UNITED STATES DEPARTMENT OF JUSTICE
AND
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 8
AND
STATE OF COLORADO

IN THE MATTER OF:

Broderick Wood Products Superfund Site, Adams County, CO

Brannan Sand and Gravel Company, LLC,

Purchaser

CERCLA Docket No. CERCLA-08-2024-0004

ADMINISTRATIVE SETTLEMENT AGREEMENT FOR RESPONSE ACTIONS BY PROSPECTIVE PURCHASER

TABLE OF CONTENTS

I. GENERAL PROVISIONS

1. This Administrative Settlement Agreement for Response Actions by Prospective Purchaser ("Settlement") is entered into voluntarily by the United States of America ("United States") on behalf of the United States Environmental Protection Agency ("EPA"), the State of Colorado ("State"), and the prospective purchaser, Brannan Sand and Gravel Company, LLC ("Purchaser"). This Settlement provides for the performance of response actions by Purchaser and the payment for certain response costs incurred by the United States and the State at or in connection with property located in unincorporated Adams County, Colorado, known as the Broderick Wood Products Superfund Site ("Site").

2. This Settlement is entered into under the authority of the United States Attorney General to compromise and settle claims of the United States, consistent with the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"). The EPA is proceeding under the CERCLA authority vested in the President of the United States and delegated to the Administrator of the EPA and further delegated to the undersigned EPA Regional official.

3. Purchaser agrees to undertake all actions required by this Settlement. In exchange for Purchaser's performance of the Work and payment for certain response costs, this Settlement resolves Purchaser's potential CERCLA liability in accordance with the covenants not to sue in Section XVI (Covenants by United States and State), subject to the reservations and limitations contained in Section XVI. This Settlement is fair, reasonable, in the public interest, and consistent with CERCLA.

4. The United States, the State, and Purchaser (collectively, the "Parties") recognize that this Settlement has been negotiated in good faith and that the actions undertaken by Purchaser in accordance with this Settlement do not constitute an admission of any liability. Purchaser does not admit and retains the right to controvert in any subsequent proceedings, other than proceedings to implement or enforce this Settlement, the validity of the statement of facts and determinations in Sections IV (Statement of Facts) and V (Determinations). Purchaser agrees not to contest the basis or validity of this Settlement or its terms, or the United States' right to enforce this Settlement.

II. PARTIES BOUND

5. This Settlement is binding upon the United States, the State, and Purchaser and its successors. Unless the United States otherwise consents, any change in ownership or corporate or other legal status of Purchaser does not alter Purchaser's responsibilities under this Settlement. Except as provided in ¶ 59, Transfer of the Property or Future Property or any portion thereof does not alter any of Purchaser's obligations under this Settlement. Purchaser's responsibilities under this Settlement cannot be assigned except under a modification executed in accordance with ¶ 111.

6. Purchaser shall provide notice of this Settlement to officers, directors, employees, agents, contractors, subcontractors, or any person representing Purchaser with respect to the

Property, Future Property, or the Work. Purchaser is responsible for ensuring that such persons act in accordance with the terms of this Settlement.

III. DEFINITIONS

7. Terms not otherwise defined in this Settlement have the meanings assigned in CERCLA or in regulations promulgated under CERCLA. Whenever the terms set forth below are used in this Settlement, the following definitions apply:

"Agencies" means the EPA and CDPHE collectively.

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

"CDPHE" means the Colorado Department of Public Health and Environment and any successor departments or agencies of the State.

"Day" or "day" means a calendar day. In computing any period under this Settlement, the day of the event that triggers the period is not counted and, where the last day is not a working day, the period runs until the close of business of the next working day. "Working day" means any day other than a Saturday, Sunday, or federal or State holiday.

"DOJ" means the United States Department of Justice.

"Effective Date" means the effective date of this Settlement as provided in Section XXIX.

"Environmental Covenant" means the environmental covenant recorded on all Site property in 2007 that Broderick Investment Company ("BIC") implemented as an institutional control as required by the Operable Unit 2 Record of Decision ("OU2 ROD"). The Environmental Covenant is attached as Appendix A.

"EPA" means the United States Environmental Protection Agency.

"Existing Contamination" means:

a. any hazardous substances, pollutants, or contaminants present or existing on or under the Property or Future Property prior to or as of the Effective Date;

b. any hazardous substances, pollutants, or contaminants that migrated from the Property or Future Property prior to the Effective Date; and

c. any hazardous substances, pollutants, or contaminants present or existing at the Site as of the Effective Date that migrate onto, under or from the Property or Future Property after the Effective Date.

"Fund" means the Hazardous Substance Superfund established under section 9507 of the Internal Revenue Code, 26 U.S.C. § 9507.

"Future Property" means that portion of the Site, located at Lot 4 in Adams County, Colorado, that may be acquired by Purchaser, which is depicted generally in Appendix B. Lot 4 is located at 5790 Lipan Street, Denver, CO, 80216 (Parcel ID 0182510304002).

"Future Response Costs" means all costs (including direct, indirect, payroll, contractor, travel, and laboratory costs) that the United States pays in supporting, implementing, overseeing, or enforcing this Settlement, including: (a) in reviewing and approving deliverables generated under this Settlement, with the exception of reviewing and approving the Lot 4 Sampling Plan or the Lot 4 Work Plan; (b) in overseeing Purchaser's performance of the Work; (c) in taking a response action described in ¶ 97 because of Purchaser's failure to take emergency action under ¶ 46; (d) in implementing a Work Takeover under ¶ 52; (e) in securing, implementing, monitoring, maintaining, or enforcing the requirements of Section VIII (Property Requirements); (f) in taking action under ¶ 67 (Access to Financial Assurance), if the EPA determines that financial assurance is required; and (g) in enforcing this Settlement, including all costs paid under Section XIII (Dispute Resolution) and all litigation costs. Future Response Costs also includes all Interest accrued on the EPA's unreimbursed costs from any of the above-described costs.

"Including" or "including" means "including but not limited to."

"Interest" means interest at the rate specified for interest on investments of the Fund, as provided under section 107(a) of CERCLA, compounded annually on October 1 of each year. The applicable rate of interest is the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year. As of the date the EPA signs this Settlement, rates are available online at https://www.epa.gov/superfund/superfund-interest-rates.

"Lot 7 Work Plan" means the document attached as Appendix C, which describes the activities Purchaser shall perform to implement and maintain the effectiveness of the response action.

"Materials Management and Health and Safety Plan" means the Materials Management and Health and Safety Plan attached to the Environmental Covenant, the draft updated Materials Management and Health and Safety Plan attached as Appendix D, and any updates to the Materials Management and Health and Safety Plan. The plan describes procedures for handling of contaminated soil or materials, as well as property-specific health and safety procedures.

"NCP" means the National Oil and Hazardous Substances Pollution Contingency Plan (called the "National Contingency Plan") promulgated under section 105 of CERCLA, codified at 40 C.F.R. part 300, and any amendments thereto.

"Paragraph" or "¶" means a portion of this Settlement identified by an Arabic numeral or an upper- or lower-case letter.

"Parties" means the United States, State, and Purchaser.

"Property" means that portion of the Site, located at Lot 7 and Tract A in Adams County, Colorado, to be acquired by Purchaser, which is depicted generally in Appendix B. Lot 7 is located at 5885 Lipan Street, Denver, CO, 80216 (Parcel ID 0182509402002). Tract A does not have a specific address but is located immediately adjacent to and north of Lot 7. Tract A has a Parcel ID of 0182509402005.

"Purchaser" means Brannan Sand and Gravel Company, LLC as the prospective purchaser of the Property and the potential purchaser of Future Property.

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

"Section" means a portion of this Settlement identified by a Roman numeral.

"Settlement" means this Administrative Settlement Agreement for Response Actions by Prospective Purchaser, all appendixes attached hereto (listed in Section XXI). If there is a conflict between a provision in Sections I through XXIX and a provision in any appendix, the provision in Sections I through XXIX controls.

"Site" means the Broderick Wood Products Superfund Site, comprising approximately 64 acres, located generally at 5980 Lipan Street in unincorporated Adams County, Colorado, and depicted generally on the map attached as Appendix B.

"Special Account" means the special account within the Fund, established for the Site by the EPA under section 122(b)(3) of CERCLA.

"State" means the State of Colorado.

"Transfer" means to sell, assign, convey, lease, mortgage, or grant a security interest in, or where used as a noun, a sale, assignment, conveyance, or other disposition of any interest by operation of law or otherwise.

"Transferee" means the party to whom a Transfer is made.

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

"Waste Material" means (a) any "hazardous substance" under section 101(14) of CERCLA; (b) any pollutant or contaminant under section 101(33) of CERCLA; and (c) any "solid waste" under section 1004(27) of RCRA.

"Work" means all obligations of Purchaser under Sections VI (Coordination and Supervision) through X (Indemnification and Insurance).

"Work Takeover" means the EPA's assumption of the performance of any of the Work in accordance with ¶ 52.

IV. STATEMENT OF FACTS

8. The Site is in an industrial area in unincorporated Adams County in Colorado and covers approximately 64 acres. Historic wood treating operations contaminated Site soil, sediment, and groundwater.

9. The Site is bound on the north by the Fisher Ditch (an open irrigation canal), the west by the Burlington Northern Santa Fe rail line tracks, and the east by the Union Pacific Railroad Company ("Union Pacific") rail line tracks. The southern boundary is approximately the crossing of the Burlington Northern Santa Fe and Union Pacific tracks.

10. Three hydrogeological units underlie the Site that may be impacted by Site groundwater contamination: the surficial aquifer (down to 25 feet below ground surface ("bgs")), the Denver aquifer (25 to 180 feet bgs) and the Arapahoe aquifer (greater than 180 feet bgs). Groundwater flows toward the north in the surficial and Arapahoe aquifers and toward the northeast in the Denver aquifer. Groundwater contamination was found primarily in the surficial and Denver aquifers. Groundwater in all three aquifers was deemed a potential drinking water source during remedy selection.

11. From 1947 to 1981, the Broderick Wood Products Company ("BWP") operated a wood treating facility to treat power poles, fence posts, railroad ties, and other wood products. Throughout the life of the facility, BWP used creosote as a wood preserving agent in the treatment process and typically mixed the creosote with a carrier oil like fuel oil. Prior to 1953, BWP used pentachlorophenol ("PCP") dissolved in carrier oil intermittently. Then, from 1953 to 1980, BWP used PCP dissolved in carrier oil on a regular basis. BWP disposed of waste on-Site, primarily in unlined impoundments.

12. In 1981, BWP ceased operations and dissolved. Prior to dissolution, BWP transferred its assets into BIC through a series of trusts. BIC's objective was to wrap up BWP's interests and liabilities. BIC, as the successor to BWP, has been the Site's potentially responsible party for many years.

13. In 1984, the EPA placed the Site on the National Priorities List.

14. BIC conducted remedial investigation/feasibility study ("RI/FS") activities in three phases: Phase I, completed in 1984; Phase II, completed in 1986; and Phase III, completed in 1991. RIs identified two primary contaminant sources, as well as many minor sources at the Site. In 1991, BIC prepared an endangerment assessment as part of the Phase III RI/FS. Primary pathways with unacceptable risk included inhalation and ingestion of soils for on-Site resident children and industrial workers, and groundwater ingestion for on- and off-Site resident adults and on-Site industrial workers.

15. During RI/FS, the EPA divided the Site into two operable units ("OUs"). OU1 provided an interim remedy and source control. OU2 provided a final remedy. In the early 2000s, the EPA added OU3 to manage Union Pacific's redevelopment activities at the Site.

16. In 1988, the EPA issued the OU1 Record of Decision ("ROD"). The OU1 ROD required: (a) restriction of Site access; (b) excavation and incineration of impoundment sludges; (c) incineration or stockpiling of contaminated soils found beneath the sludges; and (d) treatment of water in the impoundments and buildings. The OU1 ROD did not address contaminated groundwater, surface soil, or buildings.

17. In 1991, the EPA issued the OU1 ROD Amendment to change the disposal method for the impoundment sludges from on-Site incineration to reclamation. The EPA also deferred the incineration of contaminated soils and treatment of water in the impoundments and buildings to OU2.

18. In 1992, the EPA issued the final Site remedy in the OU2 ROD. The OU2 ROD addressed soil, groundwater, and sediment contamination, as well as buildings and structures.

19. The OU2 ROD remedy for soils and sediments included: (a) excavating and bioremediating contaminated soils in an on-Site land treatment unit ("LTU"); and (b) treating soils contaminated with heavy metals through chemical fixation and then disposing them off-Site.

20. The OU2 ROD remedy for groundwater included:

a. Surficial aquifer: recovering and treating groundwater contaminated with light non-aqueous phase liquids ("LNAPL") in an oil/water separator to remove LNAPL. LNAPL was shipped to an off-Site recycling facility, and the remaining water treated in a two-stage, fixed-film bioreactor and reinjected into the aquifer, stimulating bacterial growth to promote further breakdown of contamination. A packaged water treatment system ("PWTS") was required.

b. Denver aquifer: collecting groundwater contaminated with dense non-aqueous phase liquids ("DNAPL"), treating the DNAPL-contaminated groundwater in the oil/water separator, and sending it to an off-Site recycling facility.

c. Arapahoe aquifer: drilling additional monitoring wells to further test the aquifer and to collect and analyze additional groundwater samples to provide additional information about groundwater contamination in this aquifer, if any.

21. In 1995, the EPA issued the OU2 Explanation of Significant Differences ("ESD") to clarify the remedy and identify that (a) natural attenuation and biodegradation will be used to address the contamination in the dissolved plume to the north of the Site; (b) instead of a two-stage fixed film bioreactor, the PWTS will employ an activated clay and activated carbon treatment process; and (c) oxygen will be introduced into the soils below the water table using bioventing instead of reinjection of oxygenated water.

22. In 2003, Union Pacific approached the Agencies and BIC about a regional project, called the Utah Junction Re-Alignment Project ("Re-Alignment Project"), that included rehabilitating a rail line embankment across the Site. To accommodate the Re-Alignment Project, the existing rail line along the Site's western edge had to be lowered by about 8 feet, potentially impacting Site groundwater flow directions. To address potential off-Site migration of impacted groundwater and to manage groundwater during construction activities, Union Pacific installed a soil/bentonite cutoff wall along the west and east boundaries of the Site. The Re-Alignment Project also required building on or through the LTUs; replacing some monitoring wells; adopting groundwater control measures; and modifying surface water drainage. The EPA established the Re-Alignment Project as OU3 of the Site for management purposes. However, the EPA has not issued any decision documents for OU3.

23. BIC worked with the Agencies to implement the OU1 ROD, the OU1 ROD Amendment, the OU2 ROD, and the OU2 Explanation of Significant Differences (collectively, the "Site Remedy") under various judicial and administrative orders.

24. In 2007, BIC implemented an institutional control as required by the OU2 ROD and recorded an environmental covenant on all Site property ("Environmental Covenant").

25. Generally, BIC implemented the remedy at the Site, though the Site still requires closure of the LTUs, as well as ongoing groundwater remedy activities, as described below.

26. Initially, BIC owned the entire Site, but, over the years, BIC sold portions of the Site. Portions of the Site are now used by Purchaser for a sand, gravel, and asphalt production business; other portions of the Site are used for industrial storage, a sewer and water line repair company, and a Union Pacific bypass line across the Site. The Site has been divided into Lots 1 through 9 and Tracts A through C. Currently, BIC owns Lots 4, 7, and 9 and Tract A.

27. Purchaser owns Lots 1, 2, 3, 5, and 6 and Tracts B and C. On June 18, 2012, the EPA issued a comfort letter to Purchaser pertaining to the purchase of these parcels. The comfort letter outlined reasonable steps that Purchaser must take at the Site to ensure contamination at the Site is not exacerbated.

28. Purchaser intends to acquire the Property and perform certain response actions under this Settlement that are necessary. Purchaser may acquire the Future Property which may require additional response actions.

29. Another entity, Elite Pipe MD, LLC, owns Lot 8 and leases Lot 9 from BIC. Those properties and transactions are not the subject of this Settlement.

V. DETERMINATIONS

30. Based on the Statement of Facts set forth above, and the administrative record, the EPA has determined that:

a. The Site, the Property, and the Future Property are all a "facility," as defined by section 101(9) of CERCLA.

b. The contamination found at the Site, the Property, and the Future Property, as identified in the Statement of Facts above, includes "hazardous substances" as defined by section 101(14) of CERCLA.

c. Purchaser is a "person" as defined by section 101(21) of CERCLA.

d. The conditions described in Section IV (Statement of Facts) above constitute an actual or threatened "release" of a hazardous substance from the Site, the Property, and the Future Property as defined by section 101(22) of CERCLA.

e. The response action required by this Settlement is necessary to protect the public health or welfare or the environment.

VI. COORDINATION AND SUPERVISION

31. **Purchaser's Project Coordinator**

a. Purchaser's Project Coordinator will be responsible for administration of the Work required by this Settlement. Purchaser's Project Coordinator must have sufficient technical expertise to coordinate the Work. To the greatest extent possible, the Project Coordinator shall be present at the Property and Future Property or readily available during the Work.

b. Notice or communication relating to this Settlement from the EPA to Purchaser's Project Coordinator constitutes notice or communication to Purchaser.

32. **Procedures for Notice and Disapproval**

a. Within 10 days after the Effective Date, Purchaser shall designate a Project Coordinator and shall notify the Agencies of the name, title, contact information, and qualifications of the proposed Project Coordinator, whose qualifications shall be subject to the Agencies' review for verification based on objective assessment criteria (*e.g.*, experience, capacity, technical expertise) and to ensure there is no conflict of interest with respect to the project. Purchaser shall notify the Agencies of the names, titles, contact information, and qualifications of any contractors or subcontractors retained to perform the Work at least 14 days prior to commencement of such Work.

b. The EPA may issue notices of disapproval regarding any proposed Project Coordinator, contractor, or subcontractor, as applicable. If the EPA issues a notice of disapproval, Purchaser shall, within 30 days, submit to the Agencies a list of supplemental proposed project coordinators, contractors, or subcontractors, as applicable, including a description of the qualifications of each.

c. The EPA may disapprove the proposed Project Coordinator, contractor, or subcontractor, based on objective assessment criteria (e.g., experience, capacity, technical expertise), if they have a conflict of interest regarding the project, or any combination of these factors.

d. Purchaser may change its Project Coordinator by following the procedures under ¶¶ 32.a and 32.b.

e. Notwithstanding the procedures of ¶¶ 32.a through 32.c, Purchaser has proposed, and the EPA has authorized Purchaser to proceed, regarding the following Project Coordinator: Dan Griffiths, CPG, PG; Parsons Innovation and Technology Director; (303) 710-9419, daniel.r.griffiths@parsons.com.

33. **EPA Remedial Project Manager.** The EPA designates Paul Stoick of the Superfund and Emergency Management Division, Remedial Branch, Region 8, as its Remedial Project Manager ("RPM"). The RPM has the authorities described in the NCP, including oversight of Purchaser's implementation of the Work, authority to halt, conduct, or direct any Work, or to direct any other response action undertaken at the Property or Future Property. The RPM's absence from the Site is not a cause for stoppage of work unless specifically directed by the RPM. The EPA may change its RPM and will notify Purchaser of any such change.

34. **State Project Manager.** The State designates Patrick Medland as the State Project Manager. The State has the right to change its designated State Project Manager and will provide notice of such change.

VII. RESPONSE ACTION TO BE PERFORMED

35. Purchaser shall perform all actions necessary to implement the response action required by this Settlement, as described in detail in the Lot 7 Work Plan, which generally includes the following:

a. Abandonment of all above-ground infrastructure related to bioventing operations, including conduits for air and electricity for Lot 7 and Tract A;

b. Abandonment of all below-ground infrastructure related to bioventing operations, including bioventing wells (all phases) and bioventing monitoring points, consistent with any State or Federal Regulations for Lot 7 and Tract A; and

c. Abandonment of any monitoring wells or piezometers jointly agreed upon by Purchaser and the Agencies that might interfere with future redevelopment activities, and which may no longer be necessary for monitoring remedy performance for Lot 7 and Tract A.

36. If Purchaser intends to utilize Future Property, it shall provide written notice to the Agencies prior to any use, so that the EPA may determine whether Purchaser's proposed use is compatible with the remedy.

a. Purchaser shall schedule a kickoff meeting with the Agencies within 30 days of such notice.

b. Within 30 days after the kickoff meeting, Purchaser shall submit a Lot 4 Sampling and Analysis Plan that contains proposed sampling ("Lot 4 Sampling Plan") for EPA approval.

c. Pending the results of the Lot 4 Sampling Plan, additional Work may be required if Purchaser wishes to move forward with Purchaser's proposed land use of Future Property. If Purchaser intends to perform this additional Work, it shall submit a Lot 4 Work Plan that contains any such additional work for EPA's approval, with an opportunity for review and comment by CDPHE. Once approved, Purchaser shall notify the Agencies in writing of its intent to implement the Lot 4 Work Plan. Upon this notice, the Lot 4 Work Plan will be deemed to be incorporated into and enforceable under this Settlement.

37. For any regulation or guidance referenced in this Settlement, the reference will be read to include any subsequent modification, amendment, or replacement of such regulation or guidance. Such modifications, amendments, or replacements apply to any Work associated with the Lot 7 Work Plan and the Lot 4 Work Plan, individually, until EPA issues the respective notice of completion of work under ¶ 50 for the Work associated with the Lot 7 Work Plan and the Lot 4 Work Plan and only after Purchaser receives notification from the EPA of the modification, amendment, or replacement.

38. **Lot 7 Work Plan.** The Lot 7 Work Plan is attached as Appendix C and has been approved by the EPA, with concurrence from the State.

39. **Health and Safety Plan.** Within 60 days after the Effective Date, Purchaser shall submit to the Agencies for review and comment a Health and Safety Plan ("HASP") that meets the requirements of 29 C.F.R. § 910.120 for developing the HASP and that describes all activities to be performed to protect on site personnel and area residents from physical, chemical, biological, and all other hazards related to the performance of Work at the Property or Future Property under this Settlement. Purchaser shall develop the HASP in accordance with *EPA's Emergency Responder Health and Safety Manual*, OSWER 9285.3-12 (July 2005 and updates), available at https://response.epa.gov/site/site_profile.aspx?site_id=2810. In addition, Purchaser shall ensure that the HASP complies with all currently applicable Occupational Safety and Health Administration ("OSHA") regulations found at 29 C.F.R. part 1910. Purchaser shall incorporate all changes to the HASP recommended by the EPA and shall implement the HASP during the pendency of the Work. Purchaser shall update the HASP as necessary or appropriate during the course of the Work, and/or as requested by the EPA.

