

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII
901 North 5th Street
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

IN THE MATTER OF:)

HPI Products, Incorporated)
424 South 8th Street)
St. Joseph, Missouri 64501)

Respondent)

Proceedings under Section 7003 of the)
Resource Conservation and Recovery)
Act as amended, 42 U.S.C. Section 6973)
and)
Section 106(a) of the Comprehensive)
Environmental Response, Compensation and)
Liability Act, as amended, 42 U.S.C. § 9606)

Docket No. RCRA-07-2007-0007

UNILATERAL ADMINISTRATIVE
ORDER

I. JURISDICTION AND PRELIMINARY STATEMENT

1. This Administrative Order ("Order") is issued to HPI Products, Incorporated, St. Joseph, Missouri (hereinafter referred to as "HPI" or "Respondent"). HPI is a Missouri corporation in good standing. This Order is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by Section 7003(a) of the Solid Waste Disposal Act of 1976, commonly referred to as the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984 (hereinafter referred to as "RCRA"), 42 U.S.C. § 6973(a). The authorities vested in the Administrator pursuant to RCRA have been further delegated to the EPA Regional

Administrators and further to the Director of the Air, RCRA, and Toxics Division by EPA Delegation Nos. R7-8-022-A and R7-8-022-B dated March 20, 1985.

2. This Order is also issued pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9606(a), as amended (CERCLA), and delegated to the Administrator of the EPA by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2933, and further delegated to the Regional Administrators and further to the Director of the Superfund Division, by EPA Delegation Nos. R7-14-014-A and R7-14-014-B.

II. STATEMENT OF PURPOSE

3. This Order concerns HPI's warehouse facility located at 424 South 8th Street (hereinafter referred to as the "facility"). The Order requires Respondent to (i) refrain from removing or relocating the current materials located at the warehouse facility until EPA has approved such activity, (ii) immediately certify compliance with RCRA or cease waste generation and management activities at the warehouse until such certification can be made, (iii) restrict access to areas where there has been a release of hazardous material within the facility, and (iv) formulate a plan for proper management and/or disposal of all solid and/or hazardous wastes pursuant to the applicable requirements of RCRA, including immediate clean up of releases, investigation to determine off-site migration of waste, and clean-up of the building and any contaminated surrounding areas.

III. PARTIES BOUND

4. This Order applies to and is binding upon Respondent and its heirs, successors, and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this Order.

5. Respondent shall ensure that its contractors, subcontractors, and representatives receive a copy of this Order and comply with this Order. Respondent shall be responsible for any noncompliance with this Order.

IV. FINDINGS OF FACT

6. HPI, a pesticide registrant and producer, has two pesticide-producing establishments and six storage facilities located in St. Joseph, Missouri. The primary St. Joseph production facility is located at 222 Sylvania Street, St. Joseph, Missouri. HPI's original production facility is now a warehouse located at 417 South 4th Street, St. Joseph, Missouri. The EPA determined that the original production at the South 4th Street facility presents an imminent and substantial endangerment to health or environment and issued a Unilateral Administrative Order to HPI for this facility on March 21, 2007. One of the other storage facilities maintained by HPI in St. Joseph, Missouri, is located at 424 South 8th Street, next to an operating daycare.

7. Although HPI began operations at this 8th Street location approximately 15 years ago, MDNR has not received notification of this facility's status as a generator of hazardous waste nor has HPI applied for a treatment, storage, or disposal (TSD) facility permit.

8. On March 20, 2007, through March 23, 2007, representatives of the EPA and representatives of MDNR conducted an inspection of HPI's warehouse located at 424 South 8th Street to observe site conditions, document the status of containers of wastes, and collect samples of the wastes on-site. During this inspection, EPA inventoried approximately 650 drums and miscellaneous containers of waste. HPI admitted during this inspection that it had failed to conduct a hazardous waste determination on any of these containers of waste. HPI personnel further acknowledged that numerous drums and containers contained unknown materials and have been stored in the warehouse for years. HPI could not provide any specific dates upon which it began storing these drums and containers. Many of these containers were not labeled. Of the containers that were labeled, EPA was able to determine that HPI is storing acute hazardous wastes such as Cacodylic Acid, Disulfoton, 2,4-D, and Pentachlorophenol.

