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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGULATORY HEARING CLERK

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
901 North 5th Street
KANSAS CITY, KANSAS 66101

IN THE MATTER OF:)
)
TNT General Contracting, Inc.)
)
Webb Minerals, LLC.)
)
and)
)
Gary and Carol Trump Trust (U/T/A))
)
)
Rural Route 3 Box 78C)
Kahoka, Missouri)
)
)
Respondents)
)
)
Proceeding under Section 7003 of the)
Resource Conservation and Recovery)
Act as amended, 42 U.S.C. Section 6973)
and)
Section 309(a) of the Clean Water Act,)
33 U.S.C. § 1319(a))

Docket No. RCRA-07-2010-0034
CWA-07-2010-0155

UNILATERAL ADMINISTRATIVE
ORDER

I. JURISDICTION AND PRELIMINARY STATEMENT

1. This Unilateral Administrative Order (Order) is issued to TNT General Contracting, Inc., Webb Minerals, LLC., and the Gary and Carol Trump Trust U/T/A (hereinafter the "Respondents"). 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 (RCRA), 42 U.S.C. § 6973(a). The authorities vested in the Administrator pursuant to RCRA have been further delegated to the EPA Regional Administrator and further to the Director of the Air and Waste Management Division.

2. This Order is also issued pursuant to the authority of Section 309(a)(3) of the Clean Water Act (CWA), 33 U.S.C. § 1319(a)(3). This authority has been delegated by the Administrator of EPA to the Regional Administrator, EPA, Region 7 and further delegated to the Director of Region 7's Water, Wetlands and Pesticides Division.

II. STATEMENT OF PURPOSE

3. This Order concerns certain property located at Rural Route 3 Box 78C, Kahoka, Clark County, Missouri, 63445, owned by the Carl and Carol Trump Trust U/T/A upon which TNT General Contracting, Inc., blends zinc bearing materials into zinc fertilizer ingredients for Webb Minerals, LLC. The Order requires Respondents to (i) immediately develop and implement a plan describing best management practices Respondents will use to prevent further discharges of pollutants from the facility to Weaver Branch and its tributaries; (ii) cease further receipt of hazardous waste at the facility until the materials can be handled in compliance with all state and federal requirements; (iii) identify all solid and hazardous wastes currently being treated, stored, or disposed at the facility; (iv) restrict access to solid and hazardous wastes that

have been disposed at the facility; (v) obtain a National Pollutant Discharge Elimination System (NPDES) permit pursuant to the CWA from the State of Missouri; (vi) develop a Site Characterization Plan to determine where hazardous wastes have been disposed at the facility including an investigation to determine the extent of off-site migration of waste; and (vii) clean-up the property and any contaminated surrounding areas as necessary.

III. PARTIES BOUND

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

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

IV. FINDINGS OF FACT

6. TNT General Contracting, Inc., is a Missouri corporation that conducts business at Rural Route 3 Box 83, Kahoka, Clark County, Missouri (hereinafter "the facility"). TNT General Contracting stores and mixes various zinc bearing materials for Webb Minerals, LLC, at the facility.

7. The Carl and Carol Trump Trust U/T/A ("the Trust") owns the real property comprising the facility. The Trust has owned the facility since April 19, 2000 when Gary L. and

Carol L. Trump transferred the property to the Trust for estate planning purposes.

8. Webb Minerals, LLC, located at 1261 Maine Street, Quincy, Illinois, is a limited liability company formed under the laws of Illinois. Webb Minerals owns all the zinc bearing materials delivered to the facility and the resulting mixtures. Webb Minerals sells the processed zinc bearing ingredients to commercial fertilizer manufacturers to be added as a zinc nutrient to complete fertilizer product mixtures. Some of the zinc bearing materials originate from metal plating and galvanizing operations. The material from metal plating and galvanizing operations often meets the definition of a hazardous waste.