40. **Quality Assurance, Sampling, and Data Analysis**

a. Purchaser shall use quality assurance, quality control, and other technical activities and chain of custody procedures for all samples taken under this Settlement consistent with the EPA's *Environmental Information Quality Policy*, CIO 2105.1 (Mar. 31, 2021), available at https://www.epa.gov/irmpoli8/environmental-information-quality-policy, the most

recent version of *Quality Management Systems for Environmental Information and Technology Programs – Requirements with Guidance for Use*, ASQ/ANSI E4:2014 (Feb. 2014), and *EPA Requirements for Quality Assurance Project Plans*, EPA QA/G-5 (EPA/240/B-01/02) (Mar. 2001), available at https://www.epa.gov/quality/epa-qar-5-epa-requirements-quality-assurance-project-plans.

b. Purchaser shall ensure that the EPA and State personnel and their authorized representatives are allowed reasonable access to laboratories used by Purchaser in implementing this Settlement. In addition, Purchaser shall ensure that such laboratories analyze all samples submitted by the EPA or the State under a Quality Management Plan ("QMP") and Quality Assurance Project Plan ("QAPP") for quality assurance monitoring, and that sampling and field activities are conducted in accordance with the Agency's *EPA QA Field Activities Procedure*, CIO 2105-P-02.0 (Sept. 24, 2014) available at http://www.epa.gov/irmpoli8/epa-qa-field-activities-procedures. Purchaser shall ensure that the laboratories it uses for the analysis of samples taken under this Settlement meet the competency requirements set forth in the *Policy to Assure Competency of Laboratories, Field Sampling, and Other Organizations Generating Environmental Measurement Data under Agency-Funded Acquisitions*, Directive No. FEM-2011-01 (Nov. 14, 2016), available at https://www.epa.gov/measurements/documents-about-measurement-competency-under-acquisition-agreements and that the laboratories perform all analyses according to EPA-accepted methods. Accepted EPA methods are documented on the EPA's "Superfund Contract Laboratory Program" website at https://www.epa.gov/clp, the "Hazardous Waste Test Methods / SW 846" website (*Test Methods for Evaluating Solid Waste, Physical/Chemical Methods)* at https://www.epa.gov/hw-sw846, the "Standard Methods for the Examination of Water and Wastewater" website at https://www.standardmethods.org/, and the "Air Toxics – Monitoring Methods" (40 C.F.R. part 136) website at https://www3.epa.gov/ttnamti1/airtox.html.

c. Upon request, Purchaser shall provide split or duplicate samples taken under this Settlement to the EPA or the State or their authorized representatives. Purchaser shall notify the Agencies not less than 7 days prior to any sample collection activity taken under this Settlement unless shorter notice is agreed to by the EPA. In addition, the Agencies have the right to take any additional samples that the Agencies deem necessary. Upon request, the Agencies may provide to Purchaser split and/or duplicate samples of any samples in connection with the Agencies' oversight sampling.

d. Purchaser shall submit to the Agencies all sampling and tests results, and other data obtained or generated by or on behalf of Purchaser or in connection with the implementation of this Settlement. Purchaser shall expedite all data generation and validation for residential sampling activities.

41. **Community Involvement.** The EPA has the lead responsibility for implementing community involvement activities at the Site in accordance with the NCP and EPA guidance. As requested by the EPA, Purchaser shall participate in community involvement activities, including participation in (a) the preparation of information regarding the Work for dissemination to the public (including compliance schedules and progress reports), with consideration given to the specific needs of the community, including translated materials and mass media and/or Internet

notification, and (b) public meetings that may be held or sponsored by the EPA to explain activities at or relating to the Site.

42. **Deliverables: Specifications and Approval**

a. **General Requirements for Deliverables.** Purchaser shall submit all deliverables to the Agencies in electronic form, unless otherwise specified by the RPM.

b. **Technical Specifications for Deliverables.** Sampling and monitoring data should be submitted in standard regional Electronic Data Deliverable ("EDD") format. Other delivery methods may be allowed if electronic direct submission presents a significant burden or as technology changes.

43. **Approval of Deliverables.** After review of any deliverable required to be submitted for EPA approval under this Settlement, the EPA shall: (a) approve, in whole or in part, the deliverable; (b) approve the submission upon specified conditions and/or require revisions to the deliverable; (c) disapprove, in whole or in part, the deliverable and require revisions to the deliverable; or (d) any combination of the foregoing. If the EPA requires revisions, the EPA will provide a deadline for the resubmission, and Purchaser shall submit the revised deliverable by the required deadline. Once approved or approved with conditions, Purchaser shall implement the Lot 7 Work Plan or other deliverables in accordance with the EPA-approved schedule. Upon approval or subsequent modification by the EPA of any deliverable, or any portion thereof: (1) such deliverable, or portion thereof, and any subsequent modifications, will be incorporated into and enforceable under this Settlement; and (2) Purchaser shall take any action required by such deliverable, or portion thereof. Purchaser shall not commence or perform any Work except in conformance with the terms of this Settlement.

44. **Off-Site Shipments**

a. Purchaser may ship hazardous substances, pollutants, and contaminants from the Site to an off-site facility only if it complies with section 121(d)(3) of CERCLA and 40 C.F.R. § 300.440. Purchaser will be deemed to be in compliance with CERCLA § 121(d)(3) and 40 C.F.R. § 300.440 regarding a shipment if Purchaser obtains a prior determination from the EPA that the proposed receiving facility for such shipment is acceptable under the criteria of 40 C.F.R. § 300.440(b).

b. Purchaser may ship Waste Material from the Site to an out-of-state waste management facility only if, prior to any shipment, it provides written notice to the appropriate state environmental official in the receiving facility's state and to the RPM. This written notice requirement will not apply to any off-site shipments when the total quantity of all such shipments does not exceed 10 cubic yards. The written notice must include the following information, if available: (1) name and location of the receiving facility; (2) type and quantity of Waste Material to be shipped; (3) schedule for the shipment; and (4) method of transportation. Purchaser also shall notify the state environmental official referenced above and the RPM of any major changes in the shipment plan, such as a decision to ship the Waste Material to a different out-of-state

facility. Purchaser shall provide the written notice after the award of the contract for the response action and before the Waste Material is shipped.

c. Purchaser may ship Investigation Derived Waste ("IDW") from the Site to an off-site facility only if it complies with section 121(d)(3) of CERCLA, 40 C.F.R. § 300.440, EPA's *Guide to Management of Investigation Derived Waste*, OSWER 9345.3-03FS (Jan. 1992) available at https://semspub.epa.gov/work/03/136166.pdf. Wastes shipped off-site to a laboratory for characterization, and RCRA hazardous wastes that meet the requirements for an exemption from RCRA under 40 C.F.R. § 261.4(e) shipped off-site for treatability studies, are not subject to 40 C.F.R. § 300.440.

45. **Permits**

a. As provided in CERCLA section 121(e), and section 300.400(e) of the NCP, no permit is required for any portion of the Work conducted entirely on-site (*i.e.*, within the areal extent of contamination or in very close proximity to the contamination and necessary for implementation of the Work). Where any portion of the Work that is not on-site requires a federal or state permit or approval, Purchaser shall submit timely and complete applications and take all other actions necessary to obtain and to comply with all such permits or approvals.

b. Purchaser may seek relief under the provisions of Section XII (Force Majeure) for any delay in the performance of the Work resulting from a failure to obtain, or a delay in obtaining, any permit or approval referenced in ¶ 45.a required for the Work, provided that it has submitted timely and complete applications and taken all other actions necessary to obtain all such permits or approvals.

c. Nothing in this Settlement constitutes a permit issued under any federal or state statute or regulation.

46. **Emergency Response.** If any event occurs during performance of the Work that causes or threatens to cause a release of Waste Material on, at, or from the Property or Future Property that either constitutes an emergency situation or that may present an immediate threat to public health or welfare or the environment, Purchaser shall: (a) immediately take all appropriate action to prevent, abate, or minimize such release or threat of release; (b) immediately notify the RPM or, in the event of their unavailability, the EPA Regional Duty Officer at (303) 293-1788 of the incident or Property or Future Property conditions; (c) immediately notify the State Project Manager, or in the event of their unavailability, the Colorado Incident Reporting Line at (877) 518-5608; and (d) take such actions in consultation with the RPM or authorized EPA officer and in accordance with all applicable provisions of this Settlement, including the HASP, and any other applicable deliverable approved by the EPA.

47. **Release Reporting.** Upon the occurrence of any event during performance of the Work that Purchaser is required to report under CERCLA section 103 or section 304 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11004, Purchaser shall immediately orally notify the RPM or, in the event of their unavailability, the EPA Regional Duty Officer at (303) 293-1788, and the National Response Center at (800) 424-

8802. Purchaser shall also submit a written report to the EPA within seven days after the onset of such event that describes (a) the event and (b) all measures taken and to be taken: (1) to mitigate any release or threat of release; (2) to mitigate any endangerment caused or threatened by the release; and (3) to prevent the reoccurrence of any such a release or threat of release. The reporting requirements are in addition to the reporting required by CERCLA section 103 and EPCRA section 304.

48. **Progress Reports.**

a. If Work under the Lot 7 Work Plan will take fewer than 120 days to complete, Purchaser is not required to submit progress reports. If Work under the Lot 7 Work Plan will take greater than 120 days to complete, commencing upon the Property's Effective Date and until issuance of a notice of completion of work under ¶ 50, Purchaser shall submit written progress reports to the Agencies on a quarterly basis, or as otherwise directed in writing by the RPM.

b. Should the EPA approve Purchaser's Lot 4 Work Plan, progress reports may be required under this Paragraph. If Work under the Lot 4 Work Plan will take fewer than 120 days to complete, Purchaser is not required to submit progress reports. If Work under the Lot 4 Work Plan will take greater than 120 days to complete, commencing upon the EPA's approval of the Lot 4 Work Plan and until issuance of a notice of completion of work under ¶ 50, Purchaser shall submit written progress reports to the Agencies on a quarterly basis, or as otherwise directed in writing by the RPM.

c. Progress reports must describe all significant developments during the preceding period, including the actions performed and any problems encountered, analytical data received during the reporting period, and the developments anticipated during the next reporting period, including a schedule of actions to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

49. **Final Reports.** Within 60 days after completion of all Work required for the Property, other than continuing obligations listed in ¶ 50, Purchaser shall submit for the Agencies' review and the EPA approval a final report regarding the Work as it relates to the Property ("Lot 7 Final Report").

a. The Lot 7 Final Report must:

(1) summarize the actions taken to comply with this Settlement;

(2) conform to the requirements of section 300.165 of the NCP;

(3) list the quantities and types of materials removed off-Site or handled on-Site;

(4) describe the removal and disposal options considered for those materials;

(5) identify the ultimate destination(s) of those materials;

(6) include the analytical results of all sampling and analyses performed; and

(7) include all relevant documentation generated during the Work (e.g., manifests, invoices, bills, contracts, and permits) and an estimate of the total costs incurred to complete the Work.

b. The Lot 7 Final Report must also include the following certification signed by a responsible corporate official of Purchaser or Purchaser's Project Coordinator: "I certify under penalty of perjury 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 have no personal knowledge that the information submitted is other than 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."

c. Should the EPA approve Purchaser's Lot 4 Work Plan, within 90 days after completion of all Work required by the Lot 4 Work Plan, Purchaser shall submit a final report for Lot 4 (the "Lot 4 Final Report") consistent with ¶ 49.a and 49.b for Work as it relates to Future Property.

50. **Notice of Completion of Work**

a. If after reviewing the Lot 7 Final Report under ¶ 49, the EPA determines, after review and an opportunity to comment by the State, that all Work, other than the continuing obligations and any work under the Lot 4 Work Plan, has been fully performed in accordance with this Settlement, the EPA will provide written notice to Purchaser. A notice of completion of work is not a protectiveness determination and does not affect the following continuing obligations:

(1) obligations under Section VIII (Property Requirements);

(2) payment of Future Response Costs;

(3) obligations under Section XIX (Records); and

(4) obligations under any outstanding work plan, including the Lot 4 Work Plan, if the EPA has approved it.

b. If the EPA determines, after review and an opportunity to comment by the State, that any Work other than the continuing obligations and the Lot 4 Work Plan has not been

completed in accordance with this Settlement, the EPA will notify Purchaser and provide a list of the deficiencies. Purchaser shall promptly correct all such deficiencies. Purchaser shall submit a modified Lot 7 Final Report upon completion of the deficiencies.

c. If after reviewing the Lot 4 Final Report under ¶ 49, the EPA determines, after review and an opportunity to comment by the State, that all Work, other than the continuing obligations, has been fully performed in accordance with this Settlement, the EPA will provide written notice to Purchaser. A notice of completion of work is not a protectiveness determination and does not affect the following continuing obligations:

(1) obligations under Section VIII (Property Requirements);

(2) payment of Future Response Costs; and

(3) obligations under Section XIX (Records).

d. If the EPA determines, after review and an opportunity to comment by the State, that any Work other than the continuing obligations has not been completed in accordance with this Settlement, the EPA will notify Purchaser and provide a list of the deficiencies. Purchaser shall promptly correct all such deficiencies. Purchaser shall submit a modified Lot 4 Final Report upon completion of the deficiencies.

51. **Compliance with Applicable Law.** Nothing in this Settlement affects Purchaser's obligations to comply with all applicable state and federal laws and regulations, except as provided in section 121(e) of CERCLA and 40 C.F.R. §§ 300.400(e) and 300.415(j). In accordance with 40 C.F.R. § 300.415(j), all on-site actions required under this Settlement shall, to the extent practicable, as determined by the EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements ("ARARs") under federal environmental or state environmental or facility siting laws. The EPA deems the activities conducted in accordance with this Settlement, if approved by the EPA, to be consistent with the NCP as provided under section 300.700(c)(3). Purchaser shall implement the Work applying the ARARs as identified in the Lot 7 Work Plan and any future Lot 4 Work Plan.

52. **Work Takeover**

a. If the EPA determines that Purchaser: (1) has ceased to implement any of the Work required under this Section, (2) is seriously or repeatedly deficient or late in its performance of the Work required under this Section, or (3) is performing the Work required under this Section in a manner that may cause an endangerment to public health or welfare or the environment, the EPA may issue a notice of Work Takeover to Purchaser, including a description of the grounds for the notice and a period of time ("Remedy Period") within which Purchaser shall remedy the circumstances giving rise to the notice. The Remedy Period will be 20 days, unless the EPA determines in its unreviewable discretion that there may be an endangerment, in which case the Remedy Period will be 10 days.

b. If, by the end of the Remedy Period, Purchaser does not remedy to the EPA's satisfaction the circumstances giving rise to Work Takeover Notice, the EPA may notify Purchaser and, as it deems necessary, commence a Work Takeover.

c. The EPA may conduct the Work Takeover during the pendency of any dispute under Section XIII but shall terminate the Work Takeover if and when: (1) Purchaser remedies, to the EPA's satisfaction, the circumstances giving rise to the notice of Work Takeover; or (2) upon the issuance of a final determination under Section XIII that the EPA is required to terminate the Work Takeover.

VIII. PROPERTY REQUIREMENTS

53. **Notices.** Purchaser shall provide all legally required notices with respect to the discovery or release of any hazardous substance at the Property or Future Property that occurs after the Effective Date.

54. **Non-Interference and Access.** Purchaser shall refrain from using the Property or Future Property in any manner that the EPA determines will pose an unacceptable risk to public health or welfare or the environment due to exposure to Waste Material, or interfere with or adversely affect the implementation, integrity, or protectiveness of the response action. Upon acquisition of the Property or Future Property, Purchaser shall provide full cooperation, assistance, and access to persons that are authorized to conduct response actions or natural resource restoration at the Property and Future Property (including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response actions or natural resource restoration at the Property and Future Property). Commencing on the Effective Date, Purchaser shall provide the Agencies and their representatives, including contractors, and subcontractors, access to the Property and Future Property, and to any other property owned or controlled by Purchaser that is part of the Site, at all reasonable times to conduct any activity regarding this Settlement at the Property and Future Property, including the following:

a. implementing the Work and overseeing compliance with this Settlement;

b. conducting investigations of contamination at or near the Property and Future Property;

c. assessing the need for planning, implementing, or monitoring additional response actions at or near the Property and Future Property;

d. implementing a response action by persons performing under the EPA or State oversight;

e. determining whether the Property or Future Property is being used in a manner that is prohibited or restricted, or that may need to be prohibited or restricted under this Settlement or an EPA decision document for the Site; and

f. implementing, monitoring, maintaining, reporting on, and enforcing any land, water, or other resource use restrictions and any institutional controls.

55. **Appropriate Care**. Commencing on the Effective Date, Purchaser shall exercise appropriate care with respect to hazardous substances found at the Property or Future Property by taking reasonable steps to stop any continuing release; prevent any threatened future release; and prevent or limit human, environmental or natural resource exposure to any previously released hazardous substance.

56. **Land, Water, or Other Resource Use Restrictions**

a. Purchaser shall: (1) remain in compliance with any land use restrictions established in connection with any response action at the Property and Future Property, including but not limited to the Environmental Covenant and any future updates to the Environmental Covenant; (2) implement, maintain, monitor, and report on institutional controls, as needed; and (3) not impede the effectiveness or integrity of any institutional control employed at the Property and Future Property in connection with a response action.

b. The following is a list of land, water, or other resource use restrictions currently applicable to the Property and Future Property:

(1) Prohibition on Residential and Public Use. No residential use is permitted, including, but not limited to, any single family or multi-family residential dwelling or living unit, whether permanent or temporary, and no playgrounds, parks, schools, daycare centers (whether independent or ancillary to a permitted use), recreational facilities of any type, community centers, hospitals, or adult care centers.

(2) Prohibition on Agricultural Use. No agricultural use is permitted, including but not limited to, the cultivation or storage of any crop or the grazing, feeding, or keeping of any animal for agricultural or commercial purposes. Ornamental landscaping may be permitted, provided all such landscaping activities are done in accordance with the Materials Management and Health and Safety Plan.

(3) Restriction on Excavation. No excavation of any soils or underneath the soil cover shall occur except pursuant to the Materials Management and Health and Safety Plan or as authorized by the Lot 4 Work Plan. This Settlement also prohibits any loading, hauling, or stockpiling of soils from the Property or Future Property to the Land Treatment Unit-A North.

(4) Prohibition on Use of Water. No development of surface water or groundwater under the Property or Future Property shall occur except as provided in the Site Remedy.

(5) Prohibition on Well Construction. No digging, boring, drilling, or constructing of a well of any kind shall occur except for those wells used for groundwater monitoring purposes as provided in the Site Remedy.

(6) Protection of the Integrity of CERCLA Remedial Actions. No use of the Property or Future Property in any way that interferes with the operation and/or maintenance of CERCLA remedial actions, including, but not limited to, the groundwater monitoring wells, any equipment or infrastructure constructed or used for CERCLA remedial actions, or any cap or other covering intended to prevent contact with contaminated materials in the ground or at the surface, except as authorized by the Lot 7 Work Plan or the Lot 4 Work Plan.

57. **Notice to Successors-in-Title**

a. Purchaser shall, prior to entering into a contract to Transfer any of the Property or Future Property, or 60 days prior to transferring any of the Property or Future Property, whichever is earlier:

(1) Notify the proposed Transferee that the EPA has selected response actions regarding the Property or Future Property, that Purchaser has entered into this Settlement requiring implementation of such response actions and compliance with the requirements at the Property or Future Property in this Section (identifying the name, CERCLA docket number, and the Effective Date of this Settlement); and

(2) Notify the Agencies of the name and address of the proposed Transferee and provide the Agencies with a copy of the above notice that it provided to the proposed Transferee, and notify the Agencies if Purchaser seeks termination of its obligations in accordance with ¶ 59.

58. For so long as Purchaser is an owner or operator of any of the Property or Future Property, Purchaser shall require that Transferees and other parties with rights to use any of the Property or Future Property provide access and cooperation to the Agencies, their authorized officers, employees, representatives, and all other persons performing response actions under the EPA or State oversight. Purchaser shall require that Transferees and other parties with rights to use any of the Property or Future Property implement and comply with any land use restrictions and institutional controls on the Property or Future Property in connection with any response action, and not contest the EPA's or the State's authority to enforce any land use restrictions and institutional controls on any of the Property or Future Property.

59. Upon sale or other conveyance of any of the Property or Future Property, Purchaser shall require that each Transferee or other holder of an interest in any of the Property or Future Property agrees to comply with Section XIX (Records) and this Section and not contest the EPA's or the State's authority to enforce any land use restrictions and institutional controls on any of the Property or Future Property. After the EPA's issuance of a notice of completion of

work under ¶ 50 and Purchaser's written demonstration to the EPA that a Transferee or other holder of an interest in any of the Property or Future Property agrees to comply with the requirements of this ¶ 59, the EPA will notify Purchaser, after review and an opportunity to comment by the State, that its obligations under this Settlement, except obligations under Section XIX, are terminated with respect to any of the Property or Future Property.

60. Purchaser shall provide a copy of this Settlement to any current lessee, sublessee, and other party with rights to use any of the Property or Future Property as of the Effective Date.

61. Notwithstanding any provision of this Settlement, the EPA and the State retain all of their access authorities and rights, as well as all of their rights to require land, water, or other resource use restrictions and institutional controls, including related enforcement authorities, under CERCLA, RCRA, and any other applicable statute or regulations.

IX. FINANCIAL ASSURANCE

62. If the EPA subsequently determines that financial assurance is required for the Future Property, Purchaser will submit a financial assurance proposal to the EPA within 30 days.

63. The financial assurance must: (a) be one or more of the mechanisms listed in ¶ 64, in a form substantially identical to the relevant sample documents available from the EPA; and (b) be satisfactory to the EPA. As of the date the EPA signs this Settlement, the sample documents can be found under the "Financial Assurance – Settlements" category on the Cleanup Enforcement Model Language and Sample Documents Database at https://cfpub.epa.gov/compliance/models/. Purchaser may use multiple mechanisms if they are limited to surety bonds guaranteeing payment, letters of credit, trust funds, insurance policies, or some combination thereof.