9. During EPA's investigation, it was evident that releases of wastes had occurred throughout the warehouse, and will likely continue to occur due to the deteriorating conditions of the containers of wastes on-site and haphazard manner in which they are currently being stored. Among other potentially dangerous materials, EPA found 55-gallon drums that were identified as flammable; one of which was rusting. Bulging and/or rusting drums and open containers are stored four to five drums deep in some areas, making it unsafe for inspection of these drums and containers and for unobstructed movement of personnel. The manner of storage of the drums would also prevent the movement of fire protection equipment and spill control equipment in

case of an emergency. The condition of the drums and containers is very poor, with some leaking fluids onto the floor.

10. The EPA collected samples on materials in approximately 10 different containers in varying stages of decay. According to analytical results from five of those samples, HPI is storing, among other potentially hazardous materials, hazardous materials that exhibit the characteristics ignitability (D001) as described in 40 C.F.R. Part 261, Subpart C. The EPA is currently awaiting additional analytical results.

11. Among piles of trash and old furniture, EPA encountered miscellaneous containers; some of which contain potentially corrosive and/or flammable materials such as Xylene, Ethanol, and Lime Sulfur Solution. Various containers had corroded beyond recognition. One bulging 55-gallon drum, labeled "Methylene chloride", was also marked as "Hold/Not for Sale." The EPA further observed that HPI is storing unknown materials in corroded containers with labels such as "Do Not Ship" and "Hold for Sale." Based upon the large quantity generator notification submitted by HPI for the facility located on South 4th Street, it is likely that many of these unknown materials are also hazardous waste given all of the different waste codes that HPI generates.

12. The EPA also determined that, in at least two areas of the warehouse, HPI is storing incompatible materials near each other without any type of containment. In the basement, HPI is storing thirty-nine 50-lb bags of fertilizer near forty-four 55-gallon drums that contain a petroleum based material. On the first floor, HPI is storing a strong oxidizing agent near acids

and petroleum based materials. The storage of incompatible materials in containers within close proximity to one another presents the potential for fire or explosion.

13. EPA also encountered numerous 275 to 300-gallon totes, labeled as trash and stacked on top of each other, containing what appears to be the same material that was encountered during a MDNR inspection of HPI's St. Joseph location at 222 Sylvania Street. When this material was tested during MDNR's September 2005 inspection, the waste exhibited the hazardous waste characteristic of ignitability (D001). Across one tote, the word "BAD" had been spray painted across the tote in handwriting.

14. EPA also observed various open containers that contained multi-colored liquids in varying stages of decay. EPA further observed one 55-gallon drum leaking what appeared to be a petroleum substance that was mixing with an open bag of fertilizer. This waste appeared to be migrating towards a crack in the flooring near the spill. Throughout the entire warehouse, it was evident that the floor had been stained from releases of waste.

15. A floor drain was also observed adjacent to various 275 to 300-gallon totes. At the time of the inspection, it appeared that waste had migrated towards this drain. This material could enter the drain and reach the City's Publicly Owned Treatment Works (POTW) or discharge through a storm drain because there are no controls in place to impede the movement of materials. The EPA also observed standing pools of water that had formed due to the leaking roof. During the inspection, it was evident that water had mixed with some of the waste on-site and wastes appeared to have migrated toward the floor drain. Releases of wastes from these

containers could potentially contaminate underlying soils and groundwater. It was further observed that pools of water had formed directly below an electrical panel with exposed wiring.

16. The hazardous wastes or hazardous constituents identified herein, may have the following effects on human health or the environment:

A. METHYLENE CHLORIDE, also known as dichloromethane, is widely used as an industrial solvent and as a paint stripper and can be found in certain aerosol and pesticide products. Human exposure occurs through inhalation, ingestion and dermal absorption. The Department of Health and Human Services (DHHS) has determined that methylene chloride may reasonably be anticipated to be a carcinogen. The EPA has determined that methylene chloride is a probable human carcinogen. The EPA requires that releases of methylene chloride of 1,000 pounds or more be reported to the federal government.

B. DISULFOTON is a manufactured substance used as a pesticide and is also a P039 listed hazardous waste. Disulfoton does not occur naturally. It is most likely to be present in hazardous waste sites with other wastes, either in drums or mixed with soil. Human exposure to disulfoton may occur through inhalation, ingestion, and dermal absorption. Workers in industries that manufacture and formulate disulfoton are at a higher risk of exposure. Depending on the amount of disulfoton that enters the body, neurological effects, such vomiting, diarrhea, drooling, difficulty in breathing, tremors, convulsions, and even death may occur. These effects can occur if disulfoton is breathed in, swallowed, or there is skin contact. The EPA recommends that no more than 10 parts of disulfoton per billion parts (ppb) of water be present in drinking water that children drink for periods of up to 10 days. Disulfoton in drinking water should not exceed 3 ppb for children or 9 ppb for adults if they drink the water for longer periods, and should not exceed 0.3 ppb for adults who will drink the water during an average lifetime. Federal regulations limit the amount of disulfoton that factories can release into waste water. The EPA requires industries to report releases or spills of 1 pound or more.

