

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

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**U.S. EPA REGION III
HEARING CLERK**

IN THE MATTER OF:

**North Penn Area 6 Superfund Site
Lansdale, Montgomery County,
Pennsylvania**

**Parker Hannifin Corporation,
Respondent**

Docket No. CERCLA-03-2023-0007DC

**ADMINISTRATIVE SETTLEMENT
AGREEMENT AND ORDER ON
CONSENT FOR REMOVAL ACTION**

Proceeding Under Sections 104, 106(a), 107, and
122 of the Comprehensive Environmental
Response, Compensation, and Liability Act

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I. JURISDICTION AND GENERAL PROVISIONS

1. This Administrative Settlement Agreement and Order on Consent (“Settlement”) is entered into voluntarily by the United States Environmental Protection Agency (“EPA”) and Parker Hannifin Corporation (“Respondent”). This Settlement provides for the performance of a removal action by Respondent and the payment by Respondent of certain response costs incurred by the United States at or in connection with the portion of the “North Penn Area 6 Site” (the “Site”) generally located at 422 West Sixth Street in Lansdale, County of Montgomery, Pennsylvania (the “Affected Property”).

2. This Settlement is issued under the authority vested in the President of the United States by sections 104, 106(a), 107, and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”). This authority was delegated to the Administrator of EPA on January 23, 1987, by Executive Order 12580, 52 Fed. Reg. 2923 (Jan. 29, 1987), and further delegated to Regional Administrators by EPA Delegation Nos. 14-14A (Determinations of Imminent and Substantial Endangerment, Jan. 31, 2017), 14-14C (Administrative Actions through Consent Orders, Jan. 18, 2017), and 14-14D (Cost Recovery Non-Judicial Agreements and Administrative Consent Orders, Jan. 18, 2017). This authority was further redelegated by the Regional Administrator of EPA Region III to the Director of the Region III Superfund and Emergency Management Division by Delegations Nos. 14-14-A (Determinations of Imminent and Substantial Endangerment, April 15, 2019), 14-14C (Administrative Actions through Consent Orders, April 15, 2019) and 14-14-D (Cost Recovery Non-Judicial Agreements and Administrative Consent Orders, April 15, 2019).

3. EPA has notified the Commonwealth of Pennsylvania (the “State”) of this action pursuant to section 106(a) of CERCLA.

4. EPA and the Respondent recognize that this Settlement has been negotiated in good faith and that the actions undertaken by Respondent in accordance with this Settlement do not constitute an admission of any liability. Respondent does not admit, and retains the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Settlement, the validity of the findings of facts, and conclusions of law and determinations in Sections IV and V of this Settlement. Respondent agrees to comply with and be bound by the terms of this Settlement and agrees not to contest the basis or validity of this Settlement or its terms.

II. PARTIES BOUND

5. This Settlement is binding upon EPA and upon Respondent and its successors. Unless EPA otherwise consents, (a) any change in ownership or corporate or other legal status of Respondent, including any transfer of assets, or (b) any Transfer of the Site or any portion thereof, does not alter any of Respondent’s obligations under this Settlement.

6. Respondent shall provide notice of this Settlement to officers, directors, employees, agents, contractors, subcontractors, or any person representing Respondent with respect to the Site or the Work. Respondent is responsible for ensuring that such parties act in accordance with the terms of this Settlement.

III. DEFINITIONS

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

“Affected Property” shall mean all real property at the portion of the Site located at 422 West Sixth Street in Lansdale, Montgomery County, Pennsylvania, and any other real property where EPA determines, at any time, that access or land, water, or other resource use restrictions are needed to implement the removal action. The Affected Property is the location of the former Precision Rebuilding Corporation facility. Brian Erhardt bought the Affected Property in 2020 and is the current owner. See map attached as Appendix A.

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

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

“Effective Date” means the effective date of this Settlement as provided in Section XXVII.

“EPA” means the United States Environmental Protection Agency.

“Fund” means the Hazardous Substance Superfund established under section 9507 of the Internal Revenue Code, 26 I.R.C. § 9507.

“Future Response Costs” means all costs (including direct, indirect, payroll, contractor, travel, and laboratory costs) that the United States pays after the Effective Date in implementing, overseeing, or enforcing this Settlement, including: (i) in developing, reviewing and approving deliverables generated under this Settlement; (ii) in overseeing Respondent’s performance of the Work; (iii) in implementing community involvement activities under ¶ 20; (iv) in assisting or taking action to obtain access under ¶ 35; (v) in taking response action described in ¶ 68 because of Respondent’s failure to take emergency action under ¶ 24; (vi) in implementing a Work Takeover under ¶ 31; and (vii) in enforcing this Settlement, including all costs paid under Section XIV (Dispute Resolution) and all litigation costs.

“Including” or “including” means “including but not limited to.”