9. On March 24, 2010, Missouri Department of Natural Resources ("MDNR") inspectors conducted a Compliance Evaluation Inspection of the hazardous waste management practices at the facility. Due to concerns identified during the March 2010 investigation, MDNR staff conducted a sampling inspection of the facility on June 16, 2010. Analytical results from the sampling inspection document water quality violations in a tributary to Weaver Branch and the improper storage and management of hazardous wastes.

10. The inspections documented spilled and abandoned materials throughout the facility including numerous piles, bags, totes, drums, and other materials stored in an abandoned manner and/or disposed on the land for which the Respondents could not provide a complete and accurate hazardous waste determination. MDNR sampling documented the presence of, among other things, zinc, barium, mercury, nickel, 2-Butanone (MEK), tetrahydrofuran, toluene, arsenic, cadmium, chromium, and lead in these containers, piles, and/or surrounding soils. Sampling also

demonstrated hazardous waste characteristics for toxicity and ignitability.

11. Based upon the analytical results and F006 labels on numerous “supersacks” and MDNR observations of greater than 1,000 kilograms of hazardous waste present at the facility and Respondents’ improper management and handling of the hazardous wastes at the facility, Respondents are operating as a Treatment, Storage, and Disposal (“TSD”) facility and a Large Quantity Generator of hazardous waste.

12. The Zinc Bearing Fertilizer exemption from the RCRA definition of a hazardous waste are contained at 40 CFR § 261.4(a)(20) and (21) and 10 CSR 25-4.261(1) & (2) incorporating 40 CFR § 261.4(a)(20). These exemptions are inapplicable in Missouri because the state has not sought EPA authorization for the rule. Moreover, the Respondents failed to satisfy the following conditions and therefore do not qualify for the Zinc Fertilizer Exemption contained in 40 CFR § 261.4(a)(20) and (21) nor 10 CSR 25-4.261(1) & (2) for activities at the facility:

- a. Respondents failed to ensure that zinc bearing materials were not accumulated speculatively.
- b. Respondents failed to submit notice to EPA or MDNR that they would be handling zinc-bearing materials to be incorporated into zinc fertilizers. Moreover, none of the respondents notified MDNR of the location of the facility nor applied for a RCRA EPA Identification Number.
- c. Respondents failed to store the zinc bearing materials in tanks, containers, or buildings that are constructed and maintained in a way that prevents releases into the environment.
- d. Respondents failed to provide written notice to the receiving facility that the material is subject to the conditions of 40 CFR § 261.4(a)(20).

e. Respondents failed to maintain minimum required records.

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

a. Chromium is a metal and, when a waste contains more than 5 parts per million chromium as analyzed using the Toxic Characteristic Leachate Procedure (TCLP), is a D007 characteristic hazardous waste. It is also a hazardous constituent listed in Appendix VIII to 40 C.F.R. Part 261. Human exposure occurs through inhalation, ingestion, and dermal absorption. The lungs, kidneys, liver, and skin, and the immune system may also be affected. Long-term exposure to chromium may cause lung cancer.

b. Lead is a metal and, when a waste contains more than 5 parts per million as analyzed using the TCLP, is a D008 characteristic hazardous waste. It is also a hazardous constituent listed in Appendix VIII to 40 C.F.R. Part 261. Humans may be exposed to lead through ingestion of contaminated water or soils or by inhalation of lead particles in the air. Lead has many toxic effects on human health and is classified by EPA as a probable human carcinogen. A significant amount of lead that enters the body is stored in the bone for many years and can be considered an irreversible health effect. Children are especially vulnerable to the effects of lead exposure.

c. Cadmium is a metal, and when a waste contains more than 1 part per million as analyzed using the TCLP, is a D006 characteristic hazardous waste. It is also a hazardous constituent listed in Appendix VIII to 40 C.F.R. Part 261. Cadmium can enter the body through ingestion and inhalation. Most of the cadmium that enters the body goes to the kidney and liver and can remain there for many years.