C. PENTACHLOROPHENOL is a D037 characteristic hazardous waste, and F027, F032, and K001 listed hazardous wastes. Pentachlorophenol enters surface water and groundwater from factories, wood-treatment facilities, and hazardous waste sites. It also enters the soil as a result of spills, disposal at hazardous waste sites, and its use as a pesticide. Human exposure occurs through ingestion, inhalation, and dermal absorption. Short exposures to large amounts of pentachlorophenol in the workplace or through the misuse of products that contain it can cause harmful effects to the liver, kidneys, blood, lungs, nervous system, immune system, and gastrointestinal tract. If large enough amounts enter the body, damage to various organs and tissues can occur and even death. Long-term exposure to low levels such as those that occur in

the workplace can cause damage to the liver, kidneys, blood, and nervous system. All of these effects increase as the level of exposure increases. The EPA has classified pentachlorophenol as a probable human carcinogen.

D. XYLENE is a solvent which may carry the F003 RCRA hazardous waste listing. It is a colorless, flammable liquid with a sweet odor. Xylene is a liquid, and it can leak into soil, surface water (creeks, streams, rivers), or groundwater. Xylene below the soil surface may travel down through the soil and enter the groundwater. If a large amount of xylene enters soil from an accidental spill, a hazardous waste site, or a landfill, it may travel through the soil and contaminate drinking water wells. Exposure to xylene is most likely by breathing contaminated air. Short-term exposure to high levels of xylene can cause irritation of the skin, eyes, nose, and throat; difficulty in breathing; impaired function of the lungs; delayed response to a visual stimulus; impaired memory; stomach discomfort; and possible changes in the liver and kidneys. Both short- and long-term exposure to high concentrations of xylene can also cause a number of effects on the nervous system, such as headaches, lack of muscle coordination, dizziness, confusion, and changes in one's sense of balance. People exposed to very high levels of xylene for a short period of time have died.

E. CACODYLIC ACID is a colorless, crystalline solid that is also known as dimethylarsinic acid. It is very hazardous in the event of inhalation or ingestion. In the event of skin or eye contact, cacodylic acid is an irritant. Cacodylic acid may be combustible at high temperatures. Containers of cacodylic acid should be kept away from heat and ignition sources, strong oxidizing compounds and strong bases. Aqueous solutions react violently with active metals.

F. LIME SULFUR SOLUTION is also known as calcium polysulfide. The pH of lime sulfur solution products vary from 11.5 to 11.8. If exposed to fire, containers holding lime sulfur solution may explode from the excessive heat. Lime sulfur solution is incompatible with acidic materials. Exposure to acid will release hydrogen sulfide gas. Incomplete combustion or thermal decomposition of lime sulfur solution may produce carbon monoxide. Lime sulfur solution may enter the body through ingestion, inhalation, and skin and eye contact. The product is considered to be of low to moderate toxicity but may cause irritation to the eyes, nasal passages, throat, and skin. If high doses of lime sulfur solution are swallowed, inhaled, or absorbed through the skin, the result may be fatal. Lime sulfur solution is corrosive to flesh because of its caustic nature and may cause eye damage and skin burns.

G. ETHANOL has a very low flash point (13°C) which causes it to be a D001 ignitable RCRA characteristic hazardous waste. Ethanol is incompatible with various acids, metals, hydrazines, isocyanates, peroxides, hydroperoxides, epoxides, oxidizing agents, and water reactive substances. Advanced ingestion exposure may cause collapse, unconsciousness, coma, and possible death due to respiratory failure. Inhalation of high concentrations may cause central nervous system effects such as nausea, headache, dizziness, unconsciousness, and coma.

H. 2,4-D is also known as 2,4-dichlorophenoxyacetic acid and dimethylamine salt. It is a U240 listed hazardous waste and a characteristic hazardous waste by virtue of its toxicity. 2,4-D is incompatible with acids, bases, and strong oxidizing agents. Exposure of 2,4-D to the eyes may cause irreversible damage and exposure to dusts may cause irritation. If 2,4-D is ingested, it may cause headache, dizziness, nausea, vomiting, gastrointestinal irritation, weakness, and central nervous depression. The toxicity of 2,4-D through inhalation is low. Aggravated exposure to 2,4-D through inhalation may aggravate existing chronic respiratory problems such as asthma, emphysema, or bronchitis.