64. The following are acceptable mechanisms:

a. a surety bond guaranteeing payment, performance of Work associated with the Future Property, or both, that is issued by a surety company among those listed as acceptable sureties on federal bonds as set forth in Circular 570 of the U.S. Department of the Treasury;

b. an irrevocable letter of credit, payable to the EPA or at the direction of the EPA, that is issued by an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency;

c. a trust fund established for the benefit of the EPA that is administered by a trustee that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency; or

d. a policy of insurance that provides the EPA with acceptable rights as a beneficiary thereof and that is issued by an insurance carrier that has the authority to issue

insurance policies in the applicable jurisdiction(s) and whose insurance operations are regulated and examined by a federal or state agency.

65. Within 30 days after the EPA's approval of the Lot 4 Work Plan, should the EPA determine financial assurance is necessary, Purchaser shall secure all executed or otherwise finalized mechanisms or other documents consistent with the EPA-approved form of financial assurance and shall submit such mechanisms and documents to the EPA, the EPA Regional Financial Management Officer, and DOJ.

66. Purchaser shall diligently monitor the adequacy of any financial assurance. If Purchaser becomes aware of any information indicating that the financial assurance provided under this Section is inadequate or otherwise no longer satisfies the requirements of this Section, Purchaser shall notify the EPA of such information within seven days. If the EPA determines that the financial assurance provided under this Section is inadequate or otherwise no longer satisfies the requirements of this Section, the EPA will notify Purchaser of such determination. Purchaser shall, within 30 days after notifying the EPA or receiving notice from the EPA under this Paragraph, secure and submit to the EPA for approval a proposal for a revised or alternative financial assurance mechanism that satisfies the requirements of this Section. The EPA may extend this deadline for such time as is reasonably necessary for Purchaser, in the exercise of due diligence, to secure and submit to the EPA a proposal for a revised or alternative financial assurance mechanism, not to exceed 60 days. Purchaser shall follow the procedures of ¶ 68 in seeking approval of, and submitting documentation for, the revised or alternative financial assurance mechanism. Purchaser's inability to secure financial assurance in accordance with this Section does not excuse performance of any other requirement of this Settlement.

67. **Access to Financial Assurance**

a. If the EPA issues a notice of a Work Takeover under ¶ 52, then, in accordance with any applicable financial assurance mechanism, the EPA may require: (1) the performance of the Work; and/or (2) that any funds guaranteed be paid in accordance with ¶ 67.d.

b. If the EPA is notified that the issuer of a financial assurance mechanism intends to cancel the mechanism, and Purchaser fails to provide an alternative financial assurance mechanism in accordance with this Section at least 30 days prior to the cancellation date, the funds guaranteed under such mechanism must be paid prior to cancellation in accordance with ¶ 67.d.

c. If, upon issuance of a notice of a Work Takeover under ¶ 52, either: (1) the EPA is unable for any reason to promptly secure the resources guaranteed under any applicable financial assurance mechanism, whether in cash or in kind, to continue and complete the Work, then the EPA is entitled to demand an amount, as determined by the EPA, sufficient to cover the cost of the remaining Work to be performed. Purchaser shall, within 30 days of such demand, pay the amount demanded as directed by the EPA.

d. Any amounts required to be paid under this Paragraph must be, as directed by the EPA: (1) paid to the EPA in order to facilitate the completion of Work associated with the Future Property by the EPA or by another person; or (2) deposited into an interest-bearing account, established at a duly chartered bank or trust company that is insured by the Federal Deposit Insurance Corporation ("FDIC"), in order to facilitate the completion of Work associated with the Future Property by another person. If payment is made to the EPA, the EPA may deposit the payment into the Fund or into the Special Account to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by the EPA to the Fund.

68. **Modification of Amount, Form, or Terms of Financial Assurance**. On any anniversary of the Effective Date, or at any other time agreed to by the EPA and Purchaser, after consultation with the State, Purchaser may submit a request to change the form, terms, or amount of the financial assurance mechanism. Purchaser shall submit any such request to the EPA and shall include an estimate of the cost of the remaining Work associated with the Future Property, an explanation of the bases for the cost calculation, and a description of the proposed changes, if any, to the form or terms of the financial assurance. The EPA will notify Purchaser of its decision regarding the request. Purchaser may modify the form, terms, or amount of the financial assurance mechanism only: (a) in accordance with the EPA's approval; or (b) in accordance with any resolution of a dispute under Section XIII. Purchaser may initiate dispute resolution under Section XIII regarding the EPA's decision about a request to change the amount of financial assurance. Any decision made by the EPA on a request to change the form or terms of a financial assurance mechanism shall not be subject to challenge by Purchaser pursuant to the dispute resolution provisions under Section XIII. Purchaser shall submit to the EPA, within 30 days after receipt of the EPA's approval or consistent with the terms of the resolution of the dispute, documentation of the change to the form, terms, or amount of the financial assurance instrument.

69. **Release, Cancellation, or Discontinuation of Financial Assurance**. Purchaser may release, cancel, or discontinue any financial assurance provided under this Section only: (a) if the EPA issues a notice of completion of work under ¶ 50; (b) in accordance with the EPA's approval of such release, cancellation, or discontinuation; or (c) if there is a dispute regarding the release, cancellation, or discontinuance of any financial assurance, in accordance with the agreement or final administrative decision resolving such dispute under Section XIII.

X. INDEMNIFICATION AND INSURANCE

70. **Indemnification**

a. The United States and the State do not assume any liability by entering into this Settlement or by virtue of any designation of Purchaser as the EPA's authorized representatives under section 104(e)(1) of CERCLA. Purchaser shall indemnify and save and hold harmless the United States, the State, and their officials, agents, employees, contractors, subcontractors, and representatives for or from any and all claims or causes of action arising from, or on account of, negligent or other wrongful acts or omissions of Purchaser, its officers, directors, employees, agents, contractors, or subcontractors, and any persons acting on Purchaser's behalf or under its control, in carrying out activities under this Settlement, including

any claims arising from any designation of Purchaser as the EPA's authorized representatives under section 104(e)(1) of CERCLA. Further, Purchaser agrees to pay the United States and the State all costs they incur, including attorneys' fees and other expenses of litigation and settlement arising from, or on account of, claims made against the United States or the State based on negligent or other wrongful acts or omissions of Purchaser, its officers, directors, employees, agents, contractors, subcontractors, and any persons acting on its behalf or under its control, in carrying out activities under this Settlement. Neither the United States nor the State shall be held out as a party to any contract entered into by or on behalf of Purchaser in carrying out activities under this Settlement. Purchaser and any such contractor may not be considered an agent of the United States or of the State.

b. The United States or the State shall give Purchaser notice of any claim for which the United States or the State plan to seek indemnification under this ¶ 70 and shall consult with Purchaser prior to settling such claim.

71. Purchaser covenants not to sue and shall not assert any claim against the United States or the State for damages or reimbursement or for set-off of any payments made or to be made to the United States or State, arising from or on account of any contract, agreement, or arrangement between Purchaser and any person for performance of Work or other activities on or relating to the Site, including claims on account of construction delays. In addition, Purchaser shall indemnify and save and hold the United States and the State harmless with respect to any claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between Purchaser and any person for performance of work on or relating to the Site, including claims on account of construction delays.

72. **Insurance**. Purchaser shall secure, by no later than 15 days before commencing any on-site Work, the following insurance: (a) commercial general liability insurance with limits of liability of $1 million per occurrence; (b) automobile liability insurance with limits of liability of $1 million per accident; and (c) umbrella liability insurance with limits of liability of $5 million in excess of the required commercial general liability and automobile liability limits. The insurance policy must name the EPA and CDPHE as an additional insured with respect to all liability arising out of the activities performed by or on behalf of Purchaser under this Settlement. Purchaser shall maintain this insurance until the first anniversary after issuance of the EPA's notice of completion of work under ¶ 50. In addition, for the duration of this Settlement, Purchaser shall satisfy, or shall ensure that its contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of Purchaser in furtherance of this Settlement. Prior to commencement of the Work, Purchaser shall provide to the Agencies certificates of such insurance and a copy of each insurance policy. Purchaser shall resubmit such certificates and copies of policies each year on the anniversary of the Effective Date. If Purchaser demonstrates by evidence satisfactory to the EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering all of the same risks but in a lesser amount, then, with respect to that contractor or subcontractor, Purchaser need provide only that portion of the insurance described above that is not maintained by the contractor or subcontractor. Purchaser shall ensure that all submittals to the Agencies under this Paragraph

identify the Broderick Wood Products Superfund Site, Adams County, Colorado and the CERCLA docket number for this action.

XI. PAYMENT FOR RESPONSE COSTS

73. **Payments for Future Response Costs**

a. **Periodic Bills**. On a periodic basis, the EPA will send Purchaser a bill for Future Response Costs, including a standard cost summary listing direct costs paid by the EPA, DOJ, and the State, and related indirect costs. Purchaser may initiate a dispute under Section XIII regarding a Future Response Cost billing, but only if the dispute relates to one or more of the following issues: (1) whether the EPA has made an arithmetical error; (2) whether the EPA has included a cost item that is not within the definition of Future Response Costs; or (3) whether the EPA has paid excess costs as a direct result of an EPA action that was inconsistent with a specific provision or provisions of the NCP. Purchaser shall specify in the Notice of Dispute the contested costs and the basis for the objection.

b. **Payment of Bill**. Purchaser shall pay the bill, or if it initiates dispute resolution under Section XIII, the uncontested portion of the bill, if any, within 30 days after receipt of the bill. Purchaser shall pay the contested portion of the bill determined to be owed, if any, within 30 days after the determination regarding the dispute. Each payment for: (1) the uncontested bill or portion of bill, if late, and (2) the contested portion of the bill determined to be owed, if any, must include an additional amount for Interest accrued from the date of receipt of the bill through the date of payment.

74. **Payment Instructions**. Purchaser shall make all payments at https://www.pay.gov using the "EPA Miscellaneous Payments Cincinnati Finance Center" link and include references to the CERCLA docket number and Site/Spill ID number listed in ¶ 109 and the purpose of the payment. Purchaser shall send notices of this payment to the EPA and include these references.

75. **Deposit of Payments**. The EPA may, in its unreviewable discretion, deposit the amounts paid under ¶ 73 in the Fund, in the Special Account, or both. The EPA may, in its unreviewable discretion, retain and use any amounts deposited in the Special Account to conduct or finance response actions at or in connection with the Site, or transfer those amounts to the Fund.

XII. FORCE MAJEURE

76. "Force Majeure," for purposes of this Settlement, means any event arising from causes beyond the control of Purchaser, of any entity controlled by Purchaser, or of Purchaser's contractors that delays or prevents the performance of any obligation under this Settlement despite Purchaser's best efforts to fulfill the obligation. Given the need to protect public health and welfare and the environment, the requirement that Purchaser exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure and best efforts to address the effects of any potential force majeure (a) as it is occurring and

(b) following the potential force majeure such that the delay and any adverse effects of the delay are minimized to the greatest extent possible. "Force majeure" does not include financial inability to complete the Work or increased cost of performance.

77. If any event occurs for which Purchaser will or may claim a force majeure, Purchaser shall notify the EPA's RPM and the State Project Manager by email. The deadline for the initial notice is 7 days after the date Purchaser first knew or should have known that the event would likely delay performance. Purchaser shall be deemed to know of any circumstance of which any contractor of, subcontractor of, or entity controlled by Purchaser knew or should have known. Within 7 days thereafter, Purchaser shall send a further notice to the Agencies that includes: (a) a description of the event and its effect on Purchaser's completion of the requirements of this Settlement; (b) a description of all actions taken or to be taken to prevent or minimize the delay; (c) the proposed extension of time for Purchaser to complete the requirements of this Settlement; (d) a statement as to whether, in the opinion of Purchaser, such event may cause or contribute to an endangerment to public health or welfare or the environment; and (e) all available proof supporting its claim of force majeure. Failure to comply with the notice requirements herein regarding an event precludes Purchaser from asserting any claim of force majeure regarding that event, provided, however, that if the EPA, despite the late or incomplete notice, is able to assess to its satisfaction whether the event is a force majeure under ¶ 76 and whether Purchaser has exercised best efforts under ¶ 76, the EPA may, in its unreviewable discretion, excuse in writing Purchaser's failure to submit timely or complete notices under this Paragraph.

78. The EPA will notify Purchaser of its determination whether Purchaser is entitled to relief under ¶ 76, and, if so, the duration of the extension of time for performance of the obligations affected by the force majeure. An extension of the time for performance of the obligations affected by the force majeure shall not, of itself, extend the time for performance of any other obligation. Purchaser may initiate dispute resolution under Section XIII regarding the EPA's determination within 15 days after receipt of the determination. In any such proceeding, Purchaser has the burden of proving that it is entitled to relief under ¶ 76 and that its proposed extension was or will be warranted under the circumstances.

79. The failure by the EPA to timely complete any activity under this Settlement is not a violation of this Settlement, provided, however, that if such failure prevents Purchaser from meeting one or more deadlines under this Settlement, Purchaser may seek relief under this Section.

XIII. DISPUTE RESOLUTION

80. Unless otherwise provided in this Settlement, Purchaser shall use the dispute resolution procedures of this Section to resolve any dispute arising under this Settlement.

81. A dispute will be considered to have arisen when Purchaser sends the EPA (the RPM and legal counsel) and the State a timely written notice of dispute ("Notice of Dispute"). A notice is timely if sent within 30 days after receipt of the EPA notice or determination giving rise to the dispute or within 15 days in the case of a force majeure determination. Disputes arising

under this Settlement must in the first instance be the subject of informal negotiations between the EPA, the State, and Purchaser. The period for informal negotiations may not exceed 30 days after the dispute arises unless the EPA otherwise agrees. If the parties cannot resolve the dispute by informal negotiations, the position advanced by the EPA is binding unless Purchaser initiates formal dispute resolution under ¶ 82.

82. **Formal Dispute Resolution**

a. **Statement of Position**. Purchaser may initiate formal dispute resolution by submitting to the EPA and the State, within 7 days after the conclusion of informal dispute resolution under ¶ 81, an initial Statement of Position regarding the matter in dispute. The EPA's responsive Statement of Position is due within 20 days after receipt of the initial Statement of Position. All statements of position must include supporting factual data, analysis, opinion, and other documentation. A reply, if any, is due within 10 days after receipt of the response. If appropriate, the EPA may extend the deadlines for filing statements of position for up to 15 days and may allow the submission of supplemental statements of position.

b. **Formal Decision**. An EPA management official at the Division Director level or higher in EPA Region 8 will issue a formal decision resolving the dispute ("Formal Decision") based on the statements of position and any replies and supplemental statements of position. The Formal Decision is binding on Purchaser and shall be incorporated into and become an enforceable part of this Settlement.

83. **Escrow Account**. For disputes regarding a Future Response Costs billing, Purchaser shall: (a) establish, in a duly chartered bank or trust company, an interest-bearing escrow account that is insured by the FDIC; (b) remit to that escrow account funds equal to the amount of the contested Future Response Costs; and (c) send to the Agencies copies of the correspondence and of the payment documentation (e.g., the check) that established and funded the escrow account, including the name of the bank, the bank account number, and a bank statement showing the initial balance in the account. The EPA may, in its unreviewable discretion, waive the requirement to establish the escrow account. Purchaser shall cause the escrow agent to pay the amounts due to the EPA under ¶ 73, if any, by the deadline for such payment in ¶ 73. Purchaser is responsible for any balance due under ¶ 73 after the payment by the escrow agent.

84. The initiation of dispute resolution procedures under this Section does not extend, postpone, or affect in any way any requirement of this Settlement, except as the EPA agrees. Stipulated penalties with respect to the disputed matter will continue to accrue, but payment is stayed pending resolution of the dispute, as provided in ¶ 87.

XIV. STIPULATED PENALTIES

85. Unless the noncompliance is excused under Section XII (Force Majeure), Purchaser is liable to the United States for the following stipulated penalties:

a. For any failure: (1) to pay any amount due under Section XI (Payment for Response Costs); (2) to establish and maintain financial assurance in accordance with Section IX, should such financial assurance be required by the EPA; (3) to submit timely or adequate deliverables under this Settlement:

Period of Noncompliance	Penalty Per Noncompliance Per Day
1st through 14th day	$1,500
15th through 30th day	$3,000
31st day and beyond	$5,000

b. for any failure to submit timely or adequate deliverables required by this Settlement other than those specified in ¶ 85.a:

Period of Noncompliance	Penalty Per Noncompliance Per Day
1st through 14th day	$1,000
15th through 30th day	$2,000
31st day and beyond	$3,500

86. **Work Takeover Penalty**. If the EPA commences a Work Takeover, Purchaser is liable for a stipulated penalty in the amount of $100,000. This stipulated penalty is in addition to the remedy available to the EPA under ¶ 67 (Access to Financial Assurance).

87. **Accrual of Penalties**

a. Stipulated penalties accrue from the date performance is due, or the day a noncompliance occurs, whichever is applicable, until the date the requirement is completed or the final day of the correction of the noncompliance. Nothing in this Settlement prevents the simultaneous accrual of separate penalties for separate noncompliances with this Settlement. Stipulated penalties accrue regardless of whether Purchaser has been notified of its noncompliance, and regardless of whether Purchaser has initiated dispute resolution under Section XIII, provided, however, that no penalties will accrue as follows:

(1) With respect to a submission that the EPA determines requires revision under ¶ 43, during the period, if any, beginning on the 31st day after the EPA's receipt of such submission until the date that the EPA notifies Purchaser of any need for revision; or

(2) With respect to a matter that is the subject of dispute resolution under Section XIII, during the period, if any, beginning on the 21st day after the later of the date that the EPA's Statement of Position is received or the date that Purchaser's reply thereto (if any) is received until the date of the Formal Decision under ¶ 82.

b. If the EPA requires revision under ¶ 43, stipulated penalties for revisions to an original deliverable submission accrue during the specified period allowed for resubmission, but are not payable unless the resubmission is disapproved in whole or in part;

provided that, if the original deliverable submission was so deficient as to constitute a bad faith lack of effort by Purchaser, the stipulated penalties applicable to the original deliverable submission are due and payable notwithstanding any subsequent resubmission.

88. **Demand and Payment of Stipulated Penalties**. The EPA may send Purchaser a demand for stipulated penalties. The demand will include a description of the noncompliance and will specify the amount of the stipulated penalties owed. Purchaser may initiate dispute resolution under Section XIII regarding the demand. Purchaser shall pay the amount demanded or, if Purchaser initiate dispute resolution, the uncontested portion of the amount demanded, within 30 days after receipt of the demand. Purchaser shall pay the contested portion of the penalties determined to be owed, if any, within 30 days after the resolution of the dispute. Each payment for: (a) the uncontested penalty demand or uncontested portion, if late, and; (b) the contested portion of the penalty demand determined to be owed, if any, must include an additional amount for Interest accrued from the date of receipt of the demand through the date of payment. Purchaser shall make payment at https://www.pay.gov using the link for "EPA Miscellaneous Payments Cincinnati Finance Center," including a reference to the CERCLA docket number and Site/Spill ID number listed in ¶ 109, and the purpose of the payment. Purchaser shall send a notice of this payment to DOJ and the EPA. The payment of stipulated penalties and Interest, if any, does not alter any obligation by Purchaser under this Settlement.

89. Nothing in this Settlement limits the authority of the United States: (a) to seek any remedy otherwise provided by law for Purchaser's failure to pay stipulated penalties or interest; or (b) to seek any other remedies or sanctions available by virtue of Purchaser's noncompliance with this Settlement or of the statutes and regulations upon which it is based including penalties under section 106(b) of CERCLA provided, however, that the United States may not seek civil penalties under section 106(b) for any noncompliance for which a stipulated penalty is provided herein, except in the case of a willful noncompliance with this Settlement or in the event that the EPA assumes performance of a portion or all of the Work pursuant to ¶ 52 (Work Takeover).

90. Notwithstanding any other provision of this Section, the United States may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued under this Settlement.

XV. CERTIFICATION

91. Purchaser certifies to the best of its knowledge and belief that after thorough inquiry and as of the date of Purchaser's signature (a) it has not caused or contributed to a release or threat of release of hazardous substances, pollutants or contaminants at the Property or Future Property; (b) it has fully and accurately disclosed to the EPA all information known to Purchaser and all information in the possession or control of its officers, directors, employees, contractors, and agents which relates in any way to any Existing Contamination or any past or potential future release of hazardous substances, pollutants or contaminants at or from the Property or Future Property; and (c) it has not altered, mutilated, discarded, destroyed, or otherwise disposed of any documents and electronically stored information relating to the Site.

XVI. COVENANTS BY UNITED STATES AND STATE

92. **Covenants for Purchaser**. Subject to ¶ 95, the United States covenants not to sue or to take administrative action against Purchaser under sections 106 and 107(a) of CERCLA for Existing Contamination, the Work, and payments under Section XI (Payment for Response Costs), and the State covenants not to sue or to take administrative action against Purchaser under section 107(a) of CERCLA for Existing Contamination, the Work, and payments under Section XI (Payment for Response Costs).

93. The covenants under ¶ 92: (a) take effect upon the Effective Date; (b) are conditioned on (1) the satisfactory performance by Purchaser of the requirements of this Settlement; and (2) the veracity of the information provided to the Agencies by Purchaser relating to Purchaser's involvement with the Site and the certification made by Purchaser in ¶ 91; (c) extend to the successors of Purchaser but only to the extent that the successor of Purchaser is assuming all obligations under this Settlement and the alleged liability of the successor of Purchaser is based solely on its status as a successor of Purchaser; and (d) do not extend to any other person.

94. Nothing in this Settlement constitutes a covenant not to sue or not to take action or otherwise limits the ability of the United States, the EPA, or the State to seek or obtain further relief from Purchaser if the information provided to the Agencies by Purchaser relating to Purchaser's involvement with the Site or the certification made by Purchaser in ¶ 91 is false or in any material respect inaccurate.