14. 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 the property owners, TNT General Contracting and Webb Mineral's personnel, contractors, emergency responders, state, local and federal regulators, and trespassers. Potential exposure might also occur to people or wildlife ingesting or coming into contact with

water or sediments in Weaver Branch or its tributary. The abatement actions required by the Order are necessary to remove the endangerment posed by current facility conditions.

15. MDNR inspectors observed a black, odorous discharge from a containment pond at the facility into a tributary to Weaver Branch. Inspectors also observed a whitish-colored discharge from another portion of the facility to the unnamed tributary of Weaver Branch. Analyses of water samples taken at various locations at the facility demonstrate that Respondents discharged pollutants, including but not limited to, boron, arsenic, copper, ammonia, zinc, chromium, cobalt, manganese, nickel, selenium, aluminum, barium, cadmium, and 2-butanone (MEK) into the tributary of Weaver Branch.

16. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants except in compliance with, inter alia, Section 402 of the CWA, 33 U.S.C. § 1342. Section 402 of the CWA, provides that pollutants may be discharged only in accordance with the terms of an NPDES permit issued pursuant to that Section.

17. None of the Respondents has a General Permit under the NPDES, and none have ever submitted a Notice of Intent (NOI) to apply for a permit.

18. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), sets forth requirements for the issuance of NPDES permits for the discharge of stormwater. Section 402(p) of the CWA, requires, in part, that a discharge of stormwater associated with an industrial activity must conform to the requirements of an NPDES permit issued pursuant to Sections 301 and 402 of the CWA.

19. Pursuant to Section 402(p) of the CWA, EPA promulgated regulations setting forth the NPDES permit requirements for stormwater discharges at 40 C.F.R. § 122.26.

20. 40 C.F.R. § 122.26(a)(1)(ii) and 122.26(c) require dischargers of stormwater associated with industrial activities to apply for an individual permit or to seek coverage under a promulgated stormwater general permit.

21. MDNR is the state agency with authority to administer the federal NPDES program in Missouri pursuant to Section 402 of the CWA. EPA maintains concurrent enforcement authority with authorized states for violations of the CWA.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

22. Respondents are “persons” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15) and also as defined by Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

23. The storage and mixing of various zinc bearing materials by Respondents constitute “industrial activity” within the meaning of 40 C.F.R. § 122.26(b)(14). The material storage and handling activities at the facility have caused “discharges of stormwater associated with industrial activity” within the meaning of 40 C.F.R. § 122.26(a)(1)(ii).

24. The solid wastes, hazardous wastes and hazardous waste constituents discharged from the facility are “pollutants” from a “point source” and are discharged into a tributary of Weaver Branch, which is a “water of the United States” within the meaning of Section 502 of the CWA, 33 U.S.C. § 1362.

25. Respondents' continued intermittent discharge of pollutants associated with industrial activity into a water of the United States without obtaining a NPDES permit is a violation of Sections 301(a) and 402(p) of the Clean Water Act, 33 U.S.C. §§ 1311(a) and 1342(p) and implementing regulations.

26. The property located at Rural Route 3 Box 78C, Kahoka, Clark County, Missouri, 63445 is a "facility," and, at all times relevant to this action the Carl and Carol Trump Trust U/T/A was an "owner" of the facility, and Respondents TNT General Contracting and Webb Minerals are or have been "operators" of the facility within the meaning of 40 C.F.R. § 260.10 and 40 C.F.R. § 122.2.

27. The wastes stored and handled at Respondents' 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.

28. The presence of solid wastes, hazardous wastes, and/or hazardous constituents at the facility resulted from the past or present handling, storage, treatment, transportation, and/or disposal of solid wastes, hazardous wastes, and/or hazardous constituents.

29. 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.

