written demand for payment of the penalties or of the date of agreement or decision resolving the dispute, interest shall begin to accrue on any unpaid stipulated penalty balance beginning on the first day after Respondent's receipt of EPA's demand letter, or the date of the agreement or decision resolving the dispute, and will accrue until such penalties and interest have been paid in full. Interest shall accrue at the Current Value of Funds Rate established by the Secretary of the Treasury. An additional penalty of six percent (6%) per annum on any unpaid principal shall be assessed for any stipulated penalty payment which is overdue for ninety (90) days or more. The applicable rate of interest shall be the rate in effect at the time the interest accrues pursuant to 31 U.S.C. § 3717.

96. Respondent shall make payments required by this Section by money order, certified check, company check, or cashier's check payable to the "Treasurer of the United States" within thirty (30) days of Respondent's receipt of EPA's demand for payment, and shall be submitted to the following address:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000.

97. Any payment made pursuant to this Section shall reference EPA Docket No. RCRA-07-2011-0024. Respondent shall send simultaneous notices of such payments, including copies of the money order, certified check, company check, cashier's check to EPA's Project Coordinator.

98. Respondent may dispute an EPA determination that it failed to comply with this AOC by invoking the dispute resolution procedures in Section XVII (Dispute Resolution) unless the matter has already been in or is the subject of dispute resolution. Penalties shall accrue but need not be paid during the dispute resolution period. If Respondent does not prevail upon resolution,

all penalties shall be due to EPA within thirty (30) days of resolution of the dispute. If Respondent prevails upon resolution, no penalties shall be paid. In the event that Respondent prevails in part, penalties shall be due on those matters in which Respondent did not prevail, as determined by the Division Director.

99. Neither the invocation of dispute resolution nor the payment of penalties shall alter in any way Respondent's obligation to comply with this AOC. The stipulated penalties set forth in this Section do not preclude EPA from pursuing any other remedies or sanctions which may be available to EPA by reason of Respondent's failure to comply with this AOC.

100. No payments under this Section shall be deducted for federal tax purposes.

101. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this AOC.

102. Civil Penalties. Violation of this AOC may subject Respondent to civil penalties as provided for in Section 7003(b) of RCRA, 42 U.S.C. § 6973(b), as adjusted pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, 28 U.S.C. § 2461. If Respondent violates this AOC, EPA may carry out the required actions unilaterally, pursuant to any applicable authorities, and/or may seek judicial enforcement of this AOC.

#### **XIX. FORCE MAJEURE**

103. Respondent agrees to perform all requirements of this AOC within the time limits established under this AOC, unless the performance is delayed by a force majeure. For purposes of this AOC, a force majeure is defined as any event arising from causes beyond the control of Respondent, or any entity controlled by Respondent or Respondent's representatives, which delays or prevents performance of any obligation under this AOC despite Respondent's best efforts to fulfill the obligation. The requirement that Respondent exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any potential force majeure event: (a) as it is occurring; and (b) following the potential force majeure event, such that the delay is minimized to the greatest extent possible. Force majeure does not include financial inability to complete the Work, increased cost of performance, or changes in Respondent's business or economic circumstances.

104. If any event occurs or has occurred that may delay the performance of any obligation under this AOC, whether or not caused by a force majeure event, Respondent shall orally notify EPA within forty-eight hours of when Respondent knew or should have known that the event might cause a delay. Such notice shall: (a) identify the event causing the delay, or anticipated to cause delay, and the anticipated duration of the delay; (b) provide Respondent's rationale for attributing such delay to a force majeure event; (c) state the measures taken or to be taken to prevent or minimize the delay; (d) estimate the timetable for implementation of those measures; and (e) state whether, in the opinion of Respondent, such event may cause or contribute to an endangerment to public health or the environment. Respondent shall undertake best efforts to avoid and minimize the delay. Failure to comply with the notice provision of this paragraph and

to undertake best efforts to avoid and minimize the delay shall waive any claim of force majeure by Respondent. Respondent shall be deemed to have notice of any circumstances of which its representatives had or should have had notice.

105. If EPA determines that a delay in performance or anticipated delay in fulfilling a requirement of this AOC is or was attributable to a force majeure, then the time period for performance of that requirement will be extended as deemed necessary by EPA. If EPA determines that the delay or anticipated delay has been or will be caused by a force majeure, then EPA will notify Respondent, in writing, of the length of the extension, if any, for performance of such obligations affected by the force majeure. Any such extensions shall not alter Respondent's obligation to perform or complete other tasks required by this AOC which are not directly affected by the force majeure.

106. If EPA disagrees with Respondent's assertion of a force majeure, then Respondent may elect to invoke the dispute resolution provision, and shall follow the procedures set forth in Section XVII (Dispute Resolution). In any such proceeding, Respondent shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that Respondent's best efforts were exercised to avoid and mitigate the effects of the delay, and that Respondent complied with the requirements of this Section. If Respondent satisfies this burden, then EPA will extend the time for performance as EPA determines necessary.