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

“National Contingency Plan” or “NCP” means the National Oil and Hazardous

Substances Pollution Contingency Plan promulgated pursuant to section 105 of CERCLA, codified at 40 C.F.R. part 300, and any amendments thereto.

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

“Parties” means EPA and Respondent.

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

“Removal Action” means the removal action required under this Settlement.

“Respondent” means Parker Hannifin Corporation.

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

“Settlement” means this Administrative Settlement Agreement and Order on Consent, all appendixes attached hereto (listed in Section XXI), and all deliverables approved under and incorporated into this Settlement. If there is a conflict between a provision in Sections I through XXVII and a provision in any appendix or deliverable, the provision in Sections I through XXVII controls.

“Site” means the North Penn Area 6 Superfund Site located in Lansdale Borough, Towamencin Township, and Upper Gwynedd Township, Montgomery County, Pennsylvania, and depicted generally on the map attached as Appendix B.

“Special Account” means the North Penn Area 6 Site special account, within the Fund, established for the Site by EPA under section 122(b)(3) of CERCLA.

“State” means the Commonwealth of Pennsylvania.

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

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

“Waste Material” means (a) any “hazardous substance” under section 101(14) of CERCLA; (b) any pollutant or contaminant under section 101(33) of CERCLA; (c) any “solid waste” under section 1004(27) of RCRA; and (d) any “hazardous waste” under the Pennsylvania Solid Waste Management Act, 35 P.S. § 6018.103.

“Work” means all obligations of Respondent under Sections VII (Coordination and Supervision) through XI (Indemnification and Insurance).

“Work Takeover” means EPA’s assumption of the performance of any of the Work in

accordance with ¶ 31.

IV. FINDINGS OF FACT

8. EPA makes the following findings of fact:

a. Respondent is incorporated in the State of Ohio. Respondent's predecessor, Precision Rebuilding Corporation, leased the Affected Property from 1963 to 1987, and operated a manufacturing facility there from 1963 to 1987, repairing and rebuilding machinery and machinery parts for clients. On or about December 29, 1987, Precision Rebuilding Corporation merged into Parker Hannifin Corporation. On February 27, 2020, Brian Erhardt bought the Affected Property and is the current owner.

b. The Site, which includes a contaminated groundwater plume and multiple source area properties, is located in Lansdale Borough, Towamencin Township, and Upper Gwynedd Township in Montgomery County, Pennsylvania (Appendix B). In 1979, the North Penn Water Authority detected trichloroethene ("TCE") in several municipal supply wells at the Site.

c. In May 1995, Respondent entered into an Administrative Order on Consent for Remedial Investigation/Feasibility Study, Docket No. III-95-41-DC, with EPA to conduct a Remedial Investigation and Feasibility Study ("RI/FS") at the Affected Property.

d. The RI, completed in 1997, and the FS, completed in 1999, determined that the Affected Property was a source of TCE contamination at the Site.

e. The Pre-Remedial Design Investigation Report of Findings ("Pre-Remedial Design Investigation Report") for the supplemental site characterization activities for Operable Unit 2 (OU2) (soil) and Operable Unit 3 (OU3) (groundwater) at the former Precision Rebuilding Corporation facility was issued in November 2012. The Pre-Remedial Design Investigation Report summarizes the data collected and interpretations derived from the data collected during the implementation of the Pre-Remedial Design Investigation Work Plan (April 2012), and refines the Conceptual Site Model describing the relationship between source areas identified at the Site (OU2) and impact to groundwater (OU3).

f. The Summary of Operable Unit 2 Metals and VOC Soil Investigation Report (Soil Investigation Report) was completed in May 2021. The Revised Feasibility Study Report (Revised FS Report) for OU2 (soil) was completed in August 2021. The purpose of the Revised FS Report was to identify and evaluate remedial action options and recommend a remedial action to address the potential human health exposure pathways identified in the 2005 Risk Assessment approved by EPA in October 2005, and the 2015 Revised Human Health Risk Assessment (HHRA) for the former Precision Rebuilding Corporation facility approved by EPA on April 21, 2015. The Revised FS Report incorporates the results of historical soil assessment data, in addition to data from a series of data collection events completed since the approval of the 2005 Risk Assessment.

g. TCE in the soil at the Affected Property is a likely source of contamination of the groundwater plume at the Site.

h. The industrial solvent TCE was used at the Affected Property from approximately 1963 to 1968.

i. The substance TCE is listed as Chemical Abstract Service number 79-01-6 and is listed as a hazardous substance at 40 C.F.R. § 302.4.

j. TCE is present in the soil at the Affected Property above the soil-to-groundwater soil screening level (“SSL”) (0.17 mg/kg for TCE) and is the contaminant of concern impacting groundwater.