30. Respondents have contributed 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.

VI. NOTICE TO STATE AND LOCAL AUTHORITIES

31. The State of Missouri and appropriate local authorities have been notified of the issuance of this Order pursuant to Section 7003(c) of RCRA.

VII. ORDER

32. Based on the foregoing and pursuant to Sections 308(a) and 309(a)(3) of the CWA, 33 U.S.C. §§ 1318(a) and 1319(a)(3), and Sections 3007 and 7003 of RCRA, 42 U.S.C. §§ 6927 and 6973, Respondents are 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

33. Respondents shall take corrective actions to eliminate and prevent recurrence of the violations cited above, and to come into compliance with the Clean Water Act, including, but not limited to, the following items:

a. Within seven (7) days following the effective date of this Order, submit a complete notice of intent (NOI) to be covered by a general stormwater permit to MDNR, with a copy to EPA. Respondents may obtain information and NOI forms by calling the Northeast Regional Office of MDNR at 660-385-8000;

b. Fully comply with all terms of any stormwater permit issued to Respondents by MDNR;

c. Submit to EPA a copy of any Stormwater Pollution Prevention Plan (SWPPP) prepared by Respondents pursuant to the terms of any stormwater permit issued to Respondents by MDNR. Respondents shall submit the SWPPP to EPA within ten days following the date when Respondents' permit requires the SWPPP to be developed; and

d. Within ten days following the effective date of this Order, develop and implement

an Interim Measures Plan describing Best Management Practices that Respondents shall immediately implement to minimize the discharge of pollutants due to stormwater runoff from the facility. The plan shall be developed in accordance with EPA guidance manual "Stormwater Management for Industrial Activities" (EPA 832_R-92006, 9/92). Respondents shall submit a copy of the Interim Measures Plan to EPA within twenty (20) days following the effective date of this Order. If EPA identifies deficiencies in the Interim Measures Plan, EPA will provide written comments on the Plan to Respondents, identifying any revisions to the Plan that are necessary in order to minimize the discharge of pollutants due to stormwater runoff. Respondents shall revise the Plan in accordance with any comments from EPA within 5 days following receipt of said comments and implement the revised Plan. EPA recommends that Respondents incorporate the Interim Measures Plan into any SWPPP that Respondents prepare pursuant to Paragraph 33.c. above.

e. All documents submitted pursuant to this paragraph shall be sent to:

Michael Boeglin
Compliance Officer
WENF/WWPD
U.S. Environmental Protection Agency
Kansas City, Kansas 66101

34. Immediate Compliance with RCRA/Restriction of Access: Upon receipt of this Order, Respondents shall cease all solid and/or hazardous waste receiving and handling activities at the facility and take active steps as outlined in this order to stop releases of solid and hazardous wastes into the environment. Within five (5) days of the effective date of this Order, Respondents shall provide a certification to EPA, wherein Respondents describe how all of its waste storage and management activities are being conducted in compliance with the applicable provisions of RCRA and its implementing regulations. Respondents shall not resume any waste mixing or blending of zinc bearing materials into zinc fertilizer ingredients activities until EPA has reviewed and approved the certification required herein. Also within five (5) days of the

effective date of this Order, Respondents shall restrict access by the public to areas of the property where there has been a release of solid and/or hazardous waste. Measures to accomplish this may include, but are not limited to, posting "no trespassing" signs or signs directing visitors to the facility away from areas where solid or hazardous waste contamination may be present, installing gates to be closed after business hours and fence to restrict access to the facility by the public, or other similar measures. Respondents shall provide a written description, photographs, or other documentation of the measures taken to comply with this Paragraph within seven (7) days of completion of such measures to EPA's representative identified in Paragraph 45 below.

35. Posting: Immediately upon receipt of this Order, Respondents shall post a sign at the facility which provides notice of the hazardous conditions present at the facility 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 facility 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.