## **XX. RESERVATION OF RIGHTS**

107. Notwithstanding any other provisions of this AOC, the United States retains all of its authority to take, direct, or order any and all actions necessary to protect public health or the environment or to prevent, abate, or minimize an actual or threatened release of solid wastes, hazardous wastes, or constituents of such wastes, hazardous substances, pollutants, or contaminants, on, at, or from the Site, including but not limited to the right to bring enforcement actions under RCRA, CERCLA, and any other applicable statutes or regulations.

108. EPA reserves all of its statutory and regulatory powers, authorities, rights, and remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of this AOC, including, without limitation, the assessment of penalties under Section 7003 of RCRA, 42 U.S.C. § 6973.

109. This AOC shall not be construed as a covenant not to sue, release, waiver, or limitation of any rights, remedies, powers, claims, and/or authorities, civil or criminal, which EPA has under RCRA, CERCLA, or any other statutory, regulatory, or common law authority of the United States.

110. This AOC is not intended to be nor shall it be construed to be a permit. Respondent acknowledges and agrees that EPA's approval of the Work and/or any Work Plan does not constitute a warranty or representation that the Work and/or Work Plans will achieve the required cleanup or performance standards. Compliance by Respondent with the terms of this

AOC shall not relieve Respondent of its obligations to comply with RCRA or any other applicable local, state, or federal laws and regulations.

111. Notwithstanding any other provision of this AOC, no action or decision by EPA pursuant to this AOC, including without limitation, decisions of the Division Director, or any representative of EPA, shall constitute final agency action giving rise to any right of judicial review prior to EPA's initiation of a judicial action to enforce this AOC, including an action for penalties or an action to compel Respondent's compliance with this AOC.

## **XXI. OTHER CLAIMS**

112. By issuance of this AOC, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondent. The United States or EPA will not be deemed a party to any contract, agreement or other arrangement entered into by Respondent or its officers, directors, employees, agents, successors, assigns, heirs, trustees, receivers, contractors, or consultants in carrying out actions pursuant to this AOC.

113. Respondent waives all claims against the United States relating to or arising out of conduct of this AOC, including, but not limited to, contribution and counterclaims.

114. Respondent shall bear its own litigation costs and attorney fees.

115. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive or other appropriate relief relating to the Site, Respondent 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 by the United States in the subsequent proceeding were or should have been raised in the present matter.

## **XXII. INSURANCE**

116. Prior to commencing the Work, Respondent shall secure, and shall maintain in force for the duration of this AOC, comprehensive general liability insurance and automobile insurance with limits of \$1 million dollars, combined single limit, naming EPA as an additional insured. Prior to commencement of the Work under this AOC, and annually thereafter on the anniversary of the Effective Date of this AOC, Respondent shall provide EPA with certificates of such insurance and, if requested by EPA, a copy of each insurance policy. If Respondent demonstrates by evidence satisfactory to EPA that its contractors and subcontractors maintain insurance equivalent to that described above, or insurance covering some or all of the same risks but in an equal or lesser amount, then Respondent need provide only that portion of the insurance described above which is not maintained by the contractors and subcontractors.

117. For the duration of this AOC, Respondent shall satisfy, or shall ensure that their contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of employer's liability insurance and worker's compensation insurance for all persons performing the Work on behalf of Respondent, in furtherance of this AOC.

118. At least seven (7) days prior to commencing the Work under this AOC, Respondent shall certify to EPA that its contractors and subcontractors have obtained the required insurance.

### **XXIII. COST ESTIMATES AND FINANCIAL ASSURANCE**

119. Cost Estimates. Within sixty (60) days after the Effective Date, Respondent shall submit to EPA for review and approval a detailed written initial estimate, in current dollars, of the cost of hiring a third party to perform the Work described in Section IX (Work to be Performed) and the attached SOW. A third party is a party who: (a) is neither a parent nor a subsidiary of Respondent; and (b) does not share a common parent or subsidiary with Respondent. The initial cost estimate must account for the total costs of the work activities described in Section IX (Work to be Performed) and the SOW for the entire period of this AOC, including any necessary long term costs, such as operation and maintenance costs, monitoring costs, and institutional controls. The cost estimate must not incorporate any salvage value that may be realized from the sale of wastes, structures, equipment, land or other assets associated with the Site.

120. Concurrent with the submission of any subsequent Work Plan(s), including additional work required under Section XXVI (Additional Work), Respondent shall submit revised detailed written estimate(s), in current dollars, of the cost of hiring a third party to perform the Work.

121. Respondent must annually adjust the cost estimate(s) for inflation within sixty (60) days after the close of Respondent's fiscal year until this AOC is terminated. In addition, Respondent shall adjust the cost estimate if EPA determines that any additional work is required, pursuant to Section XXVI (Additional Work), or if any other conditions increase the cost of the Work to be performed under this AOC.