17. Exposure to the hazardous constituents outlined above through dermal contact, ingestion, or inhalation present health risks to people who come into contact to these materials. Such persons may include HPI personnel, contractors, emergency responders, state, local and federal regulators, and trespassers. The abatement actions required by the Order are necessary to remove the endangerment posed by current site conditions.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

18. Respondent is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15) and also as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

19. The property located at 424 8th Street, St. Joseph, Missouri 64501, is a "facility" within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

20. The wastes stored and handled at Respondent's facility are "solid wastes" and/or "hazardous wastes," as defined in Sections 1004(27) of RCRA, 42 U.S.C. § 6903(27), and 1004(5) of RCRA, 42 U.S.C. § 6903(5), respectively.

21. The wastes stored and handled at Respondent's facility are "hazardous substances" as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

22. The presence of solid wastes, hazardous wastes, and/or hazardous constituents in the drums, tanks, vats, and other containers and accumulated on the basement floor resulted from the past or present handling, storage, treatment, transportation, and/or disposal of solid wastes, hazardous wastes, and/or hazardous constituents.

23. Present conditions at the facility may constitute an imminent and substantial endangerment to health or the environment, within the meaning of Section 7003 of RCRA, 42 U.S.C. § 6973.

24. The conditions at the Site described in the Findings of Fact above constitute an actual or threatened release of hazardous substances from the facility as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9602(22).

25. Respondent has been, and is currently, contributing to such handling, storage, treatment, transportation and/or disposal of solid wastes, hazardous wastes and/or hazardous constituents at the facility within the meaning of RCRA and its implementing regulations.

26. The actual or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the public health, welfare, or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

27. The removal actions required by this Order are necessary to protect the public health, welfare, or the environment and are not inconsistent with the National Contingency Plan (NCP), 40 C.F.R. Part 300, and CERCLA.

28. Respondent is the “owner” of a facility within the meaning of Sections 107(a)(1) and 107(a)(2) of CERCLA, 42 U.S.C. §§ 9607(a)(1) and 9607(a)(2).

VI. NOTICE TO STATE AND LOCAL AUTHORITIES

29. The State of Missouri and appropriate local authorities have been notified of the issuance of this Order pursuant to Section 7003(c) of RCRA, 42 U.S.C. § 6973(c) and Section 106(a) of CERCLA, 42 U.S.C. § 9606(a)

VII. ORDER

30. Based on the foregoing, Respondent is hereby ordered to perform the activities described in Section VIII of this Order and all other activities required by this Order.

VIII. WORK TO BE PERFORMED

31. Immediate Compliance with RCRA: Upon receipt of this Order, Respondent shall cease all solid and/or hazardous waste handling activities at the facility and provide certification to EPA, wherein Respondent describes how all of its waste storage and management activities are being conducted in compliance with the applicable provisions of RCRA and its implementing regulations. Respondent shall not resume any waste handling activities until EPA has reviewed and approved the certification required herein. Respondent shall also immediately restrict access to areas of the property where there has been a release of solid and/or hazardous waste.

32. Posting: Respondent shall immediately post a sign at the facility which provides notice of the hazardous conditions present at the site in accordance with the requirements of Section 7003(c) of RCRA, 42 U.S.C. § 6973(c). The sign to be posted shall be at least twenty-

four (24) by thirty-six (36) inches, and shall be made of weatherproof material in white or a brightly-colored background with large, clearly contrasting lettering. The sign shall be posted in a prominent place at or near the public entrance to the facility, and shall state: "Warning: Conditions at this site may present an imminent and substantial endangerment to human health or the environment." Failure to post the sign as directed in this paragraph will constitute a violation of this Order.

33. Opportunity to Confer: Respondent may within three days after the effective date of this Order, request a conference with EPA to discuss this Order. The conference must be scheduled to occur on or before April 4, 2007.

34. Notice of Intent to Comply: Within five (5) days of the effective date of this Order, Respondent shall notify EPA of its intent to comply with this Order in accordance with Section XIII below.