36. Immediate use of containers in good condition. Within fourteen (14) days of the effective date of this Order, Respondents shall ensure that all hazardous wastes, regardless of the current management (in piles, containers in poor conditions, or degrading containers), are placed

into containers in good condition, as required by 40 C.F.R. § 265.171, as incorporated by reference at 10 C.S.R. 25-5.262(1). Respondents shall use a container made of or lined with materials which will not react with, and are otherwise compatible with, the hazardous waste to be stored, so that the ability of the container to contain the waste is not impaired, pursuant to 40 C.F.R. § 265.172, as incorporated by reference at 10 C.S.R. 25-5.262(1). Within twenty-one (21) days of the effective date of this Order, Respondents shall provide documentation (e.g., written statements, photographs, etc.) to EPA's Project Manager identified in paragraph 45 below that all containers holding hazardous wastes are in good condition.

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

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

a. Respondents shall also notify EPA of the name and qualifications of their 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. Respondents' Project Manager shall be responsible for administration of all of the Respondents' actions required by the Order. To the greatest extent possible, Respondents' Project Manager shall be readily available during all work to be performed hereunder.

b. Respondents 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, Respondents 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 Respondents fail to select a new contractor, Respondents' failure to select a contractor shall be deemed a violation of this Order and EPA reserves the right to perform any or all of the work required by this Order and to seek reimbursement of its costs from Respondents pursuant to applicable statutory authorities.

39. Respondents shall submit responses to the Notices of Violation issued by MDNR to Webb Minerals and TNT General Contracting and, pursuant to RCRA Section 7003, within ten (10) days of the Effective Date of this Order, Respondent Webb Minerals shall provide EPA with a list of the names and addresses of plating facilities that send zinc bearing materials to TNT Contracting, Inc. Furthermore, Webb Minerals will issue a follow up letter to each of those facilities conveying that EPA and MDNR have determined that Respondents are not operating in compliance with federal and state hazardous waste laws (including the zinc fertilizer rule), and therefore wastes sent by the generating facilities are not exempt from RCRA if it is sent to Respondents for processing into zinc fertilizers and as such the Respondents cannot accept these wastes.

40. Conduct Complete Inventory and Hazardous Waste Determinations on All Containers, Drums, Totes, Supersacks, Piles:

a. Within fourteen (14) days of the effective date of this Order, Respondents shall submit to EPA's Project Manager, identified in paragraph 45 below, a written inventory of all containers, drums, totes, supersacks and piles at your facility. 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).

b. If Respondents claim any of the materials above as a useable or saleable product, then Respondents must identify the material, describe the condition of the container, describe the location of the material in the warehouse and provide a photograph. In addition, Respondents must provide written documentation of: how this product has been used in the past by Respondents or their customers; any purchase or sale records between Respondents and other parties; the product's intended use in the future; and the Material Safety Data Sheet (MSDS). Respondents, however, shall refrain from relocating or removing from the facility any of the materials identified above without approval from EPA except as allowed by this Order.

41. As part of this inventory, Respondents shall submit to EPA's representative identified herein, a written Inventory and Immediate Removal plan for immediately shipping all hazardous waste currently located at the facility to an appropriate hazardous waste disposal facility and a schedule for such activities. Off-site removal of the hazardous wastes shall be carried out in such a manner as to ensure that no releases of any of the materials to the environment, including fugitive releases to the air, occur at any time during preparations for removal or during any removal-related activities. The plan shall be reviewed by EPA in accordance with the procedures identified in paragraph 45 below and shall include the following:

- a. Identification of facility for disposal of all hazardous wastes: The plan shall identify the disposal facility where Respondents propose to ship these wastes.
- b. Disposal of all hazardous wastes: The plan shall provide that within thirty (30) days of EPA's approval of Respondents' contractor selection, all activities related to the off-site shipment of the hazardous wastes will commence and shall continue in accordance with an EPA-approved schedule. The plan shall also provide that the off-site disposal of these materials be completed no later than sixty (60) days of EPA's approval of the plan.

c. Documentation: The plan shall provide that within ten (10) days of completion of off-site disposal of the solid and/or hazardous wastes, Respondents 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.