122. Respondent shall submit each cost estimate to EPA for review, pursuant to Section X (EPA Approval of Deliverables).

123. Assurances of Financial Responsibility for Completing the Work. In order to secure the completion of the Work in accordance with this AOC, Respondent shall establish financial assurance in the form of a letter of credit, and a standby trust fund administered by a trustee who has the authority to act as a trustee under federal or state law and whose trust operations are regulated and examined by a U.S. federal or state agency and that is acceptable to EPA. The standby trust agreement shall provide that the trustee shall make payments from the fund only for the costs of performing the Work required under this AOC, and only after EPA has advised the trustee that the Work has been performed in accordance with the requirements of the approved Work Plans. The standby trust agreement shall further provide that the trustee shall not refund to the grantor any amounts from the fund unless and until EPA has advised the trustee that the Work under this AOC has been successfully completed.

124. Respondent shall submit a draft letter of credit and standby trust agreement to EPA for review pursuant to Section X (EPA Approval of Deliverables) within sixty (60) days after the Effective Date of this AOC, concurrently with Respondent's submission of the initial cost estimate required by paragraph 119.

125. The letter of credit and standby trust agreement shall be in form and substance satisfactory to EPA, determined in EPA's sole discretion.

126. Within sixty (60) days after EPA's approval of both the initial cost estimate and the draft letter of credit and standby trust agreement, whichever date is later, Respondent shall establish a letter of credit in an amount at least equal to the initial cost estimate approved by EPA.

127. Respondent shall submit an original copy of the letter of credit and standby trust agreement to EPA's Project Coordinator.

128. Whenever the annually adjusted estimate for the cost of completing the remaining Work exceeds the amount of financial assurance already provided pursuant to this Section, Respondent shall, within sixty (60) days thereafter, increase the amount of the financial assurance to cover such cost increase. In addition, in the event that EPA determines at any time that the financial assurances provided pursuant to this AOC are inadequate (including, without limitation, the letter of credit, standby trust agreement, or the trustee), Respondent shall, within sixty (60) days after receipt of notice of EPA's determination, correct the inadequacy, including without limitation, through a different financial assurance mechanism acceptable to EPA, as necessary. Furthermore, if at any time EPA notifies Respondent that the anticipated cost of completing the Work has increased, then, within sixty (60) days after receipt of such notification, Respondent shall increase the amount of the financial assurance to cover such cost increase.

129. Respondent's inability to post financial assurance for completion of the Work shall in no way excuse performance of any other requirements of this AOC, including, without limitation, Respondent's obligation to complete the Work in strict accordance with the terms of this AOC.

130. Reduction of Amount of Financial Assurance. If Respondent believes that the estimated cost to complete the remaining Work has diminished below the amount covered by the existing financial assurance provided under this AOC, Respondent may, on any anniversary date of the Effective Date of this AOC, or at any other time agreed to by EPA and Respondent, submit a written proposal to EPA to reduce the amount of the financial assurance provided under this Section to the estimated cost of the remaining Work to be performed. The written proposal shall specify, at a minimum, the cost of the remaining Work to be performed and the basis upon which such cost was calculated. The decision whether to approve a proposal to reduce the amount of financial assurance shall be within EPA's sole discretion and EPA shall notify Respondent of its decision regarding such a proposal in writing. Respondent may reduce the amount of the financial assurance only after receiving EPA's written decision and only in accordance with and to the extent permitted by such written decision. In the event of a dispute, Respondent may reduce the amount of the financial assurance required by this Section only in accordance with a final administrative decision resolving such dispute under Section XVII (Dispute Resolution) of this AOC.

131. Release of Financial Assurance. Respondent may submit a written request to the Division Director that it be released from the requirement to maintain financial assurance under this Section at such time as EPA has provided written notice, pursuant to Section XXVII

(Termination and Satisfaction) that Respondent has demonstrated that all the terms of this AOC have been addressed to the satisfaction of EPA. The Division Director will notify both Respondent and the trustee in writing that Respondent is released from all financial assurance obligations under this AOC.

#### **XXIV. INDEMNIFICATION**

132. Respondent agrees to indemnify, save and hold harmless the United States, its officials, agents, contractors, employees, and representatives from any and all claims or causes of action: (a) arising from, or on account of, acts or omissions of Respondent, Respondent's directors, officers, employees, agents, successors, assigns, heirs, trustees, receivers, contractors, or consultants in carrying out actions pursuant to this AOC; and (b) for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between Respondent and any persons for performance of the Work on or relating to the Site, including claims on account of construction delays. In addition, Respondent agrees to pay to the United States all costs incurred by the United States, including litigation costs arising from or on account of claims made against the United States based on any of the acts or omissions referred to in the preceding sentence.

#### **XXV. MODIFICATION OF THIS AOC**

133. Except for Modification of a Work Plan(s) as provided in Section XI, this AOC may only be modified by the mutual agreement of EPA and Respondent. Any agreed modification shall: be in writing; be signed by EPA and Respondent; have as its effective date the date on which the modification is signed by EPA; and be incorporated into this AOC.