k. Based on the information described above, on August 15, 2023 the Director of the EPA Region III Superfund and Emergency Management Division determined that the release or threatened release of hazardous substances at and/or from the Affected Property may present an imminent and substantial endangerment to the public health or welfare or the environment.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

9. Based on the Findings of Fact in Section IV and the administrative record, EPA has determined that:

- a. The Site is a “facility” as defined by section 101(9) of CERCLA.
- b. The contamination found at the Site, as identified in the Findings of Fact above, includes a “hazardous substance” as defined by section 101(14) of CERCLA.
- c. Respondent is a “person” as defined by section 101(21) of CERCLA.
- d. Respondent is a responsible party under section 107(a) of CERCLA.
 - (1) Respondent Parker Hannifin Corporation was the “operator” of the facility at the time of disposal of hazardous substances at the facility, as defined by section 101(20) of CERCLA, and within the meaning of section 107(a)(2) of CERCLA.
 - (2) Respondent Parker Hannifin Corporation arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances at the facility, within the meaning of section 107(a)(3) of CERCLA.
- e. The conditions described in ¶¶ 8.d. through 8.j. of the Findings of Fact constitute an actual or threatened “release” of a hazardous substance from the facility as defined by section 101(22) of CERCLA.
- f. EPA determined in a Determination of Imminent and Substantial Endangerment Memorandum, dated August 15, 2023, that the conditions at the Affected Property described in ¶¶ 8.d. through 8.j. of the Findings of Fact above may constitute an

imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of a hazardous substance from the facility within the meaning of section 106(a) of CERCLA.

g. The Removal Action is necessary to protect the public health, welfare, or the environment.

VI. ORDER AND AGREEMENT

10. Based upon the Findings of Fact, Conclusions of Law, and Determinations set forth above, and the administrative record, it is hereby Ordered and Agreed that Respondent shall comply with all provisions of this Settlement as follows:

VII. COORDINATION AND SUPERVISION

11. Respondent's Project Coordinator

a. Respondents have proposed, and EPA has not disapproved the following Project Coordinator: Jonathan Waddell, PE, EHS Support, Senior Engineer, Jonathan.waddell@ehs-support.com, (470) 955-4972 . Respondent's Project Coordinator will be responsible for administration of all actions by Respondent required by this Settlement.

b. Respondent's Project Coordinator must have sufficient technical expertise to coordinate the Work. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site work.

c. Notice or communication relating to this Settlement from EPA to Respondent's Project Coordinator constitutes notice or communication to Respondent.

d. Respondent may change its Project Coordinator by following the procedures under ¶ 12.

12. Procedures for Notice and Disapproval

a. Respondent shall notify EPA of the names, titles, contact information, and qualifications of any contractors or subcontractors retained to perform the Work at least 30 days prior to commencement of such Work.

b. EPA may issue notices of disapproval regarding any proposed Project Coordinator, contractor, or subcontractor, as applicable. If EPA issues a notice of disapproval, Respondent shall, within 10 days, submit to EPA a list of supplemental proposed Project Coordinators, contractors, or subcontractors, as applicable, including a description of the qualifications of each.

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

13. **EPA Remedial Project Manager.** EPA designates Huu Ngo of the Regional Office, Site Remediation Branch, Superfund and Emergency Management Division, Region III, as its Remedial Project Manager (“RPM”). The RPM has the authorities described in the NCP, including oversight of Respondent’s implementation of the Work, authority to halt, conduct, or direct any Work, or to direct any other removal action undertaken at the Site. The RPM’s absence from the Site is not a cause for stoppage of work. EPA may change its RPM and will notify Respondent of any such change.

VIII. PERFORMANCE OF THE WORK

14. Respondent shall perform the Work in accordance with this Settlement, including all EPA-approved, conditionally approved, or modified deliverables as required by this Settlement. The Work includes, at a minimum, all actions necessary to implement the Removal Action, including the following:

a. Excavate soil in the area demarcated in red in the diagram attached as Appendix C that is contaminated with TCE above 0.17 mg/kg at the Affected Property. The area to be excavated includes the portion of the approximately 20-foot by 35-foot area north of the building that can be excavated without jeopardizing the structural integrity of the existing building or negatively impacting the sidewalk, parking lot, monitoring wells, and recovery well RW-03 on the Affected Property, as depicted in Appendix C. The lateral extent of excavation is defined by the extensive historical sampling data that exists for this area. The vertical extent of excavation is defined by the existing sampling data or by reaching the depth to bedrock, which is located at approximately 8 to 9 feet below ground surface in this area;

b. Conduct post-excavation sampling of the sidewalls and floor of the excavation to ensure soils contaminated with TCE above 0.17 mg/kg within the proposed excavation area have been removed from ground surface to the floor of the excavation area; however,