This plan shall be implemented immediately upon approval by EPA.

42. Site Characterization: Within thirty (30) days of the effective date of this Order, Respondents shall submit to EPA's Project Manager identified in Paragraph 45 below, a Site Characterization Work Plan for the investigation of contamination of the areas where hazardous wastes were stored and where the zinc fertilizer activities occurred. Zinc fertilizer activities include, but are not limited to, mixing, storing, disposing, dredging, or spreading of the received products or generated wastes. The Site Characterization Work Plan shall include a Field Sampling Plan, Quality Assurance Project Plan (QAPP), and Health and Safety Plan (HASP) to assess on-site contamination, and any off-site migration of waste, including but not limited to the Sawmill Area, neighboring property, drainage pathways adjacent to the facility, and water and sediments in the containment pond, the locations where the water from the containment pond was placed, and the unnamed tributary to Weaver Branch.

a. The Site Characterization Work Plan shall include a schedule for completion of activities to characterize any contaminated areas at the facility. It shall also include:

i. a diagram of the facility and its structures, a narrative and pictorial description of the locations to be sampled, and the materials or media to be sampled;

ii. a list of the hazardous constituents for which each sample shall be analyzed, based on the composition of the chemicals that were used and stored at the facility; and

iii. a statement of the action levels proposed for the hazardous constituents described in paragraph ii) above that shall indicate whether contamination from hazardous wastes stored at the facility is present;

b. The QAPP shall address quality assurance, quality control, and chain of custody procedures in accordance with "EPA Requirements for Quality Assurance Project Plans" (EPA QA/R-5, EPA/240/B-01/003, March 2001) and "EPA Guidance for Quality Assurance Project Plans" (EPA QA/G-5, EPA/240/R-02/009, December 2002, as well as other such applicable guidance identified by EPA. The QAPP shall describe the procedures that will be used for sampling and analysis of the solid wastes identified in the inventory for the purpose of conducting hazardous waste determinations in accordance with RCRA, including 40 C.F.R. § 262.11, as incorporated by reference at 10 C.S.R. 25-5.262(1). The QAPP shall describe the proposed sampling procedures that will be employed to ensure that samples are collected and analyzed using EPA-approved protocols. In addition, the QAPP shall describe the number and type of samples to be collected, the method(s) of collection and analysis, and criteria for determining sampling locations.

c. The HASP will be implemented during field activities. The HASP shall be consistent with applicable Occupational Safety and Health Administration regulations.

43. EPA shall review and approve, disapprove or require modification of these plans as set forth in paragraph 45 below. Respondents 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 Respondents' completion of the field work, Respondents shall provide a Site Characterization Final Report to EPA's Project Manager identified in paragraph 45 below.

44. The Site Characterization Work Plan shall include a schedule for completion of activities. EPA shall review and approve, disapprove or require modification of the plan as set forth in Paragraph 45 below. Respondents 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 fourteen (14) days of Respondents' completion of the field work, Respondents shall provide a Site Characterization Final Report to EPA's Project Manager identified in Paragraph 45 below.

45. 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 Respondents. If the plan is disapproved with comments, Respondents shall incorporate EPA's comments and resubmit the plan within fourteen (14) days of receipt of EPA's comments. If Respondents fail to revise the plan in accordance with EPA's comments, then EPA may unilaterally modify the work plan or report and Respondents 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, Respondents 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 scheduled contained therein shall be deemed a violation of this Order.

The EPA representative to whom all plans must be submitted is:

Deborah Bredehoff
Environmental Scientist
ARTD/WEMM
U.S. EPA Region 7
901 N. 5th St.
Kansas City, Kansas 66101.