95. **General Reservations**.

a. **Property or Future Property Acquired by Purchaser**. Notwithstanding any other provision of this Settlement, the United States and the State reserve, and this Settlement is without prejudice to, all rights against Purchaser regarding the following with respect to any of the Property or Future Property that is acquired by Purchaser now or in the future:

(1) Liability for failure by Purchaser to meet a requirement of this Settlement;

(2) Liability resulting from an act or omission that causes exacerbation of Existing Contamination by Purchaser, its successors, assigns, lessees, or sublessees;

(3) Liability resulting from the disposal, release, or threat of release of hazardous substances, pollutants or contaminants at or in connection with the Site after the Effective Date, not within the definition of Existing Contamination;

(4) Liability arising from the past, present, or future disposal, release, or threat of release of Waste Material outside of the Site, except as provided in clause c of the definition of Existing Contamination;

(5) Liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments; and

(6) Criminal liability.

b. **Future Property Not Acquired by Purchaser**. Notwithstanding any other provision of this Settlement, the United States and the State reserve, and this Settlement is without prejudice to, all rights against Purchaser regarding the following with respect to any of the Future Property that is not acquired now or in the future by Purchaser:

(1) Liability for failure by Purchaser to meet a requirement of this Settlement;

(2) Liability resulting from an act or omission that causes exacerbation of Existing Contamination by Purchaser, its successors, assignees, lessees or sublessees;

(3) Liability resulting from the disposal, release, or threat of release of hazardous substances, pollutants or contaminants at or in connection with the Site by Purchaser after the Effective Date, not within the definition of Existing Contamination;

(4) Liability arising from the past, present, or future disposal, release, or threat of release of Waste Material by Purchaser outside of the Site, except as provided in clause c of the definition of Existing Contamination;

(5) Liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments; and

(6) Criminal liability.

c. Upon acquisition of any of the Future Property, the reservations in 95.a will apply.

96. With respect to any claim or cause of action asserted by the United States or the State, Purchaser shall bear the burden of proving that the claim or cause of action, or any part thereof, is attributable solely to Existing Contamination.

97. Subject to ¶ 92, nothing in this Settlement limits any authority of the United States, the EPA, the State, or CDPHE to take, direct, or order all appropriate action to protect public health and welfare and the environment or to prevent, abate, respond to, or minimize an

actual or threatened release of Waste Material on, at, or from the Site, or to request a court to order such action. Further, except as specifically provided in this Settlement, nothing in this Settlement shall prevent the United States or State from seeking legal or equitable relief to enforce the terms of this Settlement or from taking other legal or equitable action as it deems appropriate and necessary.

XVII. COVENANTS BY PURCHASER

98. **Covenants by Purchaser**

a. Subject to ¶ 99, Purchaser covenants not to sue and shall not assert any claim or cause of action against the United States and the State under CERCLA, RCRA § 7002(a), the United States Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, the State Constitution, State law, or at common law regarding Existing Contamination, the Work, payments under Section XI (Payment for Response Costs), and this Settlement.

b. Subject to ¶ 99, Purchaser covenants not to seek reimbursement from the Fund through CERCLA or any other law for the costs regarding the Existing Contamination, the costs of the Work, payments under Section XI (Payment for Response Costs), or any claim arising out of response actions at or in connection with the Site.

99. **Purchaser's Reservation**. The covenants in ¶ 98 do not apply to any claim or cause of action brought, or order issued, after the Effective Date by the United States or the State to the extent such claim, cause of action, or order is within the scope of a reservation under ¶¶ 95.a(1) through 95.a(5) or 95.b(1) through 95.b(5).

XVIII. EFFECT OF SETTLEMENT; CONTRIBUTION

100. Except as provided in Section XVII (Covenants by Purchaser), each of the Parties expressly reserves any and all rights (including under section 113 of CERCLA), defenses, claims, demands, and causes of action that each Party may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto.

101. The Parties agree that: (a) this Settlement constitutes an administrative settlement under which Purchaser has, as of the Effective Date, resolved liability to the United States and State within the meaning of sections 113(f)(2) and 113(f)(3)(B) of CERCLA; and (b) Purchaser is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by section 113(f)(2) of CERCLA, or as may be otherwise provided by law, for the "matters addressed" in this Settlement. The "matters addressed" in this Settlement are the Work, payments under Section XI and all response actions taken or to be taken and all response costs incurred or to be incurred in connection with Existing Contamination by the United States or any other person. However, if the United States or the State exercises rights under the reservations in ¶¶ 95.a(1) through 95.a(5) or 95.b(1) through 95.b(5), the "matters addressed" in this Settlement will no longer include those response costs or response actions or natural resource damages that are within the scope of the exercised reservation.

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

103. Nothing in this Settlement diminishes the right of the United States or the State under sections 113(f)(2) and (3) of CERCLA to pursue any person not a Party to this Settlement to obtain additional response costs or response actions and to enter into settlements that give rise to contribution protection pursuant to section 113(f)(2).

XIX. RECORDS

104. **Retention of Records and Information**

a. Purchaser shall retain, and instruct its contractors and agents to retain, the following documents and electronically stored data ("Records") until 10 years after a notice of completion of the work under ¶ 50 ("Record Retention Period"):

(1) All records regarding Existing Contamination or any release or threat of release of hazardous substances, pollutants, or contaminants at or from the Site.

(2) All records regarding Purchaser's liability and the liability of any other person under CERCLA regarding the Site;

(3) All reports, plans, permits, and documents submitted to the EPA in accordance with this Settlement, including all underlying research and data; and

(4) All data developed by, or on behalf of, Purchaser in the course of performing the Work.

b. At the end of the Record Retention Period, Purchaser shall notify the Agencies that it has 90 days to request Purchaser's Records subject to this Section. Purchaser shall retain and preserve its Records subject to this Section until 90 days after the Agencies' receipt of the notice. These record retention requirements apply regardless of any corporate record retention policy.

105. Purchaser shall provide to the Agencies, upon request, copies of all Records and information required to be retained under this Section. Purchaser shall also comply, as required

by law, with any authorized request for information or administrative subpoena issued by the EPA or the State.

106. **Privileged and Protected Claims**

a. Purchaser may assert that all or part of a record requested by the EPA or the State is privileged or protected as provided under federal law, in lieu of providing the record, provided that Purchaser complies with ¶ 106.b, and except as provided in ¶ 106.c.

b. If Purchaser asserts a claim of privilege or protection, it shall provide the EPA and the State with the following information regarding such record: title; its date; the name, title, affiliation (e.g., company or firm), and address of the author, of each addressee, and of each recipient; a description of the record's contents; and the privilege or protection asserted. If a claim of privilege or protection applies only to a portion of a record, Purchaser shall provide the record to the EPA in redacted form to mask the privileged or protected portion only. Purchaser shall retain all records that it claims to be privileged or protected until the EPA and the State have had a reasonable opportunity to dispute the privilege or protection claim and any such dispute has been resolved in Purchaser's favor.

c. Purchaser shall not make any claim of privilege or protection regarding: (1) any data regarding the Site, including all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, radiological or engineering data, or the portion of any other record that evidences conditions at or around the Site; or (2) the portion of any record that Purchaser is required to create or generate in accordance with this Settlement.

107. **Confidential Business Information Claims**. Purchaser is entitled to claim that all or part of a record submitted to the EPA and the State under this Section is Confidential Business Information ("CBI") that is covered by section 104(e)(7) of CERCLA and 40 C.F.R. § 2.203(b). Purchaser shall segregate all records or parts thereof submitted under this Settlement which it claims are CBI and label them as "claimed as confidential business information" or "claimed as CBI." Records that Purchaser properly labels in accordance with the preceding sentence will be afforded the protections specified in 40 C.F.R. part 2, subpart B. If the records are not properly labeled when they are submitted to the EPA and the State, or if the EPA notifies Purchaser that the records are not entitled to confidential treatment under the standards of section 104(e)(7) of CERCLA or 40 C.F.R. part 2, subpart B, the public may be given access to such records without further notice to Purchaser.

108. Notwithstanding any provision of this Settlement, the EPA and the State retain all of their information gathering and inspection authorities and rights, including enforcement actions related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

XX. NOTICES AND SUBMISSIONS

109. All agreements, approvals, consents, deliverables, modifications, notices, notifications, objections, proposals, reports, waivers, and requests specified in this Settlement must be in writing unless otherwise specified. Whenever a notice is required to be given or a

report or other document is required to be sent by one Party to another under this Settlement, it must be sent as specified below. All notices under this Section are effective upon receipt, unless otherwise specified. In the case of emailed notices, there is a rebuttable presumption that such notices are received on the same day that they are sent. Any Party may change the method, person, or address applicable to it by providing notice of such change to all Parties.

As to DOJ:	*via email to*: eescdcopy@usdoj.gov Re: DJ# 90-11-3-12893/1
As to the EPA:	*via email to*: Paul Stoick Remedial Project Manager Stoick.Paul@epa.gov Re: Site/Spill ID # 0831 Kayleen Castelli Site Attorney Castelli.Kayleen@epa.gov
As to the EPA Regional Financial Management Officer:	*via email to*: Johnson.Karren@epa.gov Re: Site/Spill ID # 0831
As the State:	*via email to*: Patrick Medland State Project Manager Patrick.Medland@state.co.us Lukas Staks Site Attorney Lukas.Staks@coag.gov
As to Purchaser:	*via email to*: Dan Griffiths, CPG, PG Purchaser's Project Coordinator Daniel.R.Griffiths@parsons.com Curtis Marvel, Jr., Manager Brannan Sand and Gravel Company, LLC Cmarvel@brannan1.com

XXI. APPENDIXES

110. The following appendixes are attached to and incorporated into this Settlement.

"Appendix A" is the Environmental Covenant.

"Appendix B" is the map of the parcels at the Site, including the Property and Future Property.

"Appendix C" is the Lot 7 Work Plan.

"Appendix D" is the draft updated Materials Management and Health and Safety Plan.

XXII. MODIFICATIONS

111. If the RPM determines a modification to any approved deliverable submitted to the EPA after the Effective Date is appropriate, the RPM may make such modification in writing or by oral direction. The EPA will promptly memorialize in writing any oral modification, but the modification has as its effective date the date of the RPM's oral direction, unless otherwise indicated. Any other requirements of this Settlement may be modified by mutual agreement of the Parties, and any such modification has as its effective date the date of signature by all Parties.

112. If Purchaser seeks permission to deviate from any approved deliverable or the Lot 7 Work Plan or the Lot 4 Work Plan, Purchaser's Project Coordinator shall submit a written request to the RPM outlining the proposed modification and its basis. Purchaser may not proceed with a requested modification under this Paragraph until receiving approval under ¶ 111.

113. No informal advice, guidance, suggestion, or comment by the RPM, the State Project Manager, or other EPA representatives regarding any deliverable submitted by Purchaser shall relieve Purchaser of its obligation to obtain any formal approval required by this Settlement, or to comply with all requirements of this Settlement, unless it is formally modified.

XXIII. SIGNATORIES

114. Each undersigned representative of the United States, each undersigned representative of the State, and each undersigned representative of Purchaser certifies that the signatory is authorized to enter into the terms and conditions of this Settlement and to execute and legally bind Purchaser to this Settlement.

XXIV. DISCLAIMER

115. This Settlement is in no way a finding by the EPA or the State as to the risks to public health and welfare and the environment that may be posed by contamination at the Property or the Site or a representation by the EPA or the State that the Property or the Site is fit for any particular purpose.

XXV. STATE PARTICIPATION

116. **Copies**. Purchaser shall, at any time it sends a deliverable to the EPA, send a copy of such deliverable to the State. The EPA shall, at any time it sends a notice, authorization, approval, disapproval, or certification to Purchaser, send a copy of such document to the State.

117. **Review and Comment**. The State will have opportunity for review and comment prior to:

a. Any EPA approval or disapproval of any deliverables that are required to be submitted for EPA approval; and

b. Any approval or disapproval of Certification of Work Completion under ¶ 50 (Notice of Completion of Work).

XXVI. ENFORCEMENT

118. The Parties agree that the United States District Court for the District of Colorado ("Court") will have jurisdiction, including under section 113(b) of CERCLA for any judicial enforcement action brought with respect to this Settlement.

119. Notwithstanding ¶ 92 of this Settlement, if Purchaser fails to comply with the terms of this Settlement, the United States may file a lawsuit for breach of this Settlement, or any provision thereof, in the Court. In any such action, Purchaser consents to and agrees not to contest the exercise of personal jurisdiction over it by the Court. Purchaser further acknowledges that venue in the Court is appropriate and agrees not to raise any challenge on this basis.

120. If the United States files a civil action as contemplated by ¶ 119 to remedy breach of this Settlement, the United States may seek, and the Court may grant as relief, the following: (a) an order mandating specific performance of any term or provision in this Settlement, without regard to whether monetary relief would be adequate; and (b) any additional relief that may be authorized by law or equity.

XXVII. INTEGRATION

121. This Settlement constitutes the entire agreement among the Parties regarding the subject matter of this Settlement and supersedes all prior representations, agreements, and understandings, whether oral or written, regarding the subject matter of this Settlement.

XXVIII. PUBLIC COMMENT

122. This Settlement is subject to a 30-day public comment period, after which the United States may withdraw its consent or seek to modify this Settlement if comments received disclose facts or considerations that indicate that this Settlement is inappropriate, improper, or inadequate.

XXIX. EFFECTIVE DATE

123. The effective date of this Settlement:

a. With respect to the Property, is the date upon which the EPA issues written notice to Purchaser that the United States, after review of and response to any public comments received, will not withdraw consent or seek to modify this Settlement.

b. With respect to the Future Property, is the date upon which both of the following have occurred: (a) the EPA issues written notice to Purchaser that the United States, after review of and response to any public comments received, will not withdraw consent or seek to modify this Settlement, and (b) Purchaser notifies the EPA that it will commence any portion of the Work as it relates to the Future Property pursuant to Paragraph 36 including, without limitation, the Lot 4 Sampling Plan.

Signature Page for Administrative Settlement Agreement regarding the Broderick Wood Products Superfund Site

IT IS SO AGREED:

BRANNAN SAND AND GRAVEL COMPANY, LLC
A Colorado limited liability company

4-3-24
Dated

J. Curtis Marvel
Manager
Purchaser

Signature Page for Administrative Settlement Agreement regarding the Broderick Wood Products Superfund Site

IT IS SO AGREED:

STATE OF COLORADO:

Tracie White Digitally signed by Tracie White Date: 2024.04.19 11:56:28 -06'00'

_____ _____

Dated **Tracie M. White, P.E.**
Division Director
Hazardous Materials & Waste Management Division
Colorado Department of Public Health & Environment

Lukas Staks Digitally signed by Lukas Staks Date: 2024.04.17 09:16:46 -06'00'

_____ _____

Dated **Lukas Staks**
Senior Assistant Attorney General
Colorado Attorney General's Office

Signature Page for Administrative Settlement Agreement regarding the Broderick Wood Products Superfund Site

IT IS SO AGREED:

U.S. ENVIRONMENTAL PROTECTION AGENCY:

AARON URDIALES
Digitally signed by AARON URDIALES
Date: 2024.04.24 16:53:11 -06'00'

_____
Dated

Aaron Urdiales
Division Director
Superfund and Emergency Management Division
U.S. Environmental Protection Agency, Region 8

Thompson, Christopher
Digitally signed by Thompson, Christopher
Date: 2024.04.24 07:39:29 -06'00'

_____
Dated

Christopher A. Thompson
Associate Regional Counsel for Enforcement
Office of Regional Counsel, Region 8

Signature Page for Administrative Settlement Agreement regarding the Broderick Wood Products Superfund Site

IT IS SO AGREED:

U.S. DEPARTMENT OF JUSTICE:

TODD S. KIM
Assistant Attorney General
U.S. Department of Justice
Environment and Natural Resources Division
Washington, D.C. 20530

JAMES FREEMAN Digitally signed by JAMES FREEMAN
Date: 2024.06.07 09:56:05 -06'00'

_____
Dated

James D. Freeman
Trial Attorney
U.S. Department of Justice
Environment and Natural Resources Division
Environmental Enforcement Section

Appendix A
Environmental Covenant
April 2024

appendix to:
Administrative Settlement Agreement for
Response Actions by Prospective Purchaser,
Brannan Sand and Gravel Company, LLC

Broderick Wood Products Superfund Site
Adams County, Colorado

CORRECTED RECORDING
ENVIRONMENTAL CONVENANT

RECEPTION#: 2007000007617 01/22/2007 at 11:54:39 AM, 1 OF 24, Doc Type:COV
Karen Long, Adams County, CO

RECEPTION#: 2007000013669,
02/07/2007 at 02:58:36 PM,1 OF 28,
Doc Type:COV
Karen Long, Adams County, CO

***

RECORDED AS RECEIVED

This property is subject to an Environmental Covenant held by the Colorado Department of Public Health and Environment pursuant to section 25-15-321, C.R.S.

ENVIRONMENTAL COVENANT

Broderick Investment Company ("BIC") grants an Environmental Covenant ("Covenant") this 14 day of ~~August~~ December, 2006 to the Hazardous Materials and Waste Management Division of the Colorado Department of Public Health and the Environment ("the Department") pursuant to § 25-15-321 of the Colorado Hazardous Waste Act, § 25-15-101, *et seq.* The Department's address is 4300 Cherry Creek Drive South, Denver, Colorado 80246-1530.

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WHEREAS, BIC is the owner of certain property commonly referred to as Broderick Wood Products Superfund Site, located at 5800 Galapago Street, Adams County, Colorado, more particularly described in Attachment A, attached hereto and incorporated herein by reference as though fully set forth (hereinafter referred to as "the Property"); and

WHEREAS, pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § § 9601, et seq. ("CERCLA"), the Property is the subject of an enforcement and remedial action pursuant to the Broderick Wood Treatment Site Record of Decisions ("ROD"), Broderick Wood Products Operable Units 1 and 2, dated March 24, 1992 and the Explanation of Significant Differences ("ESD") dated February 1995, modifying the ROD, the Consent Decree between the United States of America, the Department, and BIC in Civil Action No. 86-Z-369, entered June 26, 1995 ("Consent Decree"), and the Statement of Work ("SOW") required pursuant to that Consent Decree (collectively "the CERCLA Remedial Action Documents"); and

WHEREAS, BIC desires to subject the Property to certain covenants and restrictions as provided in Article 15 of Title 25, Colorado Revised Statutes, which covenants and restrictions shall burden the Property and bind BIC, its heirs, successors, assigns, and any grantees of the Property, their heirs, successors, assigns and grantees, and any users of the Property, for the benefit of the Department and the United States Environmental Protection Agency ("EPA") as a third party beneficiary.

NOW, THEREFORE, BIC hereby grants this Environmental Covenant to the Department, and declares that the Property as described in Attachment A shall hereinafter be bound by, held, sold, and conveyed subject to the following requirements set forth in paragraphs 1 through 11, below, which shall run with the Property in perpetuity and be binding on BIC and all parties having any right, title or interest in the Property, or any part thereof, their heirs, successors and assigns, and any persons using the land. As used in this Environmental Covenant, the term OWNER means the record owner of the Property and, if any, any other person or entity otherwise legally authorized to make decisions regarding the transfer of the

X X

X

RETURN TO:
DUFFORD AND BROWN
1700 BROADWAY, SUITE 2100
DENVER, CO 80202
ATTN: AMY WILSON

13

*** This Environmental Covenant is being re-recorded to include the complete version of Figure G-1.

Property or placement of encumbrances on the Property, other than by the exercise of eminent domain.

1. Use Restrictions

A. **Prohibition on Residential and Public Use**. No residential use shall be permitted on the Property, including, but not limited to, any single family or multi-family residential dwelling or living unit, whether permanent or temporary, and no playgrounds, parks, schools, daycare centers (whether independent or ancillary to a permitted use), recreational facilities of any type, community centers, hospitals, or adult care centers shall be located at the Property.

B. **Prohibition on Agricultural Use**. No agricultural use of the Property is permitted, including but not limited to, the cultivation or storage of any crop or the grazing, feeding or keeping of any animal for agricultural or commercial purposes. Ornamental landscaping may be permitted at the Property, provided all such landscaping activities are done in accordance with the Materials Management and Health and Safety Plan set forth in Subparagraph C, immediately below.

C. **Restriction on Excavation**. No excavation of any soils at the Property or underneath the soil cover shall occur except pursuant to the Materials Management and Health and Safety Plan (the "Plan"), attached hereto and incorporated herein as if set forth in full.

D. **Prohibition on Use of Water**. No development of surface water on the Property or groundwater under the Property shall occur except as provided in the CERCLA Remedial Action Documents.

E. **Prohibition on Well Construction**. No digging, boring, drilling, or constructing of well of any kind on the Property shall occur except for those wells used for groundwater monitoring purposes as provided in the CERCLA Remedial Action Documents.

F. **Protection of the Integrity of CERCLA Remedial Actions**. Owner shall not use the Property in any way that interferes with the operation and/or maintenance of the CERCLA Remedial Actions, including, but not limited to, the groundwater monitoring wells, any equipment or infrastructure constructed or used for the CERCLA Remedial Actions, or any cap or other covering intended to prevent contact with contaminated materials in the ground or at the surface.

2. Purpose of This Covenant. The purpose of this Covenant is to ensure protection of human health and the environment by minimizing the potential for exposure to any hazardous substances that remain on the Property. The Covenant will accomplish this by minimizing those activities that result in disturbing the ground surface, and by implementing the institutional controls called for in the CERCLA Remedial Action and by insuring that no action interferes with the CERCLA Remedial Action features at the Property.

3. Modifications This Covenant runs with the land and is perpetual, unless modified or terminated pursuant to this paragraph. BIC or its successors and assigns may request that

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the Department approve a modification or termination of the Covenant. The request shall contain information showing that the proposed modification or termination shall, if implemented, ensure protection of human health and the environment. The Department shall review any submitted information, and may request additional information. If the Department determines that the proposal to modify or terminate the Covenant will ensure protection of human health and the environment, it shall approve the proposal. No modification or termination of this Covenant shall be effective unless the Department has approved such modification or termination in writing. Information to support a request for modification or termination may include one or more of the following:

a) a proposal to perform additional remedial work;

b) new information regarding the risks posed by the residual contamination;

c) information demonstrating that residual contamination has diminished;

d) information demonstrating that the proposed modification would not adversely impact the remedy and is protective of human health and the environment; and other appropriate supporting information.