134. No informal advice, guidance, suggestion, or comment by EPA regarding reports, plans, specifications, schedules, or any other writing submitted by Respondent shall relieve Respondent of its obligation to obtain such formal approval as may be required by this AOC, and to comply with all requirements of this AOC unless it is formally modified. Any deliverables, plans, technical memoranda, reports, specifications, schedules and attachments required by this AOC are, upon approval by EPA, incorporated into and enforceable under this AOC.

#### **XXVI. ADDITIONAL WORK**

135. EPA may determine, or Respondent may propose, that certain tasks are necessary in addition to or in lieu of the tasks included in any EPA-approved Work Plan when such additional work is necessary to meet the objectives set forth in this AOC. EPA may determine that Respondent shall perform any additional work and EPA will specify, in writing, the basis for its determination that any additional work is necessary. Within fourteen (14) days after the receipt of such determination, Respondent shall have the opportunity to meet or confer with EPA to discuss any additional work. Respondent shall submit for EPA approval a Work Plan for any additional work. Such Work Plan shall be submitted within thirty (30) days of Respondent's receipt of EPA's determination that any additional work is necessary, or according to an alternative schedule established by EPA. Upon approval of a Work Plan for any additional work, and subject to Respondent's right to invoke the Dispute Resolution procedures set forth in

Section XVII (Dispute Resolution), Respondent shall implement the Work Plan for any additional work in accordance with the schedule and provisions contained therein. The Work Plan for any additional work shall be incorporated by reference into this AOC.

#### **XXVII. TERMINATION AND SATISFACTION**

136. This AOC shall be deemed terminated and satisfied by Respondent upon written notice from EPA that Respondent has demonstrated that all of the terms of this AOC, including any additional work as may be performed pursuant to Section XXVI (Additional Work) and any stipulated penalties demanded by EPA under Section XVIII (Penalties), have been addressed to the satisfaction of EPA. Termination of this AOC shall not terminate Respondent's obligation to comply with Sections XIV (Sampling, Access, and Data Availability), XVI (Record Retention), XX (Reservation of Rights), and XXIV (Indemnification) of this AOC, and to maintain engineering and institutional controls, if any.

#### **XXVIII. PUBLIC COMMENT ON THIS AOC**

137. EPA will provide public notice, opportunity for a public meeting, and a reasonable opportunity for public comment on this AOC. After consideration of any comments submitted to EPA during the public comment period, EPA may withhold consent or seek to amend this AOC if EPA determines that comments received disclose facts or considerations which indicate that this AOC is inappropriate, improper, or inadequate. Respondent reserves all of its rights as to any such withholding of consent or amendment as may be sought by EPA.

#### **XXIX. SEVERABILITY**

138. If a court issues an order that invalidates any provision of this AOC or finds that Respondent has sufficient cause not to comply with one or more provisions of this AOC, Respondent shall remain bound to comply with all provisions of this AOC not invalidated or determined to be subject to a sufficient cause defense by the court's order.

#### **XXX. EFFECTIVE DATE**

139. This AOC shall be effective when EPA signs this AOC after the public comment period as specified in Section XXVIII (Public Comment on This AOC) above. Within three (3) business days after signing this AOC, EPA will provide to Respondent a copy of this AOC as fully executed by the parties and as filed with EPA's Regional Hearing Clerk.

140. The undersigned representative of Respondent certifies that he/she is fully authorized to enter into this AOC and to bind Respondent to this AOC.

141. Respondent's obligation to perform the Work will begin on the Effective Date of this AOC.

**AGREED TO:**

**EATON CORPORATION**

By:



Signature Thomas E. Moran

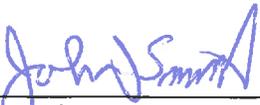
December 12, 2011

Print Name

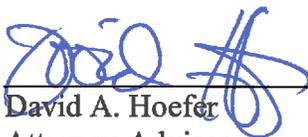
Title Senior Vice President and  
Secretary

**AGREED TO AND ORDERED:**

**U.S. ENVIRONMENTAL PROTECTION AGENCY**

By:   
 Becky Weber  
Director  
Air and Waste Management Division

3/7/12  
Date

By:   
David A. Hoefler  
Attorney-Adviser  
Office of Regional Counsel

Effective Date: 3/7, 2012

## ATTACHMENT 1

### STATEMENT OF WORK EATON CORPORATION, KEARNEY, NE ADMINISTRATIVE ORDER ON CONSENT EPA DOCKET NO. RCRA-07-2011-0024

#### **PURPOSE AND SCOPE**

The purpose of this Statement of Work (SOW) for the Site (as defined in the Administrative Order on Consent (AOC) which this is an attachment to) is to define the requirements, standards, and guidelines which shall be followed by Respondent in implementing, operating, and maintaining the remedy selected by EPA in the Final Decision and Response to Comments dated September 23, 2011, to prevent, mitigate, and/or remediate any release or migration of hazardous wastes and/or solid wastes at, and/or from, the Site. In accomplishing these Tasks, Respondent shall comply with the provisions of the AOC, this SOW, work plans approved by EPA hereunder, and all applicable EPA guidance and updates and amendments to such guidance. Remedy implementation shall consist of the following tasks:

- Task I:** Remedy Operation and Maintenance Plan (O&M Plan)
- Task II:** Quality Assurance Project Plan (QAPP), Groundwater Sampling and Analysis Plan (SAP), and Health and Safety Plans (HSP)
- Task III:** Remedy Performance 5-Year Review
- Task IV:** Remedy Completion Report
- Task V:** Institutional Controls

**Task I. Remedy Operation and Maintenance Plan** - Respondent shall submit to EPA for review and approval a Remedy Operation and Maintenance Plan (O&M Plan) which outlines procedures for operating and performing long-term maintenance and monitoring of the remedy selected by EPA for implementation at the Site. The O&M Work Plan shall, at a minimum, include the following:

1. **Introduction/Purpose** - A description of the purpose of the document.
2. **Project Management** - A description of the management approach for the required work including levels of personnel authority and responsibility (including an organizational chart), lines of communication and the qualifications of key personnel who will operate and maintain the remedy (including contractor personnel).

3. **System description** - A description of the components of the remedy selected by EPA, including institutional controls (ICs), and significant equipment, and schematics or process diagrams to illustrate system design and operation.
4. **Remedial objectives** - Including media cleanup standards for TCE and its degradation products, and providing that shut-down of the off-site extraction system may occur before MCLs are attained, as described below in the section on Performance Criteria.
5. **Performance Criteria** - Specific performance requirements for the overall remedy selected by EPA for implementation at the Site and for each major component of the remedy. EPA agrees that, upon Respondent's request, EPA will reevaluate the need for continuing operation of the off-site extraction system even if MCLs have not been met for that plume at the time of the request. EPA will approve early shut-down of the off-site extraction system (prior to attainment of the relevant MCLs) if Respondent can demonstrate to EPA's satisfaction (through supporting data, modeling and other appropriate information) that, after shutdown, the plume would not migrate beyond Keystone Road (the area currently impacted by the main off-site plume and the stub plume), nor further threaten human health and the environment. Criteria that EPA will use in evaluating whether early shut-down of the off-site extraction system is appropriate are: whether contaminant concentrations within the plume at the time of the Eaton request have declined by the amount projected by appropriate groundwater models; the extent, if any, of additional plume migration at levels above the relevant MCLs and whether such migration would only affect areas previously impacted by the stub plume; and whether land use remains agricultural in the area that would be impacted by such migration. If early shut-down of the extraction system is approved by EPA, Respondent must still monitor the plume until the relevant MCLs are reached and to verify that the plume has not migrated past Keystone Road at levels above the relevant MCLs. If EPA approves early shutdown of the extraction system but Eaton-derived TCE is subsequently detected east of Keystone Road at levels above its MCL, EPA may require that the off-site extraction system be restarted, and potentially expanded, if EPA determines that this is required to halt continued migration of the plume at levels exceeding MCLs.
6. **Conceptual model of contaminant migration.**
7. **Personnel Training** - A description of the training process for O&M personnel, as applicable. Respondent shall prepare, and include the technical specifications governing the operation and on-going maintenance of contaminant mitigation systems, and the support requirements for the following:
  - a. Appropriate service visits by experienced personnel to supervise the installation, adjustment, start-up, and operation of contaminant mitigation systems; and

- b. Training covering appropriate operational procedures once start-up has been successfully accomplished;
- 8. **Start-Up Procedures** - A description of all applicable system start-up procedures including any operational testing.
- 9. **O&M Procedures** - A description of all normal operation and maintenance procedures including:
  - a. A description of tasks for the operation of the on-Site and off-Site extraction systems;
  - b. A description of tasks for maintenance of the extraction systems and system monitoring wells;
  - c. A description of prescribed treatment or operating conditions; and
  - d. A schedule showing the frequency of each O&M task.
- 10. **Data Management and Documentation Requirements** - Specifics on how Respondent shall collect and maintain the following information:
  - a. Progress report information;
  - b. Monitoring and laboratory data;
  - c. Records of operating costs; and
  - d. Personnel, maintenance, and inspection records.
- 11. **Replacement schedule** - Specifics on a replacement schedule for equipment and installed components.
- 12. **Waste Management Practices** - A description of any solid wastes/hazardous wastes which may be generated by the operation of the remedy components and describe how such wastes will be managed.
- 13. **Contingency Procedures** - A description, as applicable, of the following types of contingency procedures necessary to ensure remedy operation in a manner protective of human health and the environment:
  - a. Procedures to address system breakdowns and operational problems including a list of redundant and emergency back-up equipment and procedures;