46. As a result of the Site Characterization required in paragraph 43 above, EPA may determine that certain additional tasks are necessary to achieve the purpose of this Order. These tasks could include, but are not limited to: clean-up activities at the Facility to approved levels, expanded investigatory sampling of the air, soil, surface water, and/or groundwater to determine the nature and extent of contamination, 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 Respondents in writing that Respondents must perform the additional work and will specify the basis and reasons for its determination that the additional work is necessary. Within seven (7) days of the receipt of such request, Respondents 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, Respondents shall submit a work plan for such additional work to EPA, which shall include a schedule for implementation of the plan. The plan will be reviewed by EPA in accordance with the procedures set forth herein. Upon approval by EPA, Respondents 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 Respondents under this subparagraph shall be performed in a manner consistent with this Order.

47. Split samples: Upon request by EPA, Respondents shall allow EPA or its authorized representatives to take split and/or duplicate samples of any samples collected by

Respondents while performing work under this Order. Respondents 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.

48. Completion Report: The Respondents shall submit a final Completion Report that details all activities conducted at the facility 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. A description of the actions that have been taken to comply with each element of the Order;
- b. Copies of all results of chemical or physical analyses conducted during this action, including waste profiles, the results of field screening or other on-site or off-site analyses, and analyses of all samples;
- c. 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;
- d. Copies of certificates of disposal from the selected disposal facilities; and
- e. Written certification that all solid and hazardous waste leaks and spills have been cleaned up, that Respondents have sent an NOI to the MDNR to obtain a NPDES permit, and that Best Management Practices have been implemented 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.

- f. A “responsible official” for purposes of this provision means any person who performs policy or decision-making functions for the Respondents in connection with activities at the facility.

IX. RECORD RETENTION

49. Until ten (10) years after Respondents’ receipt of EPA’s notification pursuant to Section XVIII (Modification and Termination) of this Order, Respondents 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. Respondents shall also instruct their contractors and agents to preserve all such documents for a period of ten (10) years.

X. OPPORTUNITY TO CONFER

50. Respondents 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 September 14, 2010.

51. 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 Respondents intend 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 Respondents 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. Respondents may appear in person or by an attorney or other representative, at any conference held pursuant to Respondents’ 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 Respondents.

52. 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 45.

XI. COMPLIANCE WITH OTHER LAWS

53. Respondents shall perform all actions required pursuant to this Order in accordance with all applicable local, state, and federal laws.

XII. EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES

54. In the event of any action or occurrence during performance of the work which causes or threatens a release of solid or hazardous waste or discharge of pollutants from the facility that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Respondents shall immediately take all appropriate action. Respondents 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. Respondents shall also immediately notify the EPA representative identified in Paragraph 45 above, or, in the event of his unavailability, notify the Regional Spill Line number listed in Paragraph 55 below.

55. In addition, in the event of any release of a hazardous substance from the facility, Respondents shall immediately notify the EPA Regional Spill Line at (913) 281-0991 and the National Response Center at (800) 424-8802. Respondents 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

56. Each Respondent shall provide, within five (5) days after the effective date of this Order, written notice to EPA stating whether each Respondent will comply with the terms of this Order. The notice shall be sent to EPA's representative identified in Paragraph 45 above. If any Respondent does not unequivocally commit to perform the work required by this Order, that 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 Respondents' assertions.

XIV. ENFORCEMENT AND RESERVATIONS

57. 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 Respondents in the future to perform additional activities pursuant to RCRA, the Clean Water Act, 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; 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; or actions taken to assess civil penalties for violations of the Clean Water Act. In addition, Respondents 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, and civil penalties pursuant to Section 309 of the CWA, 33 U.S.C. § 1319.

58. 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, the CWA, 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.

59. 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.

60. If a court issues an order that invalidates any provision of this Order or finds that Respondents have sufficient cause not to comply with one or more provisions of this Order,

Respondents shall remain bound to comply with all provisions of this Order not invalidated by said court order.