- (1) post-excavation sampling of the floor of the excavation area is not required if excavation has proceeded to bedrock; and
- (2) sampling will be required to document the extent of contamination left behind in this Removal Action in the northern, western, and southern sidewalls of the area demarcated in red in the diagram attached as Appendix C;

c. Excavate any soils in the area demarcated in red in Appendix C that are identified through post-excavation sampling conducted pursuant to Paragraph 17.b, above, as contaminated with levels of TCE above 0.17 mg/kg, and repeat the actions set forth in Paragraph 17.b and this Paragraph 17.c until post-excavation sampling does not identify any soils contaminated with levels of TCE exceeding 0.17 mg/kg except as found acceptable by EPA;

d. Dispose off-site all soil excavated pursuant to Paragraphs 17.a - c, above, in accordance with section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3), section 300.440 of

the NCP, 40 C.F.R. § 300.440, and the requirements of this Settlement including, without limitation, Paragraph 27 (pertaining to off-site shipments) hereof; and

e. Restore the excavated area to original conditions by performing restoration and revegetation of the excavated area. Backfill the excavation with soil that poses no unacceptable human or ecological risks and revegetate non-paved areas using a local turf mix.

15. **Reserved.**

16. For any regulation or guidance referenced in the Settlement, the reference will be read to include any subsequent modification, amendment, or replacement of such regulation or guidance. Such modifications, amendments, or replacements apply to the Work only after Respondent receives notification from EPA of the modification, amendment, or replacement.

17. **Removal Work Plan.** Within 60 days after the Effective Date, Respondent shall submit to EPA for approval in accordance with ¶ 21 (Deliverables: Specifications and Approval) a work plan for performing the Work (the “Removal Work Plan”) as described in ¶ 14. The Removal Work Plan must include a description of, and an expeditious schedule for, the actions required by this Settlement. The Removal Work Plan must describe all community impact mitigation activities to be performed to: (a) reduce impacts (e.g., air emissions, dust, odor, traffic, noise, temporary relocation, negative economic effects) to residential areas, schools, playgrounds, healthcare facilities, or recreational public areas frequented by community members (“Community Areas”) during implementation of the Removal Action; (b) conduct monitoring in Community Areas of impacts from the implementation of the Removal Action; (c) communicate validated sampling data; and (d) make adjustments during the implementation of the Removal Action in order to further reduce negative impacts to affected Community Areas. The Removal Work Plan shall contain information about impacts to Community Areas that is sufficient to assist EPA’s RPM and Community Involvement Coordinator in performing the evaluations described in the Superfund Community Involvement Handbook, OLEM 9230.0-51 (Mar. 2020). The Handbook is located at <https://www.epa.gov/superfund/superfund-community-involvement-tools-and-resources#handbook>.

18. **Health and Safety Plan.** Within 60 days after the Effective Date, Respondent shall submit for EPA review and comment a Health and Safety Plan (“HASP”) that meets the requirements of 29 C.F.R. § 910.120 for developing the HASP, that describes all activities to be performed to protect on-site personnel and area residents from physical, chemical, biological, and all other hazards related to performance of Work under this Settlement. This HASP shall be prepared in accordance with EPA’s Emergency Responder Health and Safety Manual, OSWER 9285.3-12 (July 2005 and updates), available on the Agency’s website at https://www.epaos.org/_HealthSafetyManual/manual-index.htm. In addition, the Respondent shall ensure that the HASP complies with all currently applicable Occupational Safety and Health Administration (“OSHA”) regulations found at 29 C.F.R. part 1910. If EPA determines that it is appropriate, the HASP shall also include contingency planning. Respondent shall incorporate all changes to the HASP recommended by EPA and shall implement the HASP during the pendency of the Work.

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

a. Respondent shall use quality assurance, quality control, and other technical activities and chain of custody procedures for all samples consistent with EPA's Environmental Information Quality Policy, CIO 2105.1) (Mar. 2021) at <https://www.epa.gov/irmpoli8/environmental-information-quality-policy>, the most recent version of Quality Management Systems for Environmental Information and Technology Programs – Requirements with Guidance for Use, ASQ/ANSI E-4 (Feb. 2014), and EPA Requirements for Quality Assurance Project Plans, EPA QA/G-5 (EPA/240/B-01/02) (Mar. 2001) at <https://www.epa.gov/quality/epa-qar-5-epa-requirements-quality-assurance-project-plans>.