- b. Alternative procedures to be implemented if the remedy systems suffer complete failure. The alternative procedures must be able to achieve the performance standards for the remedy until system operations are restored;
  - c. The O&M Plan shall specify that, in the event of a major breakdown and/or the failure of the remedy, Respondent shall notify EPA within 24 hours of such event; and
  - d. The O&M Plan shall specify the procedures to be implemented in the event that the remedy is experiencing major operational problems, are not performing to design specifications, and/or will not achieve the remedial objectives.
14. **Long-term monitoring requirements.**
- a. Identification of monitoring wells to be sampled and direct push samples to be collected as part of the facility monitoring network; and
  - b. Identification of groundwater constituents (TCE and its degradation products) which will be targeted for sampling and analysis.
15. **Cost estimates** - For operation and maintenance of the entire remedy.
16. **Remedy Completion Criteria** - A process and criteria for determining when the implemented remedy has achieved the remedial objectives. This shall also describe the process and criteria for determining when O&M may cease.
17. **Project Schedule** - A schedule for any remaining elements of the remedial implementation process and for the initiation of all major remedy construction tasks and milestones.
18. **Semi-Annual Progress Reports** - Respondent shall, at a minimum, submit to EPA signed semi-annual progress reports as described in paragraph 56 of the AOC. Progress reports shall, at a minimum, contain the following elements:
- a. Table of analytical data collected during the current reporting period;
  - b. Summary table of analytical data collected over the previous 1.5 years;
  - c. Table of pumping rates for the reporting period of on-Site and off-Site extraction wells;
  - d. Summary table of groundwater elevations measured over the previous 1.5 years;
  - e. Figure illustrating the potentiometric surface for the reporting period;

- f. Figure illustrating the TCE plume configuration for the reporting period;
- g. Estimation of width of capture of extraction systems using simple analytical equations;
- h. Graphs of TCE data from off-site wells that still exceed the MCL illustrating changes in contaminant concentrations over the preceding 6 years;
- i. Written analysis of the foregoing data to assess the effectiveness of capture and discuss changes in plume concentrations and configuration; and
- j. Summary of any problems encountered or anticipated and resolutions employed or planned.

**Task II. Quality Assurance Project Plan (QAPP), Groundwater Sampling and Analysis Plan (SAP) and Health and Safety Plan (HSP)** - Respondent shall submit new or updates to any existing EPA-approved QAPPs, SAPs, and HSPs, either as amendments, or stand-alone documents. The updated plans shall be revised as appropriate to address the requirements of implementing the final remedy for the Site. EPA will review and/or approve and/or modify all updates to the QAPP and SAP in accordance with Section X of the AOC. The HSP shall be submitted to EPA for review and comment; however, EPA will not approve or disapprove the HSP.

**Task III. Remedy Performance 5-Year Review** - As provided in Section IX, Task III of the AOC, Respondent shall submit to EPA for review and approval 5-Year Remedy Performance Evaluation Reports evaluating the remedy's effectiveness and performance. These evaluations shall be consistent with EPA's *Comprehensive Five-Year Review Guidance*, OSWER No. 9355.7-03B-P, and any subsequent revisions or additions, and shall include the following:

1. Horizontal capture zone analysis prepared in accordance with *A Systematic Approach for Evaluation of Capture Zones at Pump and Treat Systems*, EPA 600/R-08/003;
2. Effectiveness of the remedy in protecting human health and the environment;
3. Effectiveness of the engineered controls and ICs in protecting human health and the environment;
4. Results of sampling and analysis and an evaluation of these results to determine the effectiveness and performance of the remedy;
5. Any changed circumstances that render the remedy, including engineered controls and ICs, less effective or ineffective;
6. Possible modifications to the remedy to provide the necessary protectiveness; and

7. Any other reporting requirements included in the EPA-approved O&M Plan.

Based upon EPA's review of the 5-Year Remedy Performance Evaluation Report, EPA may require Respondent to conduct additional investigations, studies, and/or work in order to modify the existing remedy or to select a new remedy, which Respondent will be required to implement, as provided for in the AOC. If action is needed to protect human health or the environment from releases or to prevent or minimize the further spread of contamination while a long-term remedy is pursued, EPA may require Respondent to implement Interim Measures pursuant to the AOC. Respondent may invoke the dispute resolution procedures in the AOC if Respondent does not agree that the Interim Measures or any other measures required by EPA are necessary. Nothing in this paragraph shall limit Respondent's ability to request and submit data supporting early termination of operation and maintenance of the off-site extraction system, as described in Task I.