61. 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 facility. 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 Respondents in the future to perform additional activities pursuant to RCRA, the Clean Water Act, or any other applicable law. The EPA reserves, and this Order is without prejudice to, all rights against Respondents with respect to all other matters, including, but not limited to:

- a. claims based on a failure by Respondents to meet a requirement of this Order;
- b. criminal liability; and
- c. liability arising from the past, present, or future disposal, release or threat of release of solid or hazardous waste or the discharge of pollutants from the facility.

XV. SAMPLING AND ACCESS

62. EPA and/or its authorized representatives shall have access to the facility at all reasonable times for the purpose of reviewing the progress of Respondents 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, or other statutory authority.

XVI. EFFECTIVE DATE AND COMPUTATION OF TIME

63. This Order shall become effective five (5) calendar days from the date this Order is filed. All times for performance of ordered activities shall be calculated from this effective date as documented by the file time/date stamp on the first page of this Order.

XVII. ADMINISTRATIVE RECORD

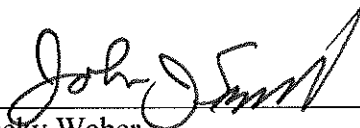
64. The EPA has established an Administrative Record which contains the documents that form the basis for the issuance of this Order. It is available for review by appointment weekdays between the hours of 8:30 a.m. and 4:00 p.m. at the offices of EPA Region 7, located at 901 N. 5th St., Kansas City, Kansas, 66101. To review the Administrative Record, please contact EPA's representative identified in Paragraph 45 above.

XVIII. MODIFICATION AND TERMINATION

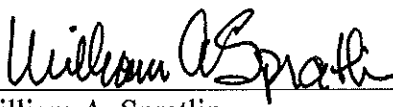
65. EPA may modify or revoke this Order based upon information discovered during the course of implementation of the Order. Any modification shall be incorporated into a revised Order and issued to the Respondents in the form of a modified Unilateral Administrative Order. The provisions of this Order shall remain in full force and effect until all actions required by this Order have been completed and EPA has notified the Respondents, in writing, that the actions required by this Order have been completed. Respondents 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 Respondents 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.

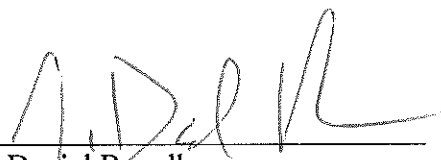
IT IS SO ORDERED:



Becky Weber
for Director
Air and Waste Management Division
U.S. Environmental Protection Agency
Region 7



William A. Spratlin
Director
Water, Wetlands and Pesticides Division
U.S. Environmental Protection Agency
Region 7



J. Daniel Breedlove
Senior Counsel
U.S. Environmental Protection Agency
Region 7

CERTIFICATE OF SERVICE

I certify that on the date note below I filed the original and one true and correct copy of the signed original Unilateral Administrative Order with the Regional Hearing Clerk, Region 7. I further certify that I sent by express mail, return receipt requested, a true and correct copy of the signed original Unilateral Administrative Order to:

Mr. Thad Trump, President
TNT General Contracting
RR3, Box 78C
Kahoka, MO 63445

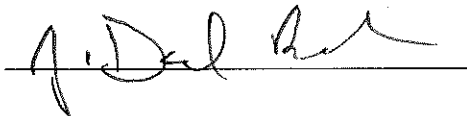
Mr. Bob Webb
Webb Minerals, LLC
P.O. Box 65
1261 Maine Street
Quincy, IL 62360

Carl and Carol Trump
Route 3, Box 83
Kahoka, MO 63445

I further certify that on the date noted below, I sent by certified mail, return receipt requested, a true and correct copy of the signed original Unilateral Administrative Order to the following representatives of the State of Missouri:

Kevin Mohammadi, Chief
Water Pollution Compliance and Enforcement Section
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102

Mr. David Lamb, Director
Hazardous Waste Program
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, Missouri 65102



9/2/2010

Date