b. Respondent shall ensure that EPA personnel and its authorized representatives are allowed access at reasonable times to laboratories used by Respondent in implementing this Settlement. In addition, Respondent shall ensure that such laboratories analyze all samples submitted by EPA pursuant to the Quality Assurance Project Plan for quality assurance monitoring, and that sampling and field activities are conducted in accordance with the EPA QA Field Activities Procedure, CIO 2105-P-02.1 (Sept. 23, 2014) available at <http://www.epa.gov/irmpoli8/epa-qa-field-activities-procedures>. Respondent shall ensure that the laboratories they utilize for the analysis of samples taken pursuant to this Settlement meet the competency requirements set forth in the Policy to Assure Competency of Laboratories, Field Sampling, and Other Organizations Generating Environmental Measurement Data under Agency-Funded Acquisitions (Directive No. FEM-2011-01) (Nov. 2016) available at <http://www.epa.gov/measurements/documents-about-measurement-competency-under-acquisition-agreements> and that the laboratories perform all analyses according to EPA-accepted methods. Accepted EPA methods are documented in the EPA's Contract Laboratory Program (<http://www.epa.gov/clp>), SW 846 Test Methods for Evaluating Solid Waste, Physical/Chemical Methods (<https://www.epa.gov/hw-sw846>), Standard Methods for the Examination of Water and Wastewater (<http://www.standardmethods.org/>), 40 C.F.R. part 136, Air Toxics - Monitoring Methods (<http://www3.epa.gov/ttnamti1/airtox.html>).

c. Upon request, Respondent shall provide split or duplicate samples to EPA or its authorized representatives. Respondent shall notify EPA not less than 7 days prior to any sample collection activity unless shorter notice is agreed to by EPA. In addition, EPA has the right to take any additional samples that EPA deems necessary. Upon request, EPA may provide to Respondent split and/or duplicate samples in connection with EPA's oversight sampling.

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

20. **Community Involvement.** EPA has the lead responsibility for implementing community involvement activities at the Site, including the preparation of a community involvement plan, in accordance with the NCP and EPA guidance. As requested by EPA, Respondent shall participate in community involvement activities, including participation in (a) the preparation of information regarding the Work for dissemination to the public (including compliance schedules and progress reports), with consideration given to the specific needs of the community, including translated materials and mass media and/or Internet notification, and (b) public meetings that may be held or sponsored by EPA to explain activities at or relating to the

Site.

21. Deliverables: Specifications and Approval

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

b. **Technical Specifications for Deliverables.** Sampling and monitoring data should be submitted in standard Regional Electronic Data Deliverable (“EDD”) format. EPA Region III requires the current Region 2 EDD format, the latest version of which can be found at: <https://www.epa.gov/superfund/region-2-superfund-electronic-data-submission-documents>. Other delivery methods may be allowed by the RPM if electronic direct submission presents a significant burden or as technology changes.

c. **Approval of Deliverables.** After review of the Removal Work Plan and any other deliverable required to be submitted for EPA approval under the Settlement, EPA shall: (1) approve, in whole or in part, the deliverable; (2) approve the submission upon specified conditions or required revisions to the deliverable; (3) disapprove, in whole or in part, the deliverable; or (4) any combination of the foregoing. If EPA requires revisions, EPA will provide a deadline for the resubmission, and Respondent shall submit the revised deliverable by the required deadline. Once approved or approved with conditions or required revisions, Respondent shall implement the Removal Work Plan or other deliverable in accordance with the EPA-approved schedule. Upon approval, or subsequent modification, by EPA of any deliverable, or any portion thereof: (1) such deliverable, or portion thereof, and any subsequent modifications, will be incorporated into and enforceable under the Settlement; and (2) Respondent shall take any action required by such deliverable, or portion thereof. Respondent shall not commence or perform any Work except in conformance with the terms of this Settlement.

22. Off-Site Shipments

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

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

award of the contract for the Removal Action and before the Waste Material is shipped.

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

23. Permits

a. As provided in section 121(e) of CERCLA and 40 C.F.R. § 300.400(e), no permit is required for any portion of the Work conducted entirely on-site (i.e., within the areal extent of contamination or in very close proximity to the contamination and necessary for implementation of the Work). Where any portion of the Work that is not on-site requires a federal or state permit or approval, Respondent shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals.

b. Respondent may seek relief under the provisions of Section XIII (Force Majeure) of the Settlement for any delay in the performance of the Work resulting from a failure to obtain, or a delay in obtaining, any permit or approval referenced in ¶ 23.a and required for the Work, provided that it has submitted timely and complete applications and taken all other actions necessary to obtain all such permits or approvals.

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

24. **Emergency Response.** If any event occurs during performance of the Work that causes or threatens to cause a release of Waste Material on, at, or from the Site and that either constitutes an emergency situation or that may present an immediate threat to public health or welfare or the environment, Respondent shall: (a) immediately take all appropriate action to prevent, abate, or minimize such release or threat of release; (b) immediately notify the RPM or, in the event of their unavailability, the Regional Duty Officer by calling the National Response Center at (800) 424-8802 of the incident or Site conditions; and (c) take such actions in consultation with the RPM or authorized EPA officer and in accordance with all applicable provisions of this Settlement, including the Health and Safety Plan and any other applicable deliverable approved by EPA.