35. Selection of contractor: Within seven (7) days of the effective date of this Order, Respondent shall select a contractor, subject to EPA approval, to carry out all activities set forth herein. The EPA retains the right to disapprove of the selected contractors and/or subcontractors retained by the Respondent.

a. Respondent shall also notify EPA of the name and qualifications of its selected Project Manager within seven (7) days of the effective date of this Order. All work performed pursuant to this Section (Work to be Performed) shall be under the direction and supervision of a professional engineer or geologist with expertise in hazardous waste clean-up. Respondent's

Project Manager shall be responsible for administration of all the Respondent's actions required by the Order. To the greatest extent possible, Respondent's Project Manager shall be readily available during all work to be performed hereunder.

b. Respondent shall also notify EPA of the name and qualifications of any other contractors or subcontractors retained to perform work under this Section (Work to be Performed) at least seven (7) days prior to commencement of such work. If EPA disapproves of a selected Project Manager or contractor, Respondent shall retain a different Project Manager or contractor within five (5) business days following EPA's disapproval and shall notify EPA of the new Project Manager's or contractor's name and qualifications within seven (7) business days of EPA's disapproval. If EPA still disapproves of the selected contractor or Respondent fails to select a new contractor, then EPA reserves the right to perform any or all of the work required by this Order and to seek reimbursement of its costs from Respondent pursuant to applicable statutory authorities.

36. Conduct Complete Inventory of All Containers, Drums, Totes, Carboys, Tanks, Vats:
Within **twenty-one (21)** days of the effective date of this Order, Respondent shall submit to EPA's Project Manager, identified in Paragraph 39 below, a written inventory of all containers, drums, totes, carboys, vats, and tanks. The description shall include a notation regarding the size of the container, its contents and quantity thereof. The description shall also include a waste determination in accordance with the requirements of 40 C.F.R. § 262.11, as incorporated by reference at 10.C.S.R. 25-5.262(1). If Respondent claims any of the material as product, then

Respondent must identify the material, describe the condition of the container, describe the amount and location of the material in the warehouse, and provide a photograph. In addition, Respondent must provide records of how this product has been used in the past, how much of this product has been purchased in the past five years, its intended use in the future and provide the Material Safety Data Sheet (MSDS). Respondent, however, shall refrain from relocating or removing any of the materials identified above without approval from EPA except as allowed by this Order. As part of this inventory, Respondent shall submit to EPA's representative identified herein, a plan for immediately shipping all hazardous waste currently located at the facility to an appropriate hazardous waste disposal facility. The plan shall be reviewed by EPA in accordance with the procedures identified in Paragraph 39 below and shall include the following:

- a. Identification of facility for disposal of spent or waste acids, sludges, wastewater, cancelled pesticides, outdated and unusable chemicals: The plan shall identify the disposal facility where Respondent proposes to ship these wastes.
- b. Disposal of spent or waste acids, sludges, wastewater, cancelled pesticides, outdated and unusable chemicals: The plan shall provide that within thirty (30) days of EPA's approval of Respondent's contractor selection, all activities related to the off-site shipment of the spent or waste acids, sludges, wastewater, cancelled pesticides, outdated and unusable chemicals will commence and shall continue in accordance with an EPA-approved schedule.
- c. Documentation: The plan shall provide that within ten (10) days of completion of off-site disposal of the solid and/or hazardous wastes, Respondent shall provide to the EPA

documentation demonstrating that all disposal activities are complete and that all such activities were carried out in accordance with the applicable requirements of RCRA. Documents to be provided shall include all manifests, bills of lading, and other pertinent records.

37. Waste Management Handling Plan: Within sixty (60) days of the effective date of this Order, Respondent shall submit to EPA's Project Manager, identified in Paragraph 39 below, a written plan which demonstrates that all solid and/or hazardous waste generated at Respondent's facility in the future will be managed and otherwise handled in compliance with RCRA and in a manner which will prevent future releases of the wastes to the environment. The plan shall specifically describe how releases of solid and/or hazardous waste will be prevented during each step of handling. The plan shall be implemented immediately upon approval by EPA. The plan shall include a detailed description of how Respondent will ensure that the hazardous wastes are identified and handled in accordance with RCRA and its implementing regulations, as adopted by reference at Title 10, Code of State Regulations, Chapter 25.

38. Site Characterization: Within thirty (30) days of completion of off-site shipment of the wastes identified as part of the inventory required in Paragraph 35 above, Respondent shall submit to EPA's Project Manager identified in Paragraph 39 below, a Site Characterization Work Plan for the investigation of contamination of the storage areas where these wastes were stored. The Site Characterization Work Plan shall include a Field Sampling Plan, Quality Assurance Project Plan (QAPP), and Health and Safety Plan (HASP) to assess off-site migration of waste and provide a plan for decontamination of the building and any surrounding area. The Site

Characterization Work Plan shall include a schedule for completion of activities including the ultimate clean-up of contaminated areas. The EPA shall review and approve, disapprove or require modification of the plan as set forth in Paragraph 39 below. Respondent shall carry out all activities required pursuant to the EPA-approved plan in accordance with the schedules contained therein. Failure to timely complete activities shall be a violation of this Order. Within sixty (60) days of Respondent's completion of the field work, Respondent shall provide a Site Characterization Final Report to EPA's Project Manager identified in Paragraph 39 below.