4. Conveyances. Owner shall notify the Department at least fifteen (15) days in advance of any proposed grant, transfer or conveyance of any interest in any or all of the Property.

5. Notices to Lessees. Owner agrees to incorporate either in full or by reference the restrictions of this Covenant in any leases, licenses, or other instruments granting a right to use the Property.

6. Notification for Proposed Construction and Land Use. Owner shall notify the Department simultaneously when submitting any application to a local government for a building permit or change in land use.

7. Inspections. The Department shall have the right of entry to the Property at reasonable times with prior notice for the purpose of determining compliance with the terms of this Covenant. Nothing in this Covenant shall impair any other authority the Department may otherwise have to enter and inspect the Property.

8. No Liability. The Department does not acquire any liability under State law by virtue of accepting this Covenant, nor does EPA acquire any liability under State law by virtue of being a third-party beneficiary.

9. Enforcement. The Department may enforce the terms of this Covenant pursuant to § 25-15-322, C.R.S. BIC and the EPA may file suit in district court to enjoin actual or threatened violations of this Covenant.

10. Owner's Compliance Certification. OWNER shall submit a Report to the Department detailing any lack of compliance with terms of this Covenant. This Report shall be submitted to the Department within 20 days of the OWNER reasonably becoming aware of the events prompting the need to provide such a Report.

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11. Notices. Any document or communication required under this Covenant shall be sent or directed to:

Broderick Wood Treatment Superfund Site Project Officer
Hazardous Materials and Waste Management Division
Colorado Department of Public Health and the Environment
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

And to:

Robert J. Eber
Assistant Attorney General
Environment and Natural Resources Section
Hazardous and Solid Waste Unit
Colorado Department of Law
Denver, CO 80203

With reference to the Broderick Wood Products Superfund Site

And to:

Remedial Project Manager (8EPR-SR)
Broderick Wood Treatment Superfund Site
U.S. Environmental Protection Agency
999 18th Street
Suite 300
Denver, CO 80202-2466

BIC has caused this instrument to be executed this 19 day of December, 2006.

Broderick Investment Company
390 Interlocken Crescent, Suite 490
Broomfield, CO 80021

By: _____
Tom H. Connolly

Title: Trustee

STATE OF Colorado)
) ss:
COUNTY OF Broomfield)

The foregoing instrument was acknowledged before me this 14th day of December, 2006 by Toni H. Connelly on behalf of BIC.

Notary Public

390 Interlocken Cres. #490
Address
Broomfield, Co 80021

My commission expires: 1-25-2008

Accepted by the Colorado Department of Public Health and Environment this 18th day of January, ~~2006.~~ 2007

By: Gary W. Baughman

Title: Director, HMWMD

STATE OF Colorado)
) ss:
COUNTY OF Arapahoe)

~~2006~~ 2007 The foregoing instrument was acknowledged before me this 18th day of January, ~~2006~~ by Gary W. Baughman on behalf of the Colorado Department of Public Health and Environment.

Notary Public

4300 Cherry Creek Road
Address
Denver Co 80246

My commission expires: 2-29-08

TABLE 2
Soil Treatment Levels

Chemical	Mean Concentration Surface/Subsurface (milligrams per kilogram)	Treatment Level
Organics		
Benzo(a)pyrene	35.9/4.5	15.2
Dibenzo(a,h)anthracene	41.8/6.5	13.9
2,3,7,8-TCDD equivalent	--	0.0006*
K001 Constituent**		
Naphthalene	367/142	95 - 99%
Pentachlorophenol	653/380	90 - 99%
Phenanthrene	556/75	95 - 99%
Pyrene	356/28	95 - 99%
Toluene	0.6/1.2	0.5 - 10
Xylene (Total)	2.7/7.5	0.5 - 10
Lead	NA	95 - 99%
Metals		
Arsenic***	29.7/3.8	5.0
Cadmium***	24.7/0.2	1.0
Lead***	838.2/26.7	5.0

Source: Record of Decision for Operable Unit 2, March 1992.

* Laboratory detection limitations may not allow measurement to this level. In that case, the detection limit will be the treatment level. The currently recognized detection level of 1 ug/kg corresponds to a cancer risk level close to 1×10^{-6}

** Remedy will comply with LDRs through a Treatability Variance. Treatment levels or percent reduction ranges that ex-situ/bioremediation will attain are presented.

*** Action levels are based on non-wastewater TCLP (milligrams per liter).

Table 3
Alternate Treatability Variance Levels

Constituent	Concentration Range (mg/kg)	Threshold Concentration (mg/kg)	Percent Reduction Range
Organics			
Benzo(a)pyrene	0.5-15.2	100	90-99.9
Dibenzo(a,h)anthracene	0.5-13.9	100	90-99.9
K001 Constituent*			
Naphthalene	0.5-20	400	95-99
Pentachlorophenol	0.5-40	400	95-99
Phenanthrene	0.5-20	400	95-99
Pyrene	0.5-20	400	95-99
Toluene	0.5-10	100	90-99.9
Xylenes (total)	0.5-10	100	90-99.9
Lead	0.1-5	300	NA

*Source: Superfund LDR Guide No. 6A (2nd Edition) Obtaining a Soil Debris Treatability Variance for Remedial Actions, September 1990.

RECEPTION#: 2007000007612 01/22/2007 at 11:54:39 AM, 8 of 24, Doc Type:COV
Karen Long, Adams County · CO

ATTACHMENT A

KNOW ALL MEN BY THESE PRESENTS THAT BRODERICK INVESTMENT COMPANY, A COLORADO LIMITED PARTNERSHIP, BEING THE OWNER OF A PARCEL OF LAND BEING A PART OF THE SOUTHEAST ONE-QUARTER OF SECTION 9 AND THE SOUTHWEST ONE-QUARTER OF SECTION 10, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 9, WHENCE THE EAST ONE-QUARTER CORNER OF SAID SECTION 9 BEARS N00°13'48"W 2639.40 FEET, ITS SOUTH ONE-QUARTER CORNER BEARS S89°46'53"W 2669.47 FEET AND THE SOUTH ONE-QUARTER CORNER OF SAID SECTION 10 BEARS N89°52'30"E 2636.90 FEET;

THENCE ALONG THE SOUTH LINE OF SAID SOUTHEAST ONE-QUARTER, S89°46'54"W A DISTANCE OF 38.99 FEET;

THENCE PARALLEL WITH THE EAST LINE OF SAID SOUTHEAST ONE-QUARTER, N00°13'48"W A DISTANCE OF 38.00 FEET;

THENCE N28°08'33"W A DISTANCE OF 887.89 FEET, TO A POINT OF NON-TANGENT CURVE ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF THE UNION PACIFIC RAILROAD AS DESCRIBED IN THE DOCUMENT RECORDED IN BOOK 1885 AT PAGE 480;

THENCE ALONG THE ARC OF A CURVE TO THE LEFT WHOSE RADIUS POINT BEARS S81°40'58"E, HAVING A RADIUS OF 820.00 FEET, A CENTRAL ANGLE OF 16°50'25" AND AN ARC LENGTH OF 182.23 FEET, TO A POINT OF NON-TANGENT CURVE ON THE NORTHEASTERLY RIGHT-OF-WAY LINE OF THE BURLINGTON NORTHERN RAILROAD;

THENCE ALONG THE ARC OF A CURVE TO THE LEFT WHOSE RADIUS POINT BEARS S89°44'57"W, HAVING A RADIUS OF 4961.15 FEET, A CENTRAL ANGLE OF 12°26'16" AND AN ARC LENGTH OF 1076.84 FEET, TO A POINT OF COMPOUND CURVE;

THENCE ALONG THE ARC OF A CURVE TO THE LEFT WHOSE RADIUS POINT BEARS S57°18'41"W, HAVING A RADIUS OF 2914.93 FEET, A CENTRAL ANGLE OF 29°48'43" AND AN ARC LENGTH OF 1514.99 FEET, TO A POINT OF NON-TANGENCY;

THENCE N27°29'58"E A DISTANCE OF 23.42 FEET;

THENCE N72°13'19"E A DISTANCE OF 135.50 FEET;

THENCE S82°41'41"E A DISTANCE OF 230.00 FEET;

THENCE N82°28'19"E A DISTANCE OF 170.00 FEET;

THENCE N84°08'19"E A DISTANCE OF 270.00 FEET, TO THE NORTH LINE OF SAID SOUTHEAST ONE-QUARTER;

THENCE ALONG SAID NORTH LINE OF THE SOUTHEAST ONE-QUARTER, N89°58'19"E A DISTANCE OF 1206.50 FEET, TO THE NORTHWEST CORNER OF SAID SOUTHWEST ONE- QUARTER OF SECTION 10;

THENCE ALONG THE NORTH LINE OF SAID SOUTHWEST ONE-QUARTER, N89°30'43"E A DISTANCE OF 1203.28 FEET, TO THE NORTHWESTERLY RIGHT-OF-WAY LINE OF SAID UNION PACIFIC RAILROAD AS DESCRIBED IN DOCUMENT RECORDED IN BOOK 146 AT PAGE 415;

THENCE ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE OF THE UNION PACIFIC RAILROAD THE FOLLOWING FIVE (5) COURSES:

1. S59°50'59"W A DISTANCE OF 14.81 FEET, TO A POINT OF CURVE;

2. ALONG THE ARC OF A CURVE TO THE LEFT WHOSE RADIUS POINT BEARS S30°09'01"E, HAVING A RADIUS OF 2588.60 FEET, A CENTRAL ANGLE OF 22°16'56" AND AN ARC LENGTH OF 1005.93 FEET, TO A POINT OF NON-TANGENCY ON THE SOUTH LINE OF THE NORTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF SAID SOUTHWEST ONE-QUARTER OF SECTION 10;

3. ALONG THE SOUTH LINE OF SAID NORTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER, N89°36'08"E A DISTANCE OF 25.43 FEET, TO A POINT OF NON-TANGENT CURVE;

4. ALONG THE ARC OF A CURVE TO THE LEFT WHOSE RADIUS POINT BEARS S52°05'00"E, HAVING A RADIUS OF 2588.60 FEET, A CENTRAL ANGLE OF 05°16'45" AND AN ARC LENGTH OF 238.73 FEET, TO A POINT OF TANGENCY;

5. S32°35'15"W A DISTANCE OF 1166.53 FEET;

THENCE S25°33'48"E A DISTANCE OF 838.09 FEET;

THENCE PARALLEL WITH THE WEST LINE OF SAID SOUTHWEST ONE-QUARTER, S00°13'48"E A DISTANCE OF 48.82 FEET, TO THE SOUTH LINE OF SAID SOUTHEAST ONE-QUARTER;

THENCE ALONG SAID SOUTH LINE OF THE SOUTHWEST ONE-QUARTER, S89°52'30"W A DISTANCE OF 50.00 FEET, TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 2,765,961 SQUARE FEET OR 63.498 ACRES.

RECEPTION#: 2007000007612 01/22/2007 at 11:54:39 AM, 9 OF 24, Doc Type:COV
Karen Long, Adams County CO

ATTACHMENT G
STANDARD OPERATING PROCEDURE
MATERIALS MANAGEMENT
AND
HEALTH AND SAFETY PLAN

TABLE OF CONTENTS

1.0 INTRODUCTION

This Materials Management and Health and Safety Plan ("Plan") shall apply to and be implemented as part of the Environmental Covenant for the Property more specifically described in Attachment A ("Property") whenever there are plans to breach the 12-inch soil cover at the Property. This Plan was prepared to address the specific requirements as referenced in the Environmental Covenant granted by Broderick Investment Company ("BIC") to Hazardous Materials and Waste Management Division of the Colorado Department of Public Health and the Environment ("CDPHE"). Any person undertaking activities to which this Plan is applicable, shall implement this Plan. All activities conducted by BIC associated with management of hazardous soil and water pursuant to the CERCLA remedial action shall comply with the requirements of this Plan. This Plan presents procedures for the handling of contaminated soil or materials as defined in Sections 2.4 and 2.5 during such activities. Property-specific health and safety procedures are also documented within this Plan. The activities include, but may not be limited to, the following:

Utility cuts (private sector; contractor 1, or municipal)

Natural gas (Xcel Energy)

Electrical (Xcel Energy)

Telephone (Qwest, AT&T, US Sprint, MCI)

Cable (Comcast)

Water taps (new service, repair, or modification)

Sewer taps (new service, repair, or modification)

Water Supply

Sanitary sewer

Storm sewer

Manhole alignment

Building foundations

Removal of contaminated materials.

"CONTRACTOR" shall be construed to include any contractor (plumbing, mechanical, etc.) licensed to perform Activities on or under the Property. The conditions and requirements of this Plan shall also be binding on any unlicensed contractor or other entity performing Activities on or under the Property. The property owner shall assure that any entity or person involved in any project subject to this Plan shall be properly licensed or certified pursuant to existing regulations for such Activities. The health and safety and hazard communication plans to be

utilized for these work activities are included in Section 4. BIC agrees to accept and process all contaminated soil and water as provided in this Plan associated with materials handling on the site, without regard to whose activity generated the materials.

2.0 MATERIALS HANDLING PROCEDURES

This section provides the requirements and controls for the anticipated work activities. The overall approach of the work is to identify, remove and transport contaminated soil to the Land Treatment Unit ("LTU") constructed as part of the CERCLA remedial action for the Broderick Wood Treatment Site, and remove, load, transport and dispose of debris. In the event that the LTU is closed or otherwise unavailable, the soil shall be sampled and profiled to determine proper off-property disposal requirements prior to loading in the containers for disposal.

2.1 Access Control

Primary access to the Property will be from the north along Lipan St. (Figure G-1).

2.2 Excavation Safety

All excavations shall be done in a safe manner. Appropriate measures shall be implemented to retain excavation side slopes and prevent cave-ins to ensure that persons in or near the excavation are protected. All other applicable procedures as provided in the Health and Safety and Monitoring Procedures shall be followed (Section 4.0, OSHA references).

2.3 Notification and Documentation

There shall be a one-time notice to EPA and CDPHE before commencing excavation in contaminated areas or when the excavation may extend deeper than one foot above the seasonal groundwater level. Notice shall be provided to EPA and CDPHE whenever unanticipated conditions necessitate activities which will deviate from the procedures and requirements set-forth in this Plan. The reason for the expected deviation and a plan for implementing the new procedures shall be provided prior to taking action which will deviate from this Plan. If deviations from this Plan occur accidentally during property activities, EPA and CDPHE shall be notified and the work shall be suspended until the reason for the deviation and a plan for implementing new procedures has been provided. In the event that contaminated materials are encountered, all activities to comply with the requirements of this plan including final disposition of the materials shall be documented. The document shall include photographs of construction activities and results of all sampling activities.

2.4 Contaminated Soil

For purposes of this Plan all soil within the Property shall be considered either "contaminated" or "minimally impacted." All soil excavated from within the areas delineated on Figure G-1 (Former Impoundment Area and Former Process Area 12 inches below the ground surface (bgs)) shall be presumed contaminated and soil excavated from the LTU shall be considered contaminated ("contaminated area"). Soil excavated from within the designated contaminated areas may be considered "minimally impacted" if sample analysis indicates the soil contaminant concentrations are below treatment levels as provided in Table 2 and Table 3 attached of the Broderick Wood Products Superfund Site O&M Plan.

Soil outside of these contaminated areas is considered "minimally impacted" down to one foot

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above the seasonal high groundwater table. All other areas of the property outside the contaminated areas shall be considered "minimally impacted", unless visual observations reveal visible staining and/or olfactory observations reveal strong odors. Evaluation of the soil conditions in the area outside of the contaminated areas will be through visual inspection and observation.

During construction, soil excavated from "minimally impacted" areas will be inspected for visually observable "staining" and the presence of odors. Staining would appear to be black or very dark brown and may have a slight rainbow tint. If odor is present, it would be organic in nature and have a detectable mothball, petroleum or similar type of odor. All soil that is visibly stained or contains strong odors shall be presumed to be contaminated unless sampling and analysis indicates contaminant concentrations to be less than treatment levels as provided in Table 2 and Table 3 of the Broderick Wood Products Superfund Site O&M Plan.

2.5 Contaminated Groundwater and Surface Water Runoff

Adequate control shall be implemented for sediment and surface water runoff in accordance with applicable State and Adams County requirements. All groundwater encountered at the Property and any surface water coming in contact with contaminated soil shall be considered contaminated and subject to the requirements of this plan. If removal of groundwater from the excavation is required to facilitate construction or if surface water comes in contact with contaminated soil, ample means and devices shall be maintained to promptly remove and dispose of all contaminated water, including, as appropriate for the particular work, providing retention berms, installing temporary sumps, or sedimentation ponds for collection of water from disturbed areas and to address ponding of storm water. The removed water shall be pumped to the Broderick Wood Products Superfund Site remedial action treatment facility surge pond. All water disposed of into the surge pond will be treated and discharged by BIC under Colorado discharge permit #COG310180, or any replacement thereto.

2.6 Limits of Excavation

No excavations, other than those provided for in the CERCLA Response Action documents, including the current O&M Plan, shall occur in the LTUs without EPA and CDPHE notification, concurrence and amendment of the CERCLA response action documents. Outside of the LTU, excavations should be limited to the depths and widths, as shown on the plans or as required to accomplish the task; excavations deeper than 12 inches above the seasonal high groundwater table should be avoided to minimize contact with potentially contaminated soil and groundwater; and all disturbed areas shall be restored in accordance with the requirements of Section 3.0. Excavations outside of the LTU, which are deeper than 12 inches above the seasonal high groundwater table will comply with the requirements of Section 2.7 hereof. No excavations shall be conducted in the Former Impoundment Area, except as necessary for the extension of Lipan St. and associated utilities, until certification of partial completion of the CERCLA remedy component has been accepted by the EPA.

2.7 Excavated Soil

All excavated soil designated as "minimally impacted", meeting the criteria listed in Section 2.4, may be placed into other areas on the Property.

Excavated "contaminated" soil shall be loaded, hauled, and stockpiled to the designated area within LTU-A North. All excavated contaminated soil shall be excavated, loaded, and hauled to the LTU in a manner that prevents, to the maximum extent possible, the spread of contamination. All haul roads shall be maintained as clean roads. All vehicles which travel within the limits of the LTU area shall be decontaminated. Soil placed within the LTU will be treated by BIC in accordance with the CERCLA Response Action documents, including the current O&M Plan.

All existing roads surfaced with pavement or gravel outside of the LTU area and on Property are considered clean of contamination and shall be used to transport contaminated soil to the LTU; however, they must be cleaned of contaminated soil upon completion of the hauling operations. Additional temporary roads shall be built using imported granular road surfacing as necessary to provide direct access to the designated disposal areas in the LTU without disturbing active treatment areas. All haul roads shall be maintained and spills shall be prevented. If a spill occurs, the area of the spill shall be cleaned by removal of all visually contaminated soil from the road surface, and the addition of 2 inches of imported granular road surfacing. Temporary roads shall be removed at the completion of the job, unless directed otherwise.

In the event that the LTU is closed and no longer accepting soil, soil shall be sampled and profiled to determine proper off-Property disposal requirements prior to loading in the containers for disposal. It shall then be transported directly to an appropriate waste disposal facility. Under no condition shall this requirement be deviated from.

2.8 Debris

If debris (non-soil material) is encountered during excavation or grading the material encountered shall be considered contaminated and shall be segregated from soil and shall be transported to a designated area within LTU-A North for later characterization and disposal. As an alternative, debris may be characterized and loaded directly into roll-off boxes or trucks for off-Property disposal. All collected debris shall be handled using either the excavator or the loader. The collected debris will be transported to the appropriate waste disposal facility. Gross amounts of soil will be removed from the waste material and the debris sampled and profiled to determine proper off-Property disposal requirements prior to transport off Property for disposal. It will then be transported directly to an appropriate waste disposal facility.

2.9 Air Monitoring

During excavation, transportation and spreading of contaminated soil, Mini RAM samplers will be used to provide real time concentrations of respirable airborne particulates. Three Mini RAMs will be used to monitor dust; one at north Property boundary near the LTUs, one between the LTU-A North and the Union Pacific Rail line, and a third "mobile" unit close to the excavation activity. In addition, appropriate dust control measures, in accordance with § 4.3.1., will be used during the excavation activities. If dust levels exceed 0.15 milligrams per cubic meter (mg/m3) at the fence line or 0.30 mg/m3 within the LTU boundaries or in the work zone,

the operations will be modified or delayed. In addition, Mini RAM samplers should be placed such that they determine whether persons employed on the site in any capacity are exposed to contaminants at unacceptable concentrations. If so, work procedures shall be modified to reduce exposure to acceptable limits.

3.0 RESTORATION OPERATIONS

This section provides the requirements for restoration of the surface soil cover following activities which disturb or otherwise remove the existing soil cover. The soil cover shall be replaced or restored in all areas of the property, unless final development conditions include paving, gravel surface or other permanent surfacing material. The soil cover shall include a 1-foot-thick layer of imported fill as cover over any disturbed area, except as noted above.

The existing soil cover, to the extent possible, shall be prevented from being contaminated. In the event that the soil cover material becomes intermixed with contaminated material the mixture shall be excavated, properly disposed and replaced with 12 inches of imported fill.

The current soil cover shall be surveyed prior to any activities which may disturb it. The limits of the planned disturbance shall be staked and elevations of the top surface measured and recorded. At a minimum, stakes shall be placed at the corners of the planned disturbance area and at points not greater than 100-foot intervals. Following the activities, the actual extent of the disturbance shall be measured and recorded.

The information recorded from measurements described above shall control the restoration activities. The disturbed area shall be restored to reestablish the 12 inch soil cover and shall include leveling the ground surface and placement of 12 inches of clean soil. Following soil cover placement all surfaces shall be compacted.

4.0 HEALTH AND SAFETY AND MONITORING PROCEDURES

This section includes Property-specific health and safety procedures to be implemented during Activities at the Property to which this Plan applies pursuant to section 1.0. The Property owner shall be responsible for having this Plan on Property and assuring its implementation and adherence by all persons on Property during activities to which the Plan is applicable.