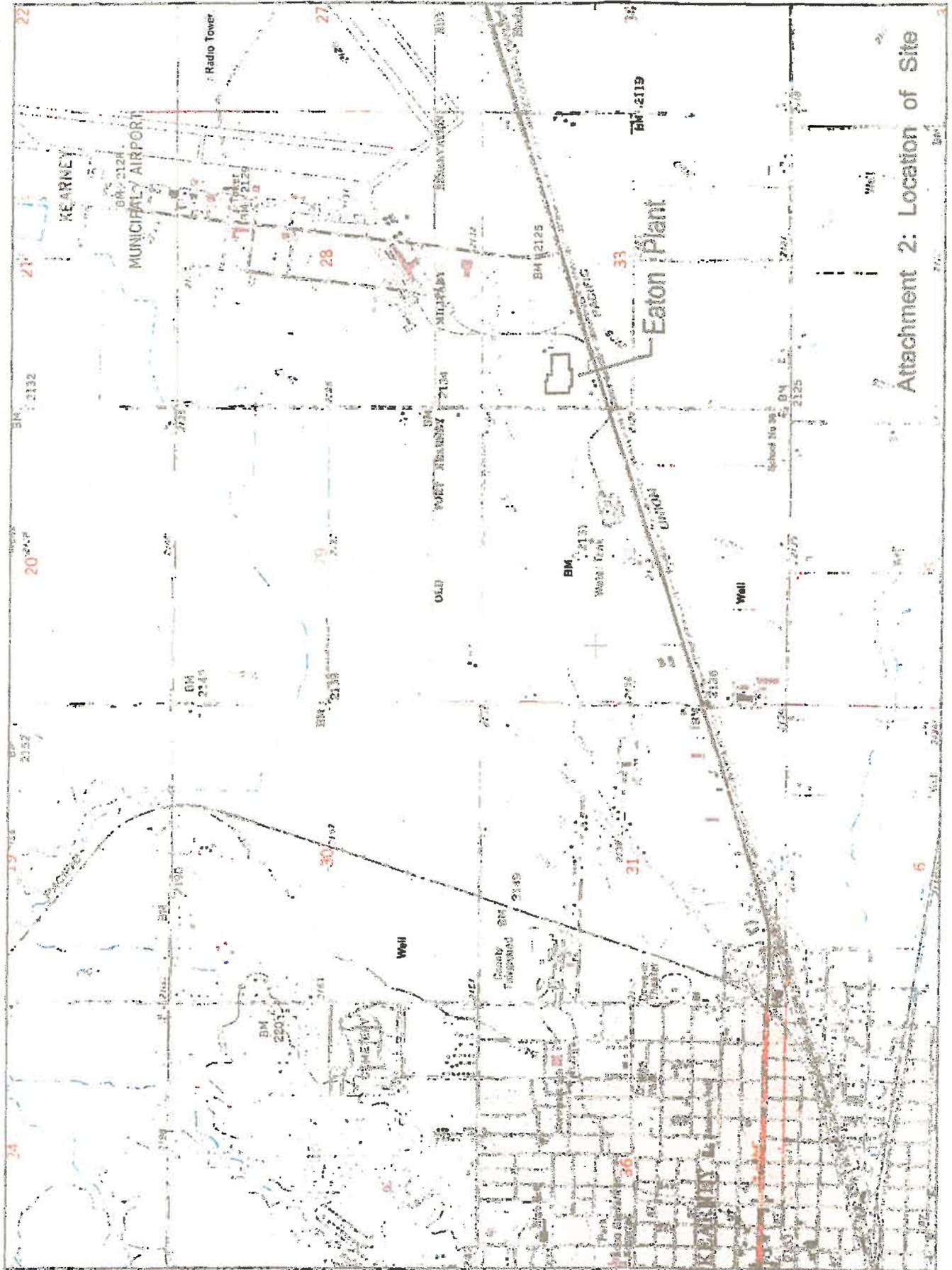
**Task IV. Remedy Completion Report** - As provided in Section IX (Work to be Performed) of the AOC, Respondent shall submit to EPA for review and approval a Remedy Completion Report (RC Report). The RC Report shall fully document how remedial objectives and remedy completion criteria have been satisfied, and shall justify why the remedy and/or monitoring may cease. The RC Report shall, at a minimum, include the following:

1. A synopsis of the remedy;
2. Remedy Completion Criteria - the RC Report shall include the process and criteria used to determine, and recommend, that remedy maintenance and monitoring may cease;
3. A demonstration that the remedial objectives and remedy completion criteria have been met. The RC Report shall include results of tests and/or monitoring that documents how operation of the remedy compares to, and satisfies, the remedial objectives and remedy completion criteria;
4. A summary of work accomplishments (e.g., performance levels achieved, total hours of operation, total volume treated and/or excavated volumes of media, nature and volume of wastes generated, etc.);
5. A summary of significant activities that occurred during operation of the remedy, including a discussion of any problems encountered and how such problems were addressed;
6. A summary of inspection findings (including copies of key inspection documents in appendices); and
7. A summary of total O&M costs.

**Task V. Institutional Controls** - As provided in Section IX of the AOC, Respondent shall submit to EPA for review and approval an Institutional Controls Implementation and Assurance