39. All plans submitted pursuant to this section of this Order shall be reviewed in accordance with the procedures outlined in this paragraph. The EPA will review the plan and may approve the plan, approve the plan with modifications, or disapprove the plan and provide comments to Respondent. If the plan is disapproved with comments, Respondent shall incorporate EPA's comments and resubmit the plan within fourteen (14) days of receipt of EPA's comments. If Respondent fails to revise the plan in accordance with EPA's comments, then EPA may unilaterally modify the work plan or report and Respondent shall implement such work plan or report as necessary to complete the work pursuant to this Order. If the plan is approved either upon initial submission or resubmission, Respondent shall commence implementation of the plan immediately upon receipt of EPA's written approval of the plan. Upon approval of the plan by EPA, the plan, including all activities and schedules for such activities, shall be incorporated into and made an enforceable part of this Order, and failure to implement any plan in accordance with

the schedule contained therein shall be deemed a violation of this Order. The EPA representative to whom all plans must be submitted is:

Kevin Snowden
Environmental Scientist
ARTD/RESP
U.S. EPA Region VII
901 N. 5th St.
Kansas City, Kansas 66101.

40. The EPA may determine that certain additional tasks are necessary to achieve the purpose of this Order, including but not limited to: investigatory work, excavation and disposal of contaminated materials, or other activities as necessary to protect human health or the environment. In the event such a determination is made, EPA will notify Respondent in writing that Respondent must perform the additional work and will specify the basis and reasons for its determination that the additional work is necessary. Within fifteen (15) days of the receipt of such request, Respondent may request a meeting with EPA to discuss the additional work. Within thirty (30) days of notification of the need for additional work, or according to an alternative schedule agreed to by the parties, Respondent shall submit a work plan for such additional work to EPA. The plan will be reviewed by EPA in accordance with the procedures set forth herein. Upon approval by EPA, Respondent shall perform the additional work according to the EPA-approved plan. The EPA-approved plan shall be incorporated into and become an enforceable part of this Order. All additional work performed by Respondent under this subparagraph shall be performed in a manner consistent with this Order.

41. Split samples: Upon request by EPA, Respondent shall allow EPA or its authorized representatives to take split and/or duplicate samples of any samples collected by Respondent while performing work under this Order. Respondent shall notify EPA not less than thirty (30) calendar days in advance of any sample collection activity. In addition, EPA shall have the right to take any additional samples that it deems necessary.

42. Removal Action Report: The Respondent shall submit a final Removal Action Report that details all activities conducted at the site in conjunction with the Order within forty-five (45) days after completion of all activities. The report shall include, but is not limited to, the following:

- A description of the actions that have been taken to comply with each element of the Order;
- Copies of all results of chemical or physical analyses conducted during this action, including the results of field screening or other “on-site” analyses;
- Copies of all hazardous waste manifests or other appropriate shipping papers (i.e., Land Disposal Restriction Notifications) that describe origin and destination, dates, amount, and the description of the materials being transported off-site;
- Copies of certificates of disposal from the selected disposal facilities; and
- Written certification that all hazardous waste leaks and spills have been cleaned up in accordance with the requirements of this Order. The certification statement shall be signed by a responsible official and shall contain the following language:

I certify under penalty of law that the information contained in or accompanying this document is true, accurate, and complete.

As to the identified portions of this document for which I cannot personally verify the accuracy, I certify that based on my inquiry of the

person or persons directly responsible for gathering the information, the information is true, accurate, and complete.

-A "responsible official" for purposes of this provision means a president, secretary, treasurer or vice-president of the corporation or legal entity, or any person who performs similar policy or decision-making functions for the corporation or legal entity.

IX. RECORD RETENTION

43. Until ten (10) years after Respondent's receipt of EPA's notification pursuant to Section XVIII (Modification and Termination) of this Order, Respondent shall preserve and retain all non-identical copies of records and documents (including those in electronic form) which relate in any manner to the performance of the work required under this Order. Respondent shall also instruct its contractors and agents to preserve all such documents for a period of ten (10) years.