4.1 Worker Health and Safety

The principal factor in hazard control and worker health and safety is training. Workers cannot guard against hazards if they are not aware of the dangers in their workplace. The requirements of OSHA, 29 CFR 1910 regulations are used as guidance for this Plan.

The basis for this Plan is that there is potentially contaminated soil and groundwater on the Property for which workers may be exposed during activities at the Property. There are three potential pathways to humans working on the affected Property to come in contact with COCs. The potential pathways are:

1. Direct contact with materials containing COCs;

2. Inhalation of dust containing contaminated particulate, and;

3. Ingestion of contaminated materials.

4.3.1 Health and Safety Officer

A Health and Safety Officer (HSO) shall be appointed by the Contractor to supervise all aspects of implementation of this Plan, perform necessary monitoring, and collect and maintain documentation required by this Plan. The HSO will have the knowledge, responsibility and authority to apply appropriate protection regulations. The HSO shall ensure that health and safety activities are being performed in accordance with the requirements of this Plan.

The HSO shall be responsible for establishment of the exclusion zone around each work area and for ensuring that only workers with the appropriate training and documentation of such training are allowed within the exclusion zone. The HSO shall insure that the equipment utilized to characterize soil encountered during Plan Activities and to monitor worker health and safety are properly calibrated. The HSO shall also ensure that all required field measurements are obtained as required by this Plan to protect worker safety and to characterize excavated soil for segregation and subsequent testing.

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The HSO will be responsible for ensuring that contaminated soil is properly segregated, containerized and transported to the LTU. The HSO shall also ensure that the segregated soil is isolated and managed in a manner to prevent contact by other workers not involved in Plan-related Activities or by Property visitors until results of additional sampling are obtained indicating that the soil is suitable for placement back in the excavation or as general fill or alternatively until contaminated soil are transported to the LTU for on-Property treatment or disposal at a off-Property licensed disposal facility.

4.3.2 Training Requirements

Worker health and safety are regulated under OSHA as stipulated in 29 CFR 1910. Training is regulated by 29 CFR 1910.120 (e). Personnel working on the Property or that may come into contact with contaminated materials, should fall under the criteria specified below:

- Workers on-Property only occasionally for a specific limited task, and who are unlikely to be exposed over permissible exposure limits, shall receive a minimum of 24 hours of instruction, and;

- The HSO and other on-Property management or supervisors directly responsible for, or who supervise employees engaged in, Activities shall receive 40 hours initial training and three days of supervised field experience (the training may be reduced to 24 hour of initial training, if the only area of responsibility is employees as specified above).

The Property owner shall be responsible for ensuring that all Property workers provide adequate documentation certifying OSHA health and safety training in accordance with 29 CFR 1910.120. Workers who cannot provide training certification will be denied access to the controlled area.

The OSHA health and safety training for the HSO will include additional instruction for Property-specific hazards and hazard awareness.

4.3.3 Personal Monitoring

No personal monitoring is anticipated to be required.

4.3.4 Property/Area Monitoring

The Property owner shall be responsible for monitoring conditions at the worksite and immediate surrounding area. During excavation, transportation, and spreading of soil in the LTU units, Mini RAM samplers will be used to provide real time concentrations of respirable airborne particulates. Three Mini RAMs will be used to monitor dust; two at fence lines near the LTUs, and a third "mobile" unit close to the activity. In addition, appropriate dust control measures (e.g., watering) will be used during the transportation. If dust levels exceed 0.15 milligrams per cubic meter (mg/m3) at the fence line or 0.30 mg/m^3 within the LTU boundaries or work zones, the operations will be modified or delayed.

4.3.5 Hazard Evaluation

Physical hazards that may be encountered include the presence of heavy equipment (i.e., backhoe, trucks), open trenches or excavations, exposure to electrical and other utility hazards, and noise. In addition, there is a possibility of slip/trip/fall hazards from holes, uneven pavement, unused construction equipment, sharp objects (i.e., nails, metal shards), and slippery surfaces.

Finally, the potential for extreme weather conditions may exist depending upon the implementation schedule. Extreme weather conditions may include excessive heat or cold, thunderstorms, high wind conditions, heavy rains, and snow/ice. Special precautions will be taken during periods of extreme weather, and work may be halted until the severe weather has subsided. For example, work will be halted under windy conditions that result in visible dust from the excavation or stockpiled soil being blown around. In addition, subcontractors may elect to independently halt their activities in the event of extreme weather conditions, especially thunderstorms.

4.3.6 Excavations and Trenches

During the excavation of utility and piping trenches, proper excavation and trenching procedures must be followed as outlined in 29 CFR 1926.650 through .653 (Subpart P. Excavations, Trenching, and Shoring). In particular, the requirements for shoring, sloping, and access/egress must be followed. In addition, all underground utilities (gas, electric, water) at the Property must be identified and marked by the subcontractor prior to the commencement of any excavation and/or trenching activity. Workers are not allowed to enter any trenches or excavations unless an observer is present outside of the excavation/trench area.

4.3.7 Operation of Mechanized Equipment and Motor Vehicles

All mechanized equipment (e.g., backhoe, bulldozers) and other motor vehicles (support trucks, dump trucks, forklifts) will only be operated by qualified personnel who have been trained by their employer in the proper use of the equipment. The equipment will be operated according to all applicable OSHA and Department of Transportation (DOT) regulations. Specifically, the requirements of 29 CFR 1926.600 through .606 (Subpart O. "Motor Vehicles, Mechanized Equipment, and Marine Operations") will be observed, including, but not limited to the following:

1. Seat belts must be worn at all times.
2. All heavy equipment must be equipped with a reverse signal alarm.
3. All earth moving equipment must be equipped with rollover protective structures.

4.3.8 Struck-By and Caught-In/Caught-Between Hazards

The potential for being struck by falling or swinging objects, or situations where an employee is caught in or caught between heavy equipment and/or other items, are to be minimized by following any and all appropriate OSHA precautions. In particular, the subcontractor should incorporate provisions of 29 CFR 1926.600 (a)(3)(i), which refers to suspension of equipment or parts, 29 CFR 1926.651(e), which refers to falling loads, and 29 CFR 1926, Subpart O.

FJC

which refers to machinery and heavy equipment. Precautions should include, but not be limited to:

1. Property personnel must listen for back up alarms and watch for spotters and backing equipment.

2. The use of towing and lifting equipment should be in accordance with OSHA and other applicable requirements.

4.3.9 Exclusion Zone

A clearly defined exclusion zone will be established around each of the controlled (work) areas to prevent the public from contacting potentially contaminated materials. To protect other workers or other persons not involved with the Activity, these controlled (work) areas shall be marked with cones, or other suitable markings, to distinguish these areas from other areas on the Property.

The area in which potentially contaminated or contaminated material, if any, is stockpiled shall have markings (i.e., yellow caution tape or cones) to warn personnel of the potential for exposure.

Access to the controlled (work) areas will be limited to personnel who are required for performance of the subject Activities and who have documented the necessary training as described in Section 4.3.2 of this Plan. All other workers or other persons not involved in Plan-related Activities will be restricted from entering the exclusion zone. The HSO will be responsible for ensuring that only those individuals that are required to enter the exclusion zone and that have the appropriate training are allowed to enter the exclusion zone.

4.3.10 Personnel Protective Equipment

It shall be mandatory for all personnel involved in the Activity to wear Level D personnel protective equipment (PPE). The PPE required includes the following:

- Hard hat;
- Safety shoes;
- Gloves
- Pants;
- Eye protection; and
- Ear protection, as necessary.

Additional PPE may be required in the exclusion zone (including the area of stockpiled material) including latex gloves and Tyvek® suits.

4.2 Emergency Contacts

In the event of an emergency related to Property operations, notification of appropriate contacts should be made. The following persons shall be contacted in the event of an emergency:

1. Immediate supervisor of the person injured;
2. Owner or owner's representative;
3. Medical emergency requiring immediate attention - 911

In the event that an emergency call to 911 is impractical and a visit to the emergency room at a hospital is required, personnel should be familiar with the location and most direct route to the nearest hospital. The nearest hospital is North Suburban Medical Center, and the directions from the Property to the hospital are as follows:

Directions	Miles
Start: Depart 5800 Galapago Denver, CO 80202 on Lipan St (North)	0.3
1: Turn LEFT (West) onto W 62nd Ave	0.1
2: Turn RIGHT (North) onto Pecos St.	0.1
3: Merge onto I-76 East.	0.8
4: Merge onto I-25 [US-87] (North) via EXIT 5 toward FORT COLLINS	
5: Merge onto 84th Ave (East) via EXIT 219 toward THORNTON	0.4
6: Turn LEFT (North) onto GRANT ST.	1.0
End: Arrive North Suburban Medical Center (hospital), Denver, Colorado - 9191 Grant St.	

4.3 Operational Considerations

Operational considerations during operations at the Property include reduction of contaminant spread and public content. The following sections describe control procedures for each of the operational considerations during Activities to which this Plan is applicable.

4.3.1 Reduction of Contaminant Spread

Contaminants may spread from the active work area to the surrounding areas through a variety of mechanisms that include, but are not limited to, the following:

- Generation of dust containing COCs;
- Movement of COCs in water; and
- Physical removal from the Property on worker's clothing or other direct mechanism.

Every effort must be made to prevent the spread of contamination or potentially contaminated materials from the Property.

Whenever dust is generated during trenching operations, measures shall be employed to reduce the spread of contamination. For control of dust and particulates, water sprays or mists shall routinely be applied to equipment or areas releasing potentially radioactive dusts. The water spray and mists shall be applied so that no runoff, standing pools, or free water are produced. If any water does accumulate, it shall be contained, monitored, and treated as appropriate. In severe cases, including windstorms or other adverse weather conditions, advance planning to control release of potentially contaminated dusts shall be performed. Measures such as shutting down operations and covering of recently exposed, contaminated areas may be necessary to reduce the potential for dust release and dispersal.

Water shall not be introduced to (other than for dust control) or removed from the excavation to the extent practical to prevent the potential for contaminant migration through this media. If precipitation is possible, the excavation should be covered and the area around the excavation modified to prevent surface run-off from entering the excavation.

The purpose of this Plan is to provide procedures that eliminate or restrict emissions or other mechanisms of possible transport of contaminated soil off Property in an uncontrolled manner. In order to prevent uncontrolled releases of contaminants from the Property, contaminated or potentially contaminated materials shall not be removed from the Property, except as required for off-Property disposal.

4.3.2 Public Contact

Activities at the Property may draw the attention of the public. However, access to the Property is restricted by virtue of the fence, and section 4.3.9 provides for a clearly defined exclusion zone. During Activities, the HSO shall be responsible for assuring that unauthorized persons do not enter the exclusion zone and the work areas.

5.0 DOCUMENT RETENTION

The owner shall maintain at the Property an environmental file. Such files shall contain the following:

- A Copy of this Plan
- Data resulting from sampling and analysis efforts.
- Documentation of activities as required by Section 2.3
- Maps depicting the location of contaminated materials encountered at the Property during construction activities.
- Documents and correspondence required by this Plan.

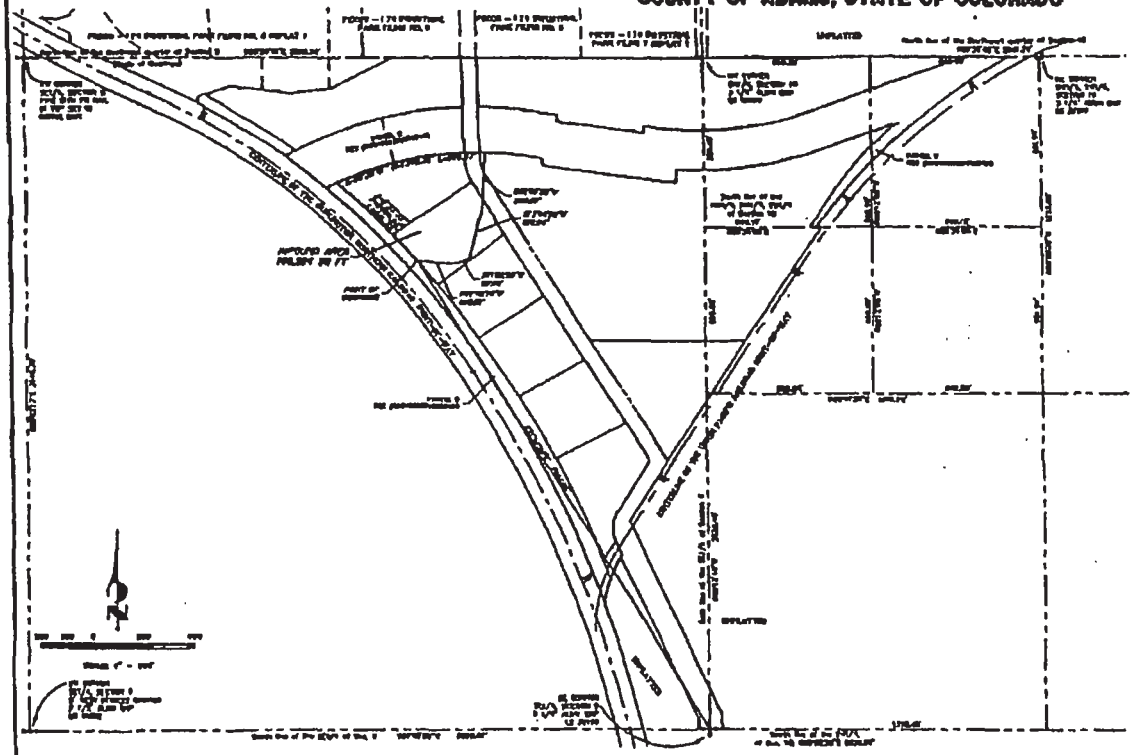
Such environmental file shall be kept in perpetuity and shall be available during normal business hours for inspection by the EPA or CDPHE.

BROOMFIELD INVESTMENT COMPANY
LIMITS OF
CONTAMINATED AREAS
ADAMS COUNTY, COLORADO
FIGURE
6-1
VISION LAND
CALL BEFORE YOU DIG
1-800-922-1987
LOT 1
LOT 2
LOT 3
LOT 4
LOT 5
LOT 6
LOT 7
LOT 8

FAC

PARCEL DESCRIPTION IMPOUND AREA

PART OF THE SOUTHEAST 1/4 OF SECTION 9, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH P.M.
COUNTY OF ADAMS, STATE OF COLORADO



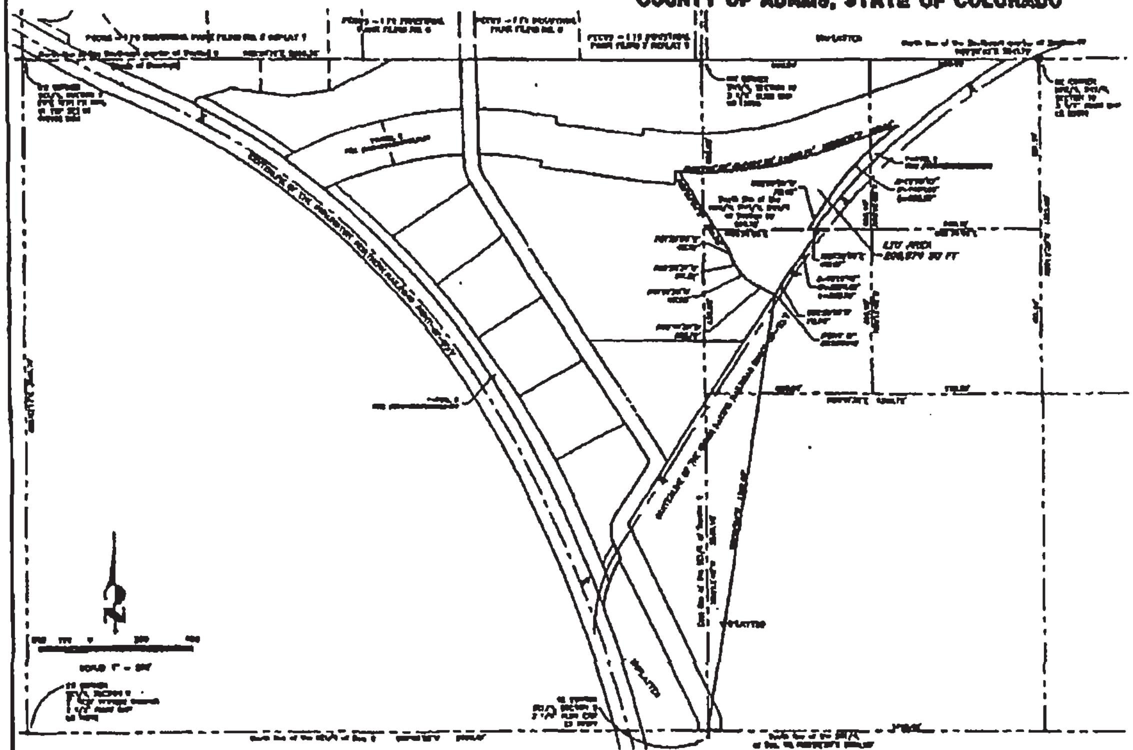
PARCEL DESCRIPTION

PARCEL DESCRIPTION STATEMENT

PARCEL DESCRIPTION

PARCEL DESCRIPTION LTU AREA

PART OF THE SOUTHEAST 1/4 OF SECTION 9 AND THE SOUTHWEST 1/4 OF SECTION 10, TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE 6TH P.M. COUNTY OF ADAMS, STATE OF COLORADO



PARCEL DESCRIPTION

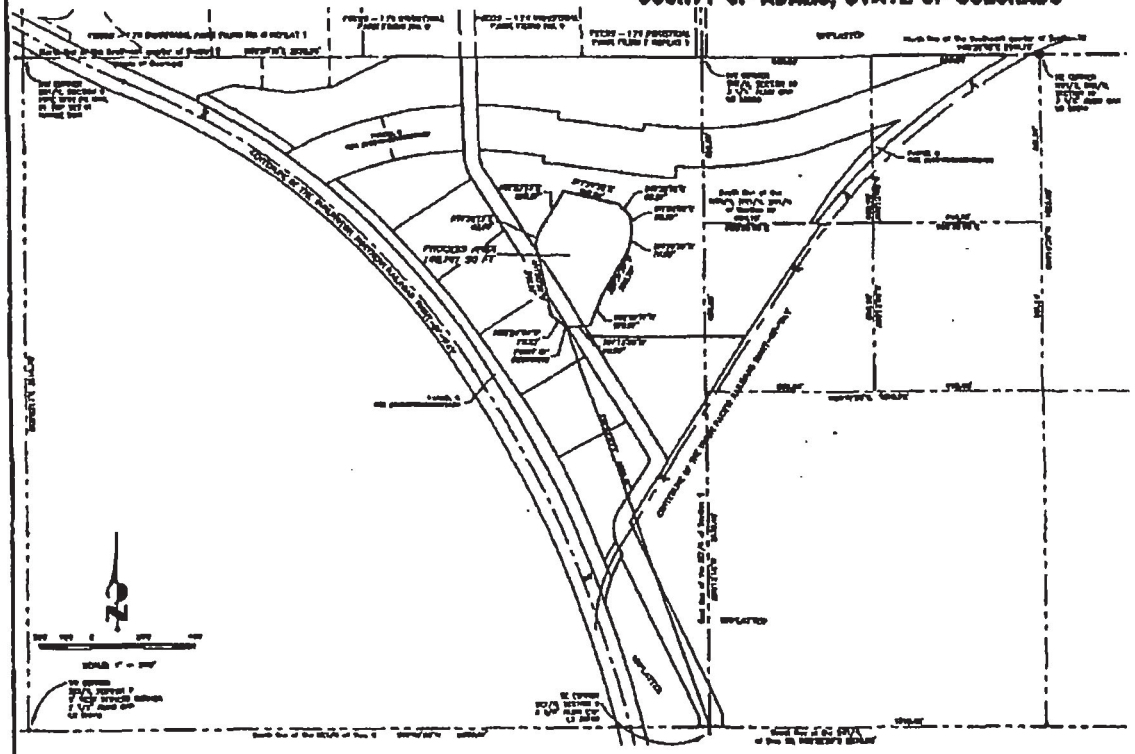
PARCEL DESCRIPTION STATEMENT

PARCEL DESCRIPTION

JR ENGINEERING

PARCEL DESCRIPTION PROCESS AREA

PART OF THE SOUTHEAST 1/4 OF SECTION 9, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH P.M. COUNTY OF ADAMS, STATE OF COLORADO