25. **Release Reporting.** Upon the occurrence of any event during performance of the Work that Respondent is required to report under section 103 of CERCLA or section 304 of the Emergency Planning and Community Right-to-Know Act (“EPCRA”), 42 U.S.C. § 11004, Respondent shall immediately notify the Regional Duty Officer by calling the National Response Center at (800) 424-8802 and also orally notify the RPM. Respondent shall also submit a written report to EPA within seven days after the onset of such event (a) describing the event; and (b) all measures taken and to be taken: (1) to mitigate any release or threat of release; (2) to mitigate any endangerment caused or threatened by the release; and (3) to prevent the reoccurrence of any

such a release or threat of release. The reporting requirements under this Paragraph are in addition to the reporting required by sections 103 and 111(g) of CERCLA or section 304 of EPCRA.

26. **Progress Reports.** Commencing upon EPA's approval of the Removal Work Plan and until issuance of Notice of Completion of Work under ¶ 29, Respondent shall submit written progress reports to EPA once every two weeks, or as otherwise directed in writing by the RPM. These reports must describe all significant developments during the preceding reporting period, including the actions performed and any problems encountered, analytical data received during the reporting period, and the developments anticipated during the next reporting period, including a schedule of actions to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

27. **Additional Activities.** If EPA determines that additional actions not included in the Removal Work Plan or other approved plan(s) are necessary to protect public health or welfare or the environment, and such additional activities are consistent with the items listed in ¶ 14, EPA will notify Respondent of that determination. Respondent also may request modification of the approved Removal Work Plan or other deliverables. EPA will notify Respondent of any modification needed under the foregoing two sentences. Respondent shall, within 30 days after receiving notice from EPA of any modification needed, submit a revised Removal Work Plan and any other deliverables as necessary to EPA for approval. Respondent shall implement the revised Removal Work Plan and any other deliverables upon EPA's approval in accordance with the procedures of ¶ 21 in accordance with the approved provisions and schedule. This Paragraph does not limit the RPM's authority to make oral modifications to any plan or schedule pursuant to Section XXII.

28. **Final Report**

a. Within 60 days after completion of all Work required by this Settlement other than the continuing obligations listed in ¶ 29.a, Respondent shall submit for EPA review and approval a final report ("Final Report") regarding the Work. The final report must:

- (1) summarize the actions taken to comply with this Settlement;
- (2) conform to the requirements of 40 C.F.R. § 300.165 of the NCP (entitled "OSC Reports");
- (3) list the quantities and types of materials removed off-site or handled on-site;
- (4) describe the removal and disposal options considered for those materials;
- (5) identify the ultimate destination(s) of those materials;
- (6) include the analytical results of all sampling and analyses performed; and

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

b. The Final Report must also include the following certification signed by a responsible corporate official of Respondent or Respondent's Project Coordinator: "I certify under penalty of perjury that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I have no personal knowledge that the information submitted is other than true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

29. **Notice of Completion of Work**

a. If after reviewing the Final Report under ¶ 28, EPA determines that all Work, other than the continuing obligations, has been fully performed in accordance with this Settlement, EPA will provide notice to Respondent. A notice of completion of work is not a protectiveness determination and does not affect the continuing obligations under this Settlement, including:

- (1) obligations under Section IX (Property Requirements);
- (2) payment of Future Response Costs; and
- (3) obligations under Section XIX (Records).

b. If EPA determines that any Work other than the continuing obligations has not been completed in accordance with this Settlement, EPA will so notify Respondent and provide a list of deficiencies to be corrected and a schedule for correcting them. Respondent shall promptly correct all identified deficiencies in accordance with the schedule provided and shall submit a modified Final Report following completion of such work. Subsequent determinations by EPA regarding completion of Work shall be handled in accordance with this Paragraph.

30. **Compliance with Applicable Law.** Nothing in this Settlement affects Respondent's obligations to comply with all applicable state and federal laws and regulations, except as provided in section 121(e) of CERCLA, and 40 C.F.R. §§ 300.400(e) and 300.415(j). In accordance with 40 C.F.R. § 300.415(j), all on-site actions required pursuant to this Settlement 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. Respondent shall include ARARs selected by EPA in the Removal Work Plan. The activities conducted in accordance with this Settlement, if approved by EPA, will be deemed to be consistent with the NCP as provided under 40 C.F.R. § 300.700(c)(3)(ii).

31. **Work Takeover**

a. If EPA determines that Respondent: (1) has ceased implementation of any portion of the Work required under this Section; (2) is seriously or repeatedly deficient or late in performing the Work required under this Section; or (3) is implementing the Work required under this Section in a manner that may cause an endangerment to public health or welfare or the environment, EPA may issue a notice of Work Takeover to Respondent, including a description of the grounds for the notice and a period of time (“Remedy Period”) within which Respondent shall remedy the circumstances giving rise to the notice. The Remedy Period will be 30 days, unless EPA determines in its unreviewable discretion that there may be an endangerment, in which case the Remedy Period will be 20 days.