X. OPPORTUNITY TO CONFER

44. Respondent may, within three (3) days after the effective date of this Order, request a conference with EPA to discuss this Order. The conference must be scheduled to occur on or before April 4, 2007.

45. The purpose and scope of the conference shall be limited to issues involving the implementation of the work required by this Order and the extent to which Respondent intends to comply with this Order. This conference shall not constitute an evidentiary hearing, and shall not constitute a proceeding to challenge this Order. Any such conference shall not give Respondent a right to seek review of this Order, or to seek resolution of potential liability, and no official stenographic record of the conference shall be made. Respondent may appear in person or by an

attorney or other representative at any conference held pursuant to Respondent's request hereunder. A request for a conference with EPA does not in any way delay or continue any of the deadlines or work to be performed by the Respondent.

46. Requests for a conference shall be made by telephone followed by written confirmation mailed by the following business day to the EPA contact identified in Paragraph 39.

XI. COMPLIANCE WITH OTHER LAWS

47. Respondent shall perform all actions required pursuant to this Order in accordance with all applicable local, state, and federal laws and regulations except as provided in Section 121(e) of CERCLA, 42 U.S.C. § 6921(e), 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 pursuant to this Order shall, to the extent practicable, as determined by 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.

XII. EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES

48. In the event of any action or occurrence during performance of the work which causes or threatens a release of hazardous waste or hazardous substances from the site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Respondent shall immediately take all appropriate action. Respondent shall take these actions in accordance with all applicable provisions of this Order, including but not limited to, any plans submitted pursuant to this Order, in order to prevent, abate or minimize

such release or endangerment caused or threatened by the release. Respondent shall also immediately notify the EPA representative identified in Paragraph 39 above, or in the event of his unavailability, notify the Regional Spill Line number listed in Paragraph 49 below. In the event that Respondent fails to take appropriate response action as required by this paragraph, and EPA takes such action instead, EPA reserves the right to pursue cost recovery.

49. In addition, in the event of any release of a hazardous substance from the site, Respondent shall immediately notify the EPA Regional Spill Line at (913) 281-0991 and the National Response Center at (800) 424-8802. Respondent shall submit a written report to EPA within seven (7) days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. This reporting requirement is in addition to, and not in lieu of, reporting under Section 103(c) of CERCLA, 42 U.S.C. § 9602(c), and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11004, *et seq.*

XIII. NOTICE OF INTENT TO COMPLY

50. Respondent shall provide, within five (5) days after the effective date of this Order, written notice to EPA stating whether Respondent will comply with the terms of this Order. The notice shall be sent to EPA's representative identified in Paragraph 39 above. If Respondent does not unequivocally commit to perform the work required by this Order, Respondent shall be deemed to have violated this Order and to have failed or refused to comply with this Order. The

absence of a response by EPA to the notice required by this paragraph shall not be deemed to be acceptance of any Respondent's assertions.

XIV. ENFORCEMENT AND RESERVATIONS

51. The United States reserves the right to bring an action against Respondent pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (hereinafter CERCLA), for recovery of any costs incurred by the United States related to this Order.

52. Notwithstanding any other provision of this Order, EPA reserves the right to perform its own studies, complete the work (or any portion of the work) required by this Order, and seek reimbursement from Respondent for its costs, or seek any other appropriate relief.

53. Nothing in this Order shall preclude EPA from taking any additional enforcement actions, including modification of this Order or issuance of additional Orders, and/or additional actions as EPA may deem necessary, or from requiring Respondent in the future to perform additional activities pursuant to RCRA, or CERCLA, or any other applicable law. Such additional enforcement actions may include, but are not necessarily limited to: actions taken pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), to assess civil penalties and/or seek injunctive relief; actions taken pursuant to Section 3008(h) of RCRA, 42 U.S.C. § 6928(h), to compel corrective action at the facility; and further actions under Section 7003 of RCRA to address conditions that may present an imminent and substantial endangerment to human health or the environment caused by any future releases of solid waste or hazardous waste from the

facility. In addition, Respondent shall be subject to civil penalties of up to \$6,500 per day for any violation of this Order under Section 7003(b) of RCRA, 42 U.S.C. § 6973.

54. Notwithstanding any provision of this Order, the United States hereby reserves all of its information gathering, inspection and all enforcement authorities and rights under RCRA, CERCLA, and any other applicable statutes or regulations. The United States expressly reserves all rights it has to issue additional orders or to take other action it deems necessary or appropriate to address any other areas of the facility which the United States deems a threat to human health or the environment.