PARCEL DESCRIPTION

PARCEL DESCRIPTION STATEMENT

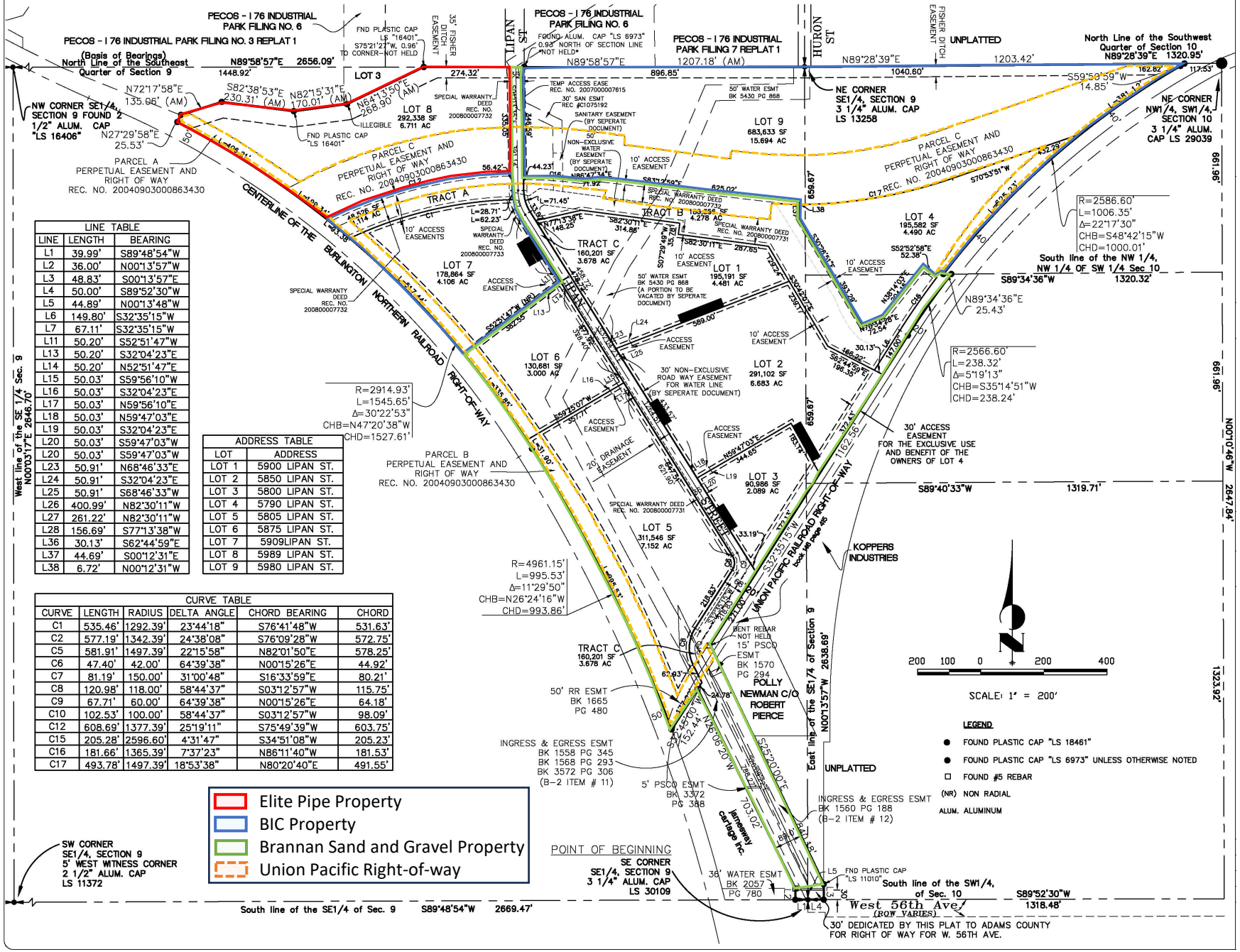
Appendix B
Site Parcel Map
April 2024

appendix to:
Administrative Settlement Agreement for
Response Actions by Prospective Purchaser,
Brannan Sand and Gravel Company, LLC

Broderick Wood Products Superfund Site
Adams County, Colorado

SCOTT INDUSTRIAL PARK

A PART OF THE SOUTHEAST 1/4 OF SECTION 9 AND THE SOUTHWEST 1/4 OF SECTION 10, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO



LINE TABLE		
LINE	LENGTH	BEARING
L1	39.99'	S89°48'54"W
L2	36.00'	N00°13'57"W
L3	48.83'	S00°13'57"E
L4	50.00'	S89°52'30"W
L5	44.89'	N00°13'48"W
L6	149.80'	S32°35'15"W
L7	67.11'	S32°35'15"W
L11	50.20'	S52°51'47"W
L13	50.20'	S32°04'23"E
L14	50.20'	N52°51'47"E
L15	50.03'	S59°56'10"W
L16	50.03'	S32°04'23"E
L17	50.03'	N59°56'10"E
L18	50.03'	N59°47'03"E
L19	50.03'	S32°04'23"E
L20	50.03'	S59°47'03"W
L20	50.03'	S59°47'03"W
L23	50.91'	N68°46'33"E
L24	50.91'	S32°04'23"E
L25	50.91'	S68°46'33"W
L26	400.99'	N82°30'11"W
L27	261.22'	N82°30'11"W
L28	156.69'	S77°13'38"W
L36	30.13'	S62°44'59"E
L37	44.69'	S00°12'31"E
L38	6.72'	N00°12'31"W

ADDRESS TABLE	
LOT	ADDRESS
LOT 1	5900 LIPAN ST.
LOT 2	5850 LIPAN ST.
LOT 3	5800 LIPAN ST.
LOT 4	5790 LIPAN ST.
LOT 5	5805 LIPAN ST.
LOT 6	5875 LIPAN ST.
LOT 7	5909LIPAN ST.
LOT 8	5989 LIPAN ST.
LOT 9	5980 LIPAN ST.

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD
C1	535.46'	1292.39'	23°44'18"	S76°41'48"W	531.63'
C2	577.19'	1342.39'	24°38'08"	S76°09'28"W	572.75'
C5	581.91'	1497.39'	22°15'58"	N82°01'50"E	578.25'
C6	47.40'	42.00'	64°39'38"	N00°15'26"E	44.92'
C7	81.19'	150.00'	31°00'48"	S16°33'59"E	80.21'
C8	120.98'	118.00'	58°44'37"	S03°12'57"W	115.75'
C9	67.71'	60.00'	64°39'38"	N00°15'26"E	64.18'
C10	102.53'	100.00'	58°44'37"	S03°12'57"W	98.09'
C12	608.69'	1377.39'	25°19'11"	S75°49'39"W	603.75'
C15	205.28'	2596.60'	4°31'47"	S34°51'08"W	205.23'
C16	181.66'	1365.39'	7°37'23"	N86°11'40"W	181.53'
C17	493.78'	1497.39'	18°53'38"	N80°20'40"E	491.55'

Appendix C
Lot 7 Work Plan
April 2024

appendix to:
Administrative Settlement Agreement for
Response Actions by Prospective Purchaser,
Brannan Sand and Gravel Company, LLC

Broderick Wood Products Superfund Site
Adams County, Colorado

I.INTRODUCTION

1. This Lot 7 Work Plan sets forth the procedures, requirements, and recommendations for implementing the Work to develop and perform the abandonment work required for the Property, which is included within the Broderick Wood Products Superfund Site ("Site"), located in Adams County, Colorado. This Lot 7 Work Plan is a part of and incorporated into the Administrative Settlement Agreement for Response Actions by Prospective Purchaser ("Settlement"). Brannan Sand and Gravel Company, LLC is the Purchaser to the Settlement.

2. References in this Lot 7 Work Plan to the Settlement refer to the Settlement and its Appendices, including this Lot 7 Work Plan.

3. The terms used in this Lot 7 Work Plan that are defined in the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), in regulations promulgated under CERCLA, or in the Settlement, have the meanings assigned to them in CERCLA, in such regulations, or in the Settlement, except that the term "Paragraph" or "¶" means a paragraph of the Lot 7 Work Plan and that the term "Section" means a Section of the Lot 7 Work Plan, unless otherwise stated. If there is a conflict between this Lot 7 Work Plan and the Settlement, the provisions of the Settlement control.

5. Modifications to the Lot 7 Work Plan will follow procedures described in the Settlement.

6. This Lot 7 Work Plan is not intended to modify current EPA guidance or regulations. Current EPA guidance and regulations shall control in the event of any conflict between the Lot 7 Work Plan and current EPA guidance and regulations.

7. **Purpose of the Lot 7 Work Plan**. On behalf of Purchaser, Parsons has prepared this Lot 7 Work Plan pertaining to property in Adams County, Colorado that is described as Lot 7 and Tract A of the Scott Industrial Park in Adams County, Colorado (collectively "Lot 7"), which is situated within the Site. This Lot 7 Work Plan describes the procedures to be used to abandon remedial infrastructure associated with the groundwater extraction system and the soil bioventing system currently in place at Lot 7. Select remedial infrastructure elements will be left in place to include monitoring wells 89-4P, W-2, CH-7, and TWP-12 only. All infrastructure associated with the barrier wall (e.g., the extraction well on the northeast side of Lot 7) will remain in place, though the power line for this extraction well may be removed if it transects Lot 7 and will not be replaced. No remedial infrastructure outside of the Lot 7 boundary will be removed under this Lot 7 Work Plan. Lot 7 remedial infrastructure is depicted on Figure 1.

II.Site Background

8. Broderick Wood Products, Inc. (BWP) operated a wood treatment plant at the BWP property from 1946 to 1981 and treated railroad ties, telephone poles, and fence posts with creosote or pentachlorophenol (PCP) in fuel oil solutions. Historical wood treating activities at this 64-acre site resulted in impacts to shallow soil and groundwater consistent with wood treating operations and consisting primarily of petroleum products and metals. Initial investigation of the BWP property was conducted in the early 1980s and the site was added to

the United States Environmental Protection Agency (EPA) National Priorities List (NPL) in 1984. Following a remedial investigation, the Former Impoundment and Process Areas were identified as primary areas of concern.

9. Interim actions for Operable Unit 1 (OU1) consisting of removal of liquid and sludge from two unlined impoundments in the Former Impoundment Area were completed in 1992 under modified Record of Decision (ROD) and in March of 1992 a remedy was established for remaining soils in the Second ROD (ROD2) which was in-situ/ex-situ biological degradation. The groundwater remedy defined in ROD2 and revised under an ESD published in 1995 is bioventing to remediate residual groundwater and soil impacts. The remedial action installed on Lot 7 included groundwater monitoring wells, groundwater extraction sumps, bioventing system vents and vapor monitoring points, and associated lateral air injection lines, extracted groundwater conveyance lines, valve boxes, etc. The bioventing system achieved its remedial objectives as defined in the Bioventing System O&M plan (Bic, 2013) as documented in the Final Broderick Site Lot 7 2022 Respirometry Test Technical Memorandum (Parsons, 2023). This Lot 7 Work Plan addresses the abandonment of these remedial structures.

10. Pursuant to the Colorado Code of Regulations 402-2 Rule 16.3, wells and boreholes within Type II (unconfined bedrock aquifers) and Type III aquifers (unconsolidated) must be abandoned by backfilling the well or borehole to the static water level with clean sand or clean gravel. The borehole annulus above the static water level shall be plugged and sealed with either native clays, cement, drill cuttings, or high solid bentonite grout up to a depth of six feet below ground surface. The borehole above six feet shall be plugged with grout.

III.Remedial Infrastructure Abandonment Preparation

11. Prior to the start of abandonment all remedial infrastructure will be identified in the field, staked, and surveyed to provide a record of infrastructure elements and locations. The depth to water (static water level) and the total well depth will be measured at each groundwater monitoring well and groundwater collection sump for backfill volume calculations and reporting. During the pre-abandonment survey or remedial infrastructure abandonment additional remedial infrastructure components may be identified. If newly identified features are similar in nature to those being abandoned (e.g., additional shallow monitoring wells, sumps, MPs, BPs, etc.), Brannan will notify CDPHE and EPA via email. If new wells with casing total depths deeper than the top of the Denver Aquifer (e.g., deeper than approximately 30 feet at Lot 7), then Brannan will notify CDPHE and EPA and provide abandonment procedures for any deeper wells identified. Brannan does not expect to find any wells that fall into this category based on review of the BIC 2013 O&M Plan and available site data. Finally, all groundwater pumps and other removable equipment will be removed, assessed for function, and either stored at the groundwater treatment plant (if functional) or disposed of (if non-functional).

IV.Monitoring Wells and Groundwater Collection Sumps

12. All wells on lot 7 are considered to be most similar to Type III Unconsolidated Aquifer Wells under Colorado Code of Regulation 2CCR 402-2 Section 16.3 and/or Dewatering Wells and Piezometers under 2CCR 402-2 Section 16.4.1. In accordance with pertinent regulations, Lot

7 monitoring wells, trench wells and groundwater collection sumps, trench wells (TWPs), and trench cleanouts (RTS) at Lot 7 will be abandoned by backfilling the casings with clean sand from the bottom of the sump to the static water level and then to approximately five feet below ground surface with packed native site soils. The top five feet of casing (PVC or concrete) will then be backfilled with grout and the top casing will be broken off and removed. Following shallow casing removal any remaining depression will be leveled with native soils and compacted using the backfill machinery (e.g., skid steer loader).

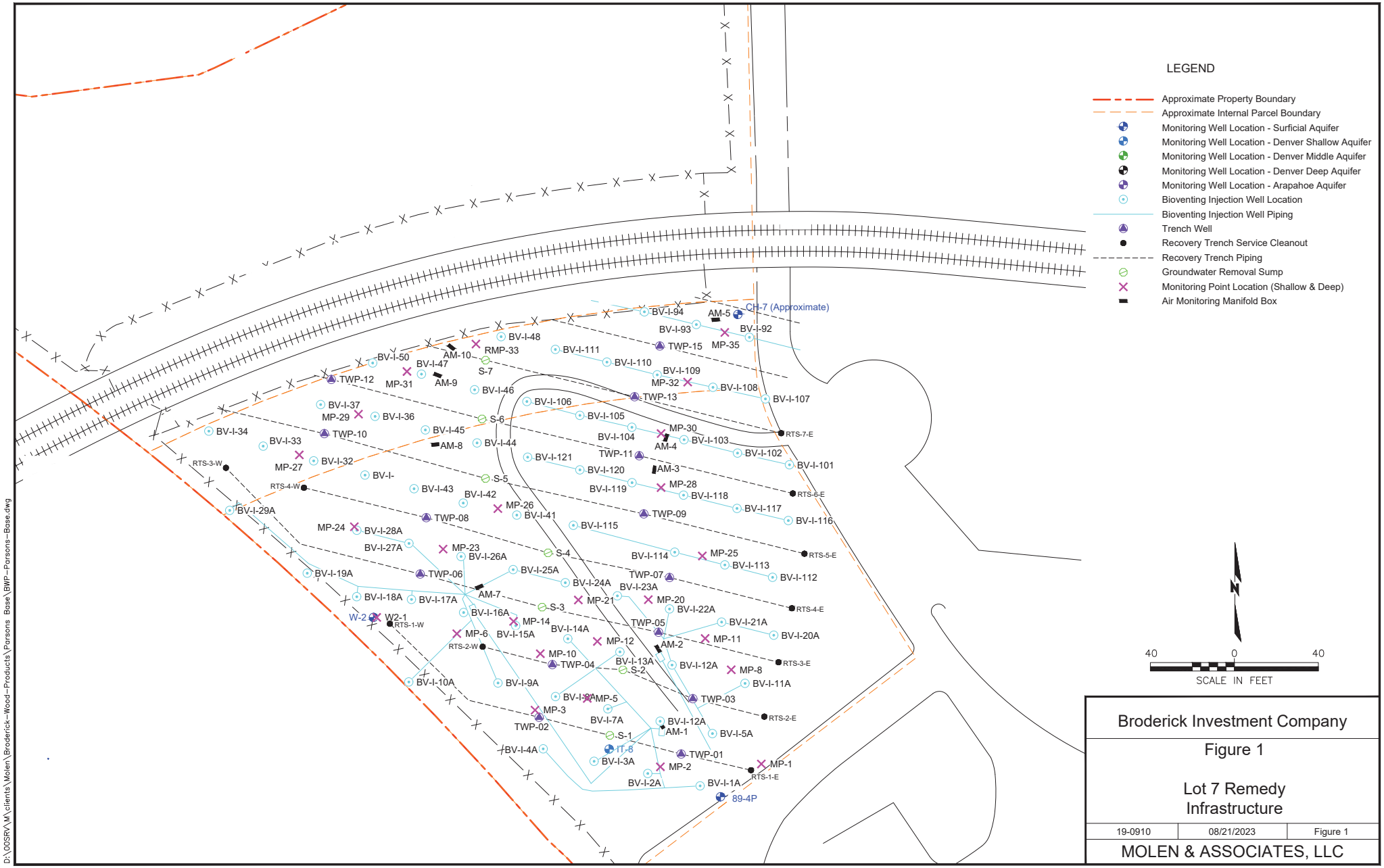
V. Vapor Monitoring Probes and Above Ground Structures

13. Vapor monitoring points (MPs) and bioventing points (BVs) consist of short, small diameter steel probes buried at depth which are connected to the surface by small diameter (1/4-in or 3/8-in) plastic tubing. The BVs are interconnected and connected to the air monitoring valve boxes (AMs) via small diameter plastic tubing buried 2-3 feet below ground surface. The MPs, BVs, and lateral air injection lines cannot be removed or backfilled because of the small diameter of the tubing. As such, the tubing will be cut off at the ground surface / end points and the below-ground sections will be left in place. Any other above-ground structures (e.g., valve manifolds, tubing, air piping, well completions, other materials and debris associated with remediation activities) will be removed and disposed of as construction debris.

VI. Lot 7 Work Plan Reporting

14. Following the completion of abandonment activities required in this Lot 7 Work Plan, Purchaser will prepare a Lot 7 Final Report, in accordance with the Settlement. The Lot 7 Final Report will include a narrative of abandonment activities, all measurements and data collected during abandonment, an updated map showing locations of abandoned structures, and a photo log, in addition to the requirements of the Lot 7 Final Report detailed in the Settlement. Purchaser will prepare well abandonment reports for each monitoring well and groundwater collection sump for submission to the Colorado State Engineer's office within 60 days of abandonment. Well abandonment reports will be included in the Lot 7 Final Report.

Figures



Broderick Investment Company

Figure 1

Lot 7 Remedy Infrastructure

19-0910	08/21/2023	Figure 1

MOLEN & ASSOCIATES, LLC

D:\00SRV\M\clients\Molen\Broderick-Wood-Products\Parsons Base\BWP-Parsons-Base.dwg

COLORADO
Department of Public Health & Environment

Appendix D
Draft Materials Management and Health and Safety Plan

April 2024

appendix to:
Administrative Settlement Agreement for
Response Actions by Prospective Purchaser,
Brannan Sand and Gravel Company, LLC

Broderick Wood Products Superfund Site
Adams County, Colorado

DRAFT - Materials Management and Health and Safety Plan – Broderick Wood Products Superfund Site

March 22, 2024

Table of Contents

Figures

1. Introduction

This Materials Management and Health and Safety Plan ("Plan") shall apply to and be implemented as part of the Environmental Covenant ("EC") for the Property commonly referred to as Broderick Wood Products Superfund Site ("Property"). The Property is more specifically described in Attachment A of the Environmental Covenant for the Property dated December 14, 2006. This Plan was prepared to address the specific requirements as referenced in the EC (Covenant ID# HMCOV00032) granted by Broderick Investment Company ("BIC") to the Hazardous Materials and Waste Management Division of the Colorado Department of Public Health and Environment ("CDPHE"). Any person undertaking activities to which this Plan is applicable shall implement this Plan. All activities conducted by any person associated with management of contaminated or minimally impacted soil, water, or material shall comply with the requirements of this Plan. This Plan presents procedures for handling of contaminated media – meaning contaminated soil, water, debris or waste from work with contaminated soil, water, or debris – as defined in this Plan during such activities. Minimum Property-specific health and safety procedures are also documented within this Plan, which shall be incorporated into project-specific health and safety plans as applicable.

1.1 Known contamination

Based upon the 1992 Record of Decision ("ROD") for Operable Unit 2 ("OU2"), the following are contaminants of concern ("COCs") at the Property:

- Polycyclic aromatic hydrocarbons ("PAHs")
    - Acenaphthene
    - Acenaphthylene
    - Anthracene
    - Benzo(a)anthracene
    - Benzo(a)pyrene
    - Benzo(b)fluoranthene
    - Benzo(g,h,i)perylene
    - Benzo(k)fluoranthene
    - Carbazole
    - Chrysene
    - Dibenzo(a,h)anthracene
    - Fluoranthene
    - Fluorene
    - Indeno(1,2,3-cd)pyrene
    - Naphthalene
    - Phenanthrene
    - Pyrene
- Petroleum related volatile organic compounds ("VOCs")
    - Benzene

    - Toluene
    - Ethylbenzene
    - Xylenes
- Chlorinated VOCs
    - Methylene chloride
    - Tetrachloroethylene
    - Trichloroethylene
- Phenols
    - 2-chlorophenol
    - 2,4-dichlorophenol
    - 2,4-dimethylphenol
    - 2-methylphenol
    - 4-methylphenol
    - Pentachlorophenol
    - Phenol
    - 2,4,5-trichlorophenol
    - 2,4,6-trichlorophenol
- Dioxins and furans
    - 2,3,7,8-tetrachlorodibenzo-p-dioxin
    - Pentachlorodibenzo-p-dioxin
    - Hexachlorodibenzo-p-dioxin
    - Heptachlorodibenzo-p-dioxin
    - Octachlorodibenzo-p-dioxin
    - Tetrachlorodibenzofuran
    - Pentachlorodibenzofuran
    - Hexachlorodibenzofuran
    - Heptachlorodibenzofuran
    - Octachlorodibenzofuran
- Metals
    - Arsenic
    - Cadmium
    - Lead
    - Zinc

1.2 Applicability

There are requirements and controls for work activities allowed under the EC that impact potentially contaminated media. Applicable media includes contaminated soil, contaminated water, waste related to identification or removal of contaminated soil or water, or debris discovered during excavation. Work activities include, but are not be limited to:

1. Utility cuts
2. Installation of utilities
    a. Natural gas
    b. Electricity

    c. Telephone
    d. Cable
    e. Fiber optics
3. Installation of water or sewer taps
4. Installation of water piping
    a. Water supply
    b. Sanitary sewer
    c. Storm sewer
5. Manhole alignment
6. Construction of building foundations
7. Removal of contaminated materials
8. Modification of remedial features
9. Ornamental landscaping

2. Materials handling procedures

The overall materials handing approach for work activities is to identify and then remove contamination for remediation or off-Property disposal.

The EC allows for excavation of soils and ornamental landscaping only if done in accordance with this Plan or a remedial decision document, environmental sampling plan, or environmental response work plan that has been approved by CDPHE and the United States Environmental Protection Agency ("EPA"). Excavation is defined as, "excavation, drilling, grading, digging, tilling, or any other soil-disturbing activity". Additionally, all excavation must protect the integrity of CERCLA response actions. All excavations shall be done in a safe manner following health and safety requirements provided in Section 5 and applicable laws.

Upon completion of excavation work, the excavated area shall be restored to a level of protection equal to or greater than original site conditions. Restoration may include: replacement of surface soil cover, placement of a cover approved by CDPHE and EPA, or replacement of clean soil. Restoration operations are detailed in Section 4.

2.1 Contaminated soil

For purposes of this Plan, all soil within the Property is either contaminated or minimally impacted.

Soils are presumed contaminated with one or more COCs if one or more of the following is true:

1. Soil is excavated from one of the following areas as delineated on Figure 1 as outlined in blue, except for the top 12 inches of soil in the area shown as "12-inch Soil Cover":
    a. Former Impoundment Area,
    b. Former Process Area, or
    c. Land Treatment Unit (LTU A North, LTU B North, LTU A South, and LTU B South).
2. Soil is excavated below one foot above the seasonal high groundwater table.
3. Excavated soil has observable "staining" – soils that are black, very dark brown, or have a slight rainbow tint.
4. Excavated soil has an organic odor, typically either a mothball or petroleum smell.