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

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

IX. PROPERTY REQUIREMENTS

32. Access and Land, Water, or Other Resource Use Restrictions.

a. If the Affected Property, or any other property where access is needed to implement this Settlement, is owned or controlled by Respondent, such Respondent shall, commencing on the Effective Date, provide EPA, the State, and their representatives, including contractors, with access at all reasonable times to the Affected Property, or such other property, for the purpose of conducting any activity related to this Settlement. Where any action under this Settlement is to be performed in areas owned or controlled by someone other than Respondent, Respondent shall use best efforts to obtain all necessary agreements for access, enforceable by Respondent and EPA, within 60 days after the Effective Date, or as otherwise specified in writing by the RPM.

b. The following is a non-exclusive list of activities for which access is required:

- (1) Implementing the Work and overseeing compliance with the Settlement;
- (2) Verifying any data or information submitted to EPA;
- (3) Conducting investigations regarding contamination at or near the Site;
- (4) Obtaining samples;
- (5) Assessing the need for, planning, implementing, or monitoring

response actions at or near the Affected Property;

- (6) Assessing implementation of quality assurance and quality controls practices as defined in the approved quality assurance quality control plan as defined in the approved QAPP;
- (7) Implementing the Work pursuant to the conditions set forth in ¶ 31 (Work Takeover);
- (8) Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Respondent or its agents, consistent with Section XIX (Records);
- (9) Determining whether the Affected Property is being used in a manner that is prohibited or restricted, or that may need to be prohibited or restricted under the Settlement; and
- (10) Implementing, monitoring, maintaining, reporting on, and enforcing any land, water, or other resource use restrictions regarding the Affected Property.

c. Any agreement required under ¶ 32.a must commit the owner to refrain from using its property in any manner that EPA determines will pose an unacceptable risk to human health or to the environment as a result of exposure to Waste Material, or will interfere with or adversely affect the implementation, integrity, or protectiveness of the Removal Action.

d. If requested by EPA, Respondent shall use best efforts to work with the current property owner to have that owner install and/or implement institutional and/or engineering controls applicable to the Affected Property through an enforceable mechanism such as, but not limited to, an Environmental Covenant pursuant to the Pennsylvania Uniform Environmental Covenants Act, Act No. 68 of 2007, 27 Pa. C.S. §§ 6501-6517 (“UECA”), approved by EPA prior to being recorded with the Recorder of Deeds of Montgomery County, Pennsylvania. The institutional and/or engineering controls shall incorporate, but are not limited to, the following land, water, or other resource use restrictions:

- (1) Prohibit any activities which could interfere with the Removal Action;
- (2) Prohibit the use of contaminated groundwater;
- (3) Prohibit any activities which could result in exposure to contaminants in subsurface soils and groundwater without adequate safety protocols in place with regard to the same;
- (4) **Existing Buildings**: Prohibit the disturbance of subsurface soils underneath the existing buildings unless a future building modification allows access to sample such soils and an investigation is conducted to characterize the extent of subsurface

soil contamination. If the investigation indicates levels of TCE that exceed the soil cleanup level of 0.17 mg/kg, the soils in areas with exceedances shall be excavated and the soils shall be disposed in accordance with section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440;

- (5) **Existing Buildings:** Prohibit (a) any change in the use of either of the existing buildings, and (b) any structural modification or renovation that disturbs or breaches the slab of either of the existing buildings, unless the following actions are conducted:
- i. If either the use of any existing building changes, or if the building undergoes structural modification or any type of renovation where the slab is disturbed or breached, subslab and indoor air samples will be collected; and
 - ii. If the detected indoor air concentrations equal or exceed EPA acceptable risk criteria (greater than 1E-04 cumulative cancer risk or Hazard Index greater than or equal to 1.0 for noncarcinogenic risk), a vapor mitigation system will be installed, maintained, and monitored until EPA determines that the soil and groundwater contamination no longer pose a vapor intrusion risk.
- (6) **New Buildings:** Prohibit construction of any new buildings on the Affected Property unless the following actions are conducted:
- i. Any new habitable buildings constructed on the Affected Property will include, at a minimum, a foundation vapor barrier and the subsurface piping for a subslab depressurization system;
 - ii. Prior to occupancy, the indoor air in all new habitable buildings will be tested to determine if the vapor barrier and subsurface piping are effective at reducing the indoor air concentrations to within EPA acceptable risk criteria (less than 1E-04 cumulative cancer risk and Hazard Index less than 1.0 for noncarcinogenic risk); and
 - iii. If indoor air concentrations are equal to or exceed EPA acceptable risk criteria, a subslab mitigation system which actively withdraws vapors from the subslab and removes them away from the indoor space will be operated and maintained to ensure indoor air concentration are within EPA's acceptable risk criteria (less than 1E-04 cumulative cancer risk and Hazard Index less than 1.0 for noncarcinogenic risk) while the building is inhabited and

until EPA determines that the soil and groundwater contamination no longer pose a vapor intrusion risk.

e. Respondent shall provide a copy of such access and use restrictions agreement(s) to EPA and the State.