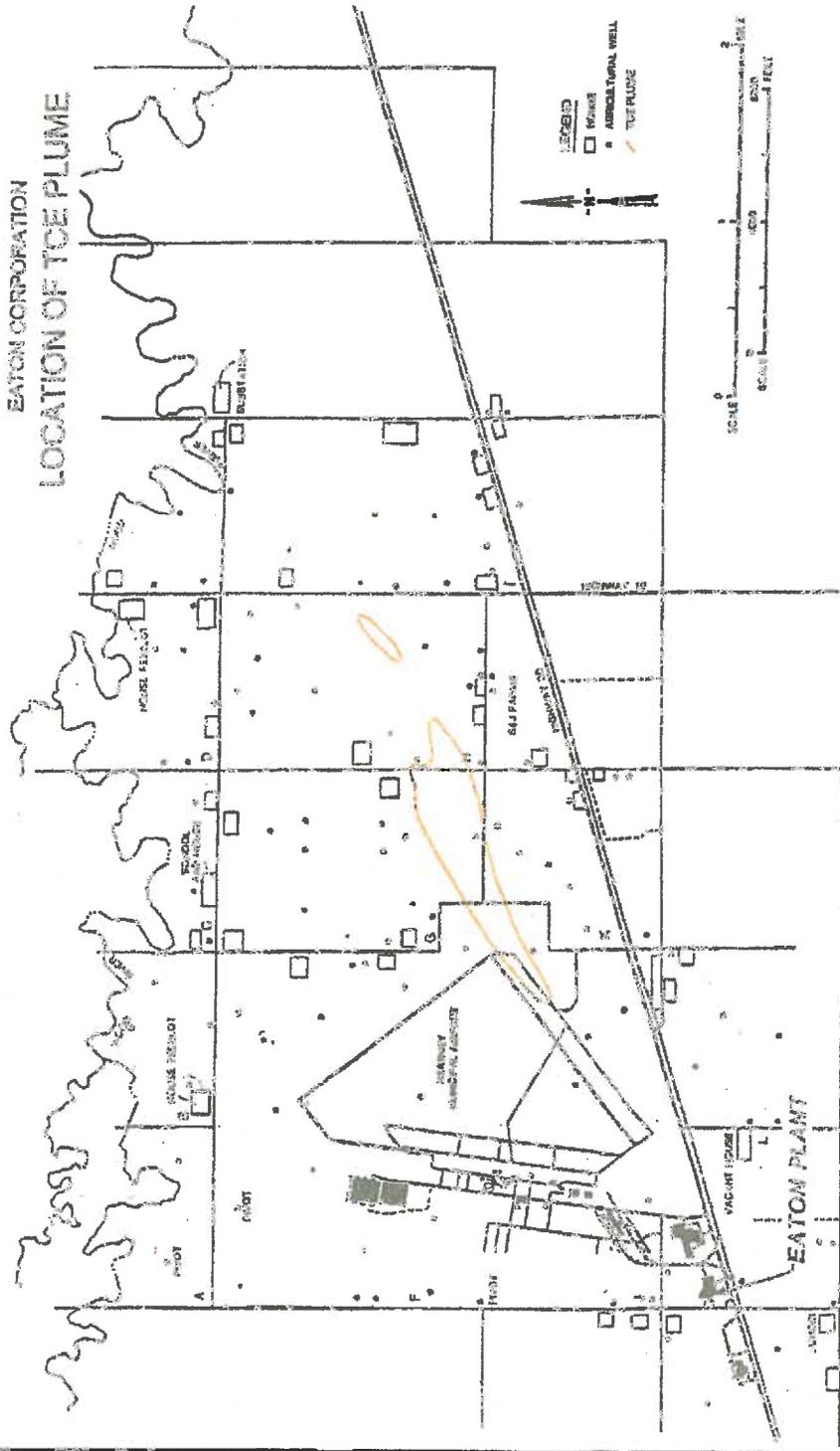
Plan (ICIAP). The ICIAP shall be a plan to implement ICs that may be necessary to support the remedy selection made by EPA for the Site. Such ICs may be limited to an informal notification that would alert the residents affected by the plume, if any, to the presence of contamination in the shallow aquifer (Layer 2) and the need to restrict installation of domestic wells to the uncontaminated aquifer (Layer 3) beneath the area. The ICIAP shall include, but shall not be limited to:

1. A description of the pathways for potential human exposure to contamination at and from the Site;
2. An identification of properties where ICs are needed;
3. A description of the proposed IC for each such properties and the IC objectives;
4. A description of the proposed duration of each IC and an explanation for such duration;
5. A schedule for implementing each IC;
6. If required by EPA, a schedule for completing title work;
7. If required by EPA, draft proprietary controls, enforceable under state law to implement any planned activity and use limitations;
8. If required by EPA, a description of the authority of each affected property owner to implement each proprietary control, including title insurance commitments or other title evidence acceptable to EPA for the proposed proprietary controls;
9. If required by EPA, a description of all prior liens and encumbrances existing on any real property that may affect the proprietary controls or the protectiveness of the remedy, and a plan for the release or subordination of any such liens and encumbrances (unless EPA waives the release or subordination of such liens or encumbrances);
10. A plan for monitoring, maintaining, reporting on, and insuring the continued efficacy of the ICs and a contingency plan in the event that the ICs are not meeting their objectives; and
11. A schedule for annual certifications regarding whether: (a) the ICs remain in place and effective; (b) the ICs have been complied with; and (c) regarding any enforcement of the IC that has occurred or that may be necessary. The ICIAP shall be effective upon EPA's approval, and shall be incorporated into and enforceable under this AOC.



Attachment 2: Location of Site

EATON CORPORATION  
LOCATION OF TCE PLUME



Source: Bullis and Davison County Public Power District, 1978.

Attachment 3: Location of TCE Plume