Additionally, any soils below the 12-inch Soil Cover, as shown on Figure 1, are presumed contaminated with dioxin if none of the above four conditions are true.

Excavated soils that are presumed contaminated shall be remediated under an EPA and CDPHE approved plan, appropriately disposed off-Property, or demonstrated to have contaminant concentrations less than the site-specific OU2 Soil Excavation Surface Soil Action Level for 2,3,7,8-TCDD, CDPHE's Risk-Based Screening Level for Arsenic, and the EPA Composite Worker RSLs (Hazard Quotient, HQ, = 1.0, Target Risk, TR = 10^{-5}) for all other known site COCs as listed above using an approved sampling and analysis plan. Soils with contaminant concentrations less than applicable standards will be considered "minimally impacted" and may be reused on-Property for purposes not prohibited by the EC after submittal of data to CDPHE and EPA.

Soils not meeting any of the four stated presumptive "contaminated" soil conditions in this section are presumed minimally impacted. Any excavation of presumed minimally impacted soils at the Property shall be monitored for potential contamination using visual and olfactory observations. Minimally impacted soils may be reused on-Property for purposes not prohibited by the EC.

2.2 Contaminated groundwater and surface water runoff

Adequate control shall be implemented for sediment and surface water runoff in accordance with applicable State of Colorado and Adams County requirements. All groundwater encountered at the Property and any surface water coming in contact with contaminated soil shall be considered contaminated and subject to the requirements of this Plan.

If removal of groundwater from the excavation occurs or if surface water comes in contact with contaminated soil, ample means and devices shall be maintained to promptly remove and dispose of all contaminated water, including, as appropriate for particular work, providing retention berms, installing temporary sumps, or sedimentation ponds for collection of water from disturbed areas and to address ponding of storm water. The removed water shall be containerized for characterization and appropriate off-Property disposal, treatment and discharge or beneficial reuse depending on the characteristics of the water. If water is to be treated and discharged or beneficially reused, CDPHE approval is required.

2.3 Debris

If debris (non-soil material) is encountered during excavation, the debris encountered shall be presumed contaminated unless the debris can be positively identified as material not part of the existing contamination at the Property. However, debris with staining or odor shall be presumed contaminated regardless of suspected origin. Contaminated debris shall be segregated, containerized, and characterized for appropriate off-Property disposal.

2.4 Waste related to identification or removal of contaminated media

In the course of working with contaminated media, workers may use equipment that comes into contact with contaminated soil, water, or debris. Disposable equipment shall be appropriately decontaminated for off-Property disposal. Reusable equipment shall be decontaminated and waste from the decontamination (water, detergent, solids, etc.) shall be containerized, characterized, and appropriately disposed off-Property.

2.5 Excavated soil

All excavated soil designated as minimally impacted may be placed into other areas on-Property.

Excavated contaminated soil shall be remediated under an EPA and CDPHE approved plan or appropriately disposed off-Property. All excavated contaminated soil shall be loaded and hauled in a manner that prevents, to the maximum extent possible, the spread of contamination. All haul roads shall be maintained as clean roads.

All existing roads surfaced with pavement or gravel outside of the LTU area and on the Property are considered clean of contamination and may be used to transport contaminated soil. However, the roads must be cleaned of contamination upon completion of the hauling operations. Additional temporary roads shall be built using imported granular road surfacing as necessary to provide direct access to the areas of excavation. All haul roads shall be maintained and spills shall be prevented. If a spill occurs, the area of the spill shall be cleaned by removal of all visually contaminated soil from the road surface, and placement of an additional of 2 inches of imported granular road surfacing.

Soil disposed off-Property shall first be sampled and profiled to determine off-Property disposal requirements that meet applicable federal, state, and local laws. Soils shall be properly containerized and transported directly to an appropriate waste disposal facility.

2.6 Limits of excavation

No excavations, other than those provided for in the CERCLA response action documents, shall occur in the LTUs without a work plan approved by EPA and CDPHE. Outside of the LTUs, excavations should be limited to the depths and widths as shown on work plans if excavation is occurring pursuant to a work plan, or as required to accomplish the task, if excavation is not occurring pursuant to a work plan. Excavations deeper than 12 inches above the seasonal high groundwater table should be avoided to minimize contact with potentially contaminated soil and groundwater, and all disturbed areas shall be restored in accordance with the requirements of Section 4.

2.7 Air monitoring

During excavation, storage, handling, and transportation of contaminated soil, operations shall comply with CDPHE's Air Quality Control Commission Regulation No. 1 (5 CCR 1001-3). Notwithstanding the applicability of Regulation No. 1 for an excavation, all excavation-related work shall employ appropriate dust control measures to eliminate dust emissions off the Owner's Property. Additionally, it will be the responsibility of those conducting the excavation to ensure that workers at the site are not exposed to contaminants at unacceptable concentrations.

Owner's Property, for purposes of this Plan, includes the portion of the Property owned or operated by the entity where the soil disturbing work is taking place.

3. Work requirements

In the event of excavation of soils at the Property, certain requirements shall be met.

3.1 Notice and documentation

There shall be a one-time notice to EPA and CDPHE before commencing excavation of soils in areas presumed to be contaminated. A work plan is also required for EPA and CDPHE approval before commencing excavation of soils in areas presumed to be contaminated. Notice shall be provided to EPA and CDPHE whenever unanticipated conditions necessitate activities which will deviate from the procedures and requirements set forth in this Plan. The reason for the expected deviation and a plan for implementing the new procedures shall be provided prior to taking action which will deviate from this Plan. If deviations from this Plan occur accidently during Property activities, EPA and CDPHE shall be promptly notified and the work shall be suspended until the reason for the deviation and a plan for implementing new procedures has been provided. If deviations from the work plan include excavation beyond the proposed limits, handling of contaminated media in excess of planned amounts, or other activities increasing the scope of the work related to contaminated media, CDPHE and EPA approval of the new procedures is required. All activities to comply with the requirements of this Plan including final disposition of the materials shall be documented. The document shall include photographs of construction activities and results of all sampling activities.

In the event that contaminated media are encountered during excavation work in areas exclusively presumed as minimally impacted, work shall stop until EPA and CDPHE are notified. A work plan must be submitted and approved, and the requirements of the previous paragraph shall apply.

3.2 Project Manager

If excavation is planned in an area of presumed contamination or contaminated media are encountered during an excavation, a Project Manager ("PM") shall be appointed by the entity responsible for the work or Property owner. The PM shall supervise all aspects of implementation of this Plan, perform necessary monitoring, and collect and maintain documentation required by this Plan. The PM shall be approved by EPA and CDPHE. The PM shall be defined as the following:

1. A person who possesses sufficient specific education, training, and experience necessary to exercise professional judgment to develop opinions and conclusions regarding conditions indicative of releases or threatened releases on, at, in, or to the Property, sufficient to meet objectives and performance factors.
2. Such a person must:

a. Hold a current Professional Engineer's or Professional Geologist's license or registration from a state, tribe, or United States territory (or Commonwealth of Puerto Rico) and have the equivalent of three years of full-time experience; or
b. Be licensed or certified by the federal government, a state, tribe or United States territory (or Commonwealth of Puerto Rico) to perform environmental inquiries and have the equivalent of three years of full-time relevant experience; or
c. Have a Baccalaureate or higher degree from an accredited institution of higher education in a discipline of science or engineering and the equivalent of five years of full-time relevant experience; or
d. Have the equivalent of ten years of full-time relevant experience.

3. The PM should remain current in their field through participation in continuing education or other activities.

Relevant experience, as used in the definition of PM in this section, means participation in the performance of all appropriate inquiry investigations, environmental site assessments, or other site investigations that may include environmental analyses, investigations, and remediation which involve the understanding of surface and subsurface environmental conditions and the processes used to evaluate these conditions and for which professional judgment was used to develop opinions regarding conditions indicative of releases of threatened releases to the subject Property.

3.3 Workers

All workers involved in excavation shall be properly trained to be able to identify contaminated or presumed contaminated media. This includes understanding areal and depth extents of presumed contaminated soils and use of visual and olfactory senses.

4. Restoration operations

If activities disturb or otherwise remove the existing soil cover, the soil cover shall be restored in all areas of the Property, unless final development conditions include paving, gravel surface, or other permanent surfacing material that is equal to or more protective than the soil cover. The soil cover shall include a 12-inch thick layer of clean imported fill as cover over any disturbed area.

The existing soil cover, to the extent possible, shall not be contaminated. In the event that the soil cover material becomes intermixed with contaminated material, the mixture shall be excavated, properly disposed, and replaced with 12 inches of clean imported fill. Clean imported fill, for purposes of this Plan, is fill that is free of contamination (observed or previously documented) and meet EPA Residential RSLs.

The current soil cover shall be surveyed prior to any activities which may disturb it. The limits of the planned disturbance shall be staked and elevations of the top surface measured and recorded. At a minimum, stakes shall be placed at the corners of the planned disturbance area and at points not greater than 100-foot intervals. Following the activities, the actual extent of the disturbance shall be measured and recorded.

The information recorded from measurements described above shall control the restoration activities. The disturbed area shall be restored to reestablish the 12-inch soil cover and shall include leveling the ground surface and placement of clean soil. Following soil cover placement, all surfaces shall be compacted. The compacted soil cover shall be at least 12 inches deep.

5. Health and safety monitoring procedures

There are Property-specific health and safety procedures that shall be implemented during activities at the property to which this Plan applies. Each owner of a portion of the Property shall be responsible for having this Plan on Property and assure its implementation and adherence by all persons on Owner's Property during activities to which the Plan is applicable.

5.1 Worker health and safety

The principal factor in hazard control and worker health and safety is training. Workers cannot guard against hazards if they are not aware of the dangers in their workplace. The requirements of the Occupational Safety and Health Administration ("OSHA"), 29 CFR 1910 regulations are used as guidance for this Plan.

The basis for this Plan is that there is potentially contaminated media on the Property for which workers may be exposed during activities at the Property. There are three potential pathways to humans working on the affected Property to come in contact with COCs. The potential pathways are:

1. Direct contact with media containing COCs;
2. Inhalation of dust containing contaminated particulates; and
3. Ingestion of contaminated media.

5.2 Health and Safety Officer

A Health and Safety Officer ("HSO") shall be appointed by the by the entity responsible for the work or Property owner to supervise all safety aspects of implementation of this Plan, perform necessary monitoring, and collect and maintain documentation required by this Plan. The HSO will have the knowledge, responsibility, and authority to apply appropriate protection regulations. The HSO shall ensure that health and safety activities are being performed in accordance with the requirements of this Plan.

The HSO shall be responsible for establishment of the exclusion zone around each work area and for ensuring that only workers with the appropriate training and documentation of such training are allowed within the exclusion zone. The HSO shall ensure that the equipment utilized to characterize soil encountered during Plan activities and to monitor worker health and safety are properly calibrated. The HSO shall also ensure that all required field measurements are obtained as required by this Plan to protect worker safety.

The HSO will be responsible for ensuring that contaminated media is managed in a manner to prevent contact by other workers not involved in Plan-related activities or by Property visitors.

5.3 Training requirements

Worker health and safety are regulated under OSHA as stipulated in 29 CFR 1910. Training is regulated by 29 CFR 1910.120(e). Personnel working on the Property or that may come into contact with contaminated media should fall under the criteria specified below:

- Workers at the Property only occasionally for a specific limited task specified in this Plan, and who are unlikely to be exposed over permissible exposure limits, shall receive a minimum of 24 hours of instruction;
- Workers at the Property regularly involved in tasks specified in this Plan shall receive 40 hours initial training and three days of supervised field experience; and
- The HSO and other on-Property management or supervisors directly responsible for or who supervise employees engaged in Plan-related activities shall receive 40 hours initial training and three days of supervised field experience.

The Property owner shall be responsible for ensuring that all Property workers provide adequate documentation certifying OSHA health and safety training in accordance with 29 CFR 1910.120. Workers who cannot provide training certification will be denied access to the controlled area.

The OSHA health and safety training for the HSO will include additional instruction for Property-specific hazards and hazard awareness.

5.4 Personal monitoring

No personal monitoring is required under this Plan. However, personal monitoring may be required as part of specific work plans.

5.5 Property/area monitoring and security

The Property owner shall be responsible for maintaining appropriate security measures at all times to prevent accidental trespass of workers, Property visitors, or the public into work areas, including areas where contaminated media may be stored. The Property owner should limit access to the Property at all times.

The Property owner shall be responsible for monitoring conditions at the worksite and immediate surrounding area. This includes air monitoring as specified in Section 2.7.

5.6 Hazard evaluation

Physical hazards that may be encountered include the presence of heavy equipment, open trenches or excavations, exposure to electrical and other utility hazards, and noise. In addition, there is a possibility of slip/trip/fall hazards from holes, uneven pavement, unused construction equipment, sharp objects, and slippery surfaces.

Finally, the potential for extreme weather conditions may exist depending upon the implementation schedule. Extreme weather conditions may include excessive heat or cold, thunderstorms, high wind conditions, heavy rains, and snow/ice. Special precautions will be taken during periods of extreme weather, and work may be halted until the severe weather has subsided. Particularly, windy conditions that result in visible dust from an excavation or stockpiled soil should result in work stoppage and steps taken to abate dusty conditions.

5.7 Excavations and trenches

During the excavation of utility and piping trenches, proper excavation and trenching procedures must be followed as outlined in 29 CFR 1926.650 through 1926.653 (Subpart P. Excavations, Trenching, and Shoring). In particular, the requirements for shoring, sloping, and access/egress must be followed. In addition, all underground utilities at the Property must be identified and marked prior to the commencement of any excavation or trenching activity. Workers are not allowed to enter any trenches or excavations unless an observer is present outside to the excavation/trench area.

5.8 Operation of mechanized equipment and motor vehicles

All mechanized equipment and motor vehicles will only be operated by qualified personnel who have been trained by their employer in the proper use of the equipment. The equipment will be operated according to all applicable OSHA and Department of Transportation ("DOT") regulations. Specifically, the requirements of 29 CFR 1926.600 through 1926.606 (Subpart O. Motor Vehicles, Mechanized Equipment, and Marine Operations) will be observed, including, but not limited to the following:

1. Seat belts must be worn at all times;
2. All heavy equipment must be equipped with a reverse signal alarm; and
3. All earth moving equipment must be equipped with rollover protective structures.

5.9 Struck-by and caught-in/caught-between hazards

The potential for being struck by falling or swinging objects, or situations where an employee is caught in or caught between heavy equipment and/or other items, are to be minimized by following any and all appropriate OSHA precautions. In particular, the subcontractor should incorporate provisions of 29 CFR 1926.600(a)(3)(i), which refers to suspension of equipment of parts, 29 CFR 1926.651(e), which refers to falling loads, and 29 CFR 1926, Subpart O, which refers to machinery and heavy equipment. Precautions should include, but not be limited to:

1. Property personnel must listen for back up alarms and watch for spotters and backing equipment; and
2. The use of towing and lifting equipment should be in accordance with OSHA and other applicable requirements.

5.10 Exclusion zone

A clearly defined exclusion zone will be established around each controlled work area to prevent the public from contacting potentially contaminated media. To protect other workers or other persons not involved with the work activities, these controlled work areas shall be marked with cones, or other suitable markings, to distinguish these areas from other areas on the Property.

The area in which potentially contaminated or contaminated material is stockpiled shall have markings to warn personnel of the potential for exposure.

Access to the controlled work areas will be limited to personnel who are required for performance of the subject activities and who have documented the necessary training as described in Section 5.3 of this Plan. All other workers or other persons not involved in Plan-related activities will be restricted from entering the exclusion zone. The HSO will be responsible for ensuring that only those individuals that are required to enter the exclusion zone and that have the appropriate training are allowed to enter the exclusion zone.

5.11 Personnel protective equipment

It shall be mandatory for all personnel involved in the Activity to wear Level D personnel protective equipment ("PPE") at a minimum. The HSO will be responsible for upgrading the level of PPE necessary as appropriate for the work hazards present.

5.12 Emergency contacts

All work at the Property shall be conducted only if an environmental and worker health and safety emergency procedure is established by the Property owner or contracted company working on the Property. In the event of an environmental release (such as a discharge or spill), the release shall be reported to the appropriate state and federal reporting hotlines.

5.13 Reduction of contaminant spread

Contaminants may spread from the active work area to the surrounding areas through a variety of mechanisms that include, but are not limited to, the following:

- Generation of dust containing COCs;
- Movement of COCs in water; and
- Physical removal from the Property on worker's clothing or other direct mechanism.

Every effort must be made to prevent the spread of contamination or potentially contaminated media from the Property.

Whenever dust is generated during trenching or excavation operations, measures shall be employed to reduce the spread of contamination. For control of dust and particulates,

use of water sprays, mists, or other dust suppression means shall routinely be applied to equipment or areas releasing potentially contaminated dusts. In severe cases, including windstorms or other adverse weather conditions, advance planning to control release of potentially contaminated dusts shall be performed. Measures such as shutting down operations and covering of recently exposed, contaminated areas may be necessary to reduce the potential for dust release and dispersal.

Water shall not be introduced to (other than for dust control) or removed from the excavation to the extent practical to prevent the potential for contaminant migration through this media. Best management practices shall be used around the excavation to prevent surface run-on from entering the excavation. If precipitation is likely, the excavation should be covered to the extent practicable to prevent storm water from entering the excavation.

The purpose of this Plan is to provide procedures that eliminate or restrict emissions or other mechanisms of possible transport of contaminated soil off Property in an uncontrolled manner. In order to prevent uncontrolled releases of contaminants from the Property, contaminated or potentially contaminated media shall not be removed from the Property, except as required for off-Property disposal.

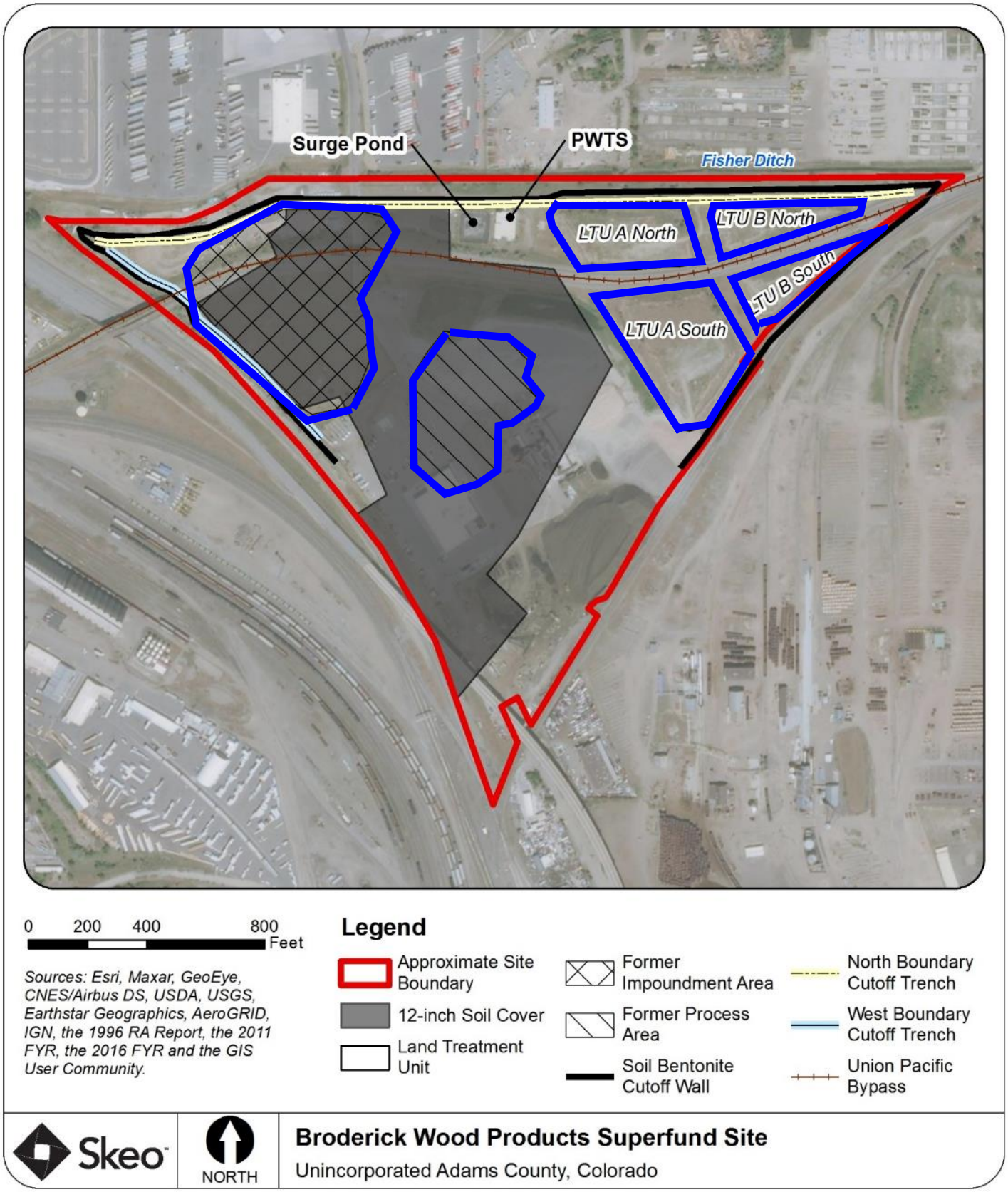
6. Document retention

The owner shall maintain an environmental file either physically at the Property or an electronic file that is easily accessible from the Property. Such files shall contain the following:

- A copy of this Plan;
- Data resulting from sampling and analysis efforts;
- Documentation of activities as required by Section 3.1;
- Maps depicting the location of contaminated media encountered at the Property during construction activities; and
- Documents and correspondence required by this Plan.

The environmental file shall be kept for 10 years after completion of the work and shall be available during normal business hours for inspection by the EPA or CDPHE.

Figure 1: Site Features Map



Disclaimer: This map and any boundary lines within the map are approximate and subject to change. The map is not a survey. The map is for informational purposes only regarding EPA's response actions at the Site.