33. As used in this Section, “best efforts” means the efforts that a reasonable person in the position of Respondent would use to achieve the goal in a timely manner, including the cost of employing professional assistance and the payment of reasonable sums of money to secure access and/or use restriction agreements, as required by this Section. If Respondent cannot accomplish what is required through “best efforts” in a timely manner, it shall notify EPA, and include a description of the steps taken to achieve the requirements. If EPA deems it appropriate, it may assist Respondent, or take independent action, to obtain such access and/or use restrictions.

34. If Respondent owns or controls any property at the Site, Respondent shall, prior to entering into a contract to Transfer any of its property that is part of the Site, or 60 days prior to a Transfer of such property, whichever is earlier, (a) give written notice to the proposed transferee that the property is subject to this Settlement; and (b) give written notice to EPA of the proposed Transfer, including the name and address of the transferee. If Respondent owns or controls property at the Site, Respondent also agrees to require that its successors comply with this Section IX and Section XIX (Records).

35. Notwithstanding any provision of the Settlement, EPA retains all of its access authorities and rights, as well as all of its rights to require land, water, or other resource use restrictions, including related enforcement authorities under CERCLA, RCRA, and any other applicable statute or regulations.

X. RESERVED

36. **Reserved.**

37. **Reserved.**

38. **Reserved.**

39. **Reserved.**

40. **Reserved.**

41. **Reserved.**

42. **Reserved.**

43. **Reserved.**

XI. INDEMNIFICATION AND INSURANCE

44. Indemnification

a. The United States does not assume any liability by entering into this Settlement or by virtue of any designation of Respondent as EPA's authorized representative under section 104(e)(1) of CERCLA. Respondent shall indemnify and save and hold harmless the United States, its officials, agents, employees, contractors, subcontractors, and representatives for or from any claims or causes of action arising from, or on account of, negligent or other wrongful acts or omissions of Respondent, its officers, directors, employees, agents, contractors, subcontractors, and any persons acting on Respondent's behalf or under its control, in carrying out activities under this Settlement, including any claims arising from any designation of Respondent as EPA's authorized representative under section 104(e)(1) of CERCLA. Further, Respondent agrees to pay EPA all costs it incurs including attorneys' fees and other expenses of litigation and settlement arising from, or on account of, claims made against the United States based on negligent or other wrongful acts or omissions of Respondent, its officers, directors, employees, agents, contractors, subcontractors, and any persons acting on its behalf or under its control in carrying out activities under with this Settlement. EPA may not be held out as a party to any contract entered into by or on behalf of Respondent in carrying out activities under this Settlement. The Respondent and any such contractor may not be considered an agent of EPA.

b. EPA shall give Respondent notice of any claim for which EPA plans to seek indemnification in accordance with this ¶ 44, and shall consult with Respondent prior to settling such claim.

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

46. **Insurance.** Respondent shall secure, by no later than 15 days before commencing any on-site Work, the following insurance: (a) commercial general liability insurance with limits of liability of \$1 million per occurrence; (b) automobile liability insurance with limits of liability of \$1 million per accident; and (c) umbrella liability insurance with limits of liability of \$5 million in excess of the required commercial general liability and automobile liability limits. The insurance policy must name EPA as an additional insured with respect to all liability arising out of the activities performed by or on behalf of Respondent under this Settlement. Respondent shall maintain this insurance until the first anniversary after EPA's issuance of the Notice of Completion of Work under ¶ 29. In addition, for the duration of this Settlement, Respondent shall satisfy, or shall ensure that its contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons

performing the Work on behalf of Respondent in furtherance of this Settlement. Prior to commencement of the Work, Respondent shall provide to EPA certificates of such insurance and a copy of each insurance policy. Respondent shall resubmit such certificates and copies of policies each year on the anniversary of the Effective Date. If Respondent demonstrates by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering the same risks but in a lesser amount, then, with respect to that contractor or subcontractor, Respondent needs to provide only that portion of the insurance described above that is not maintained by the contractor or subcontractor. Respondent shall ensure that all submittals to EPA under this Paragraph identify the North Penn Area 6 Site – Former Parker Hannifin Property located at 422 West Sixth Street, Lansdale, Montgomery County, Pennsylvania, and the