55. Respondent may be subject to civil penalties of up to \$32,500 per day for any violation of this Order under Section 106(b)(1) of CERCLA, 42 U.S.C. § 9606(b)(1). Respondent may also be subject to punitive damages in an amount up to three times the amount of any costs incurred by the United States as a result of such violation, as provided in Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). In addition, EPA may carry out the required actions unilaterally, pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, and/or may seek judicial enforcement of this Order pursuant to Section 106 of CERCLA, 42 U.S.C. § 9606. All penalties shall begin to accrue on the date that complete performance is due or a violation occurs and shall continue to accrue through the final day of correction of the noncompliance.

56. Nothing in this Order shall constitute or be construed as a release from any claim, cause of action or demand at law or in equity against any person for any liability arising out of or relating in any way to the facility.

57. If a court issues an order that invalidates any provision of this Order or finds that Respondent has sufficient cause not to comply with one or more provisions of this Order, Respondent shall remain bound to comply with all provisions of this Order not invalidated by said court order.

58. Except as specifically provided in this Order, nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the site. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Respondent in the future to perform additional activities pursuant to CERCLA or any other applicable law. The EPA reserves, and this Order is without prejudice to, all rights against Respondent with respect to all other matters, including, but not limited to:

- a. claims based on a failure by Respondent to meet a requirement of this Order;
- b. liability for costs incurred by EPA for the performance of the work required under this Order in the event that Respondent fails to perform the work, in addition to any past or future costs incurred by EPA associated with responding to a release or threatened release of hazardous substances at or from the facility/site;

c. liability for performance of response action(s) other than the work required by this Order;

d. criminal liability;

e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;

f. liability arising from the past, present, or future disposal, release or threat of release of hazardous waste or hazardous substances from the site; and

g. liability for costs incurred or to be incurred by the Agency for Toxic Substances and Disease Registry related to the site.

XV. SAMPLING AND ACCESS

59. The EPA and/or its authorized representatives shall have access to the facility at all reasonable times for the purpose of reviewing the progress of Respondent in carrying out the provisions of this Order and for purposes including, but not limited to, inspecting and copying records, collecting samples, and verifying data. Nothing in this Order shall restrict EPA's rights under Section 3007 of RCRA, 42 U.S.C. § 6927, and CERCLA or other statutory authority.

XVI. EFFECTIVE DATE AND COMPUTATION OF TIME

60. This Order shall become effective immediately upon signature. All times for performance of ordered activities shall be calculated from this effective date.

XVII. ADMINISTRATIVE RECORD

61. The EPA has established an Administrative Record which contains the documents that form the basis for the issuance of this Order. It is available for review by appointment on weekdays between the hours of 8:30 a.m. and 4:00 p.m. at the offices of EPA Region VII, located at 901 N. 5th St., Kansas City, Kansas, 66101. To review the Administrative Record, please contact EPA's representative identified in paragraph 39 above.

XVIII. MODIFICATION AND TERMINATION

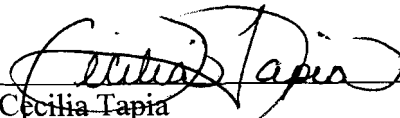
62. The EPA may modify or revoke this Order based upon information discovered during the course of implementation of the Order. Any modification shall be incorporated into a revised Order and issued to the Respondent in the form of a modified Unilateral Administrative Order. The provisions of this Order shall remain in full force and effect until all actions required by this Order have been completed and EPA has notified the Respondent, in writing, that the actions required by this Order have been completed. Respondent shall notify EPA in writing at such time as it believes that all such actions have been completed. The EPA shall have sole discretion in determining whether or not all such actions have in fact been completed. Failure to complete all activities required hereunder as directed by EPA shall be deemed a violation of this Order. The EPA's provision of written notice to Respondent pursuant to this paragraph shall not be construed as a waiver of any of EPA's rights to take further enforcement action under RCRA or any other laws.

*In the Matter of
HPI Products, Incorporated
Unilateral Administrative Order*

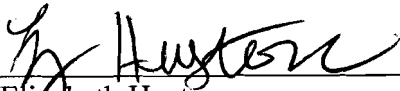
IT IS SO ORDERED:



Becky Weber
Director
Air, RCRA, and Toxics Division
U.S. Environmental Protection Agency
Region VII



Cecilia Tapia
Director
Superfund Division
U.S. Environmental Protection Agency
Region VII



Elizabeth Huston
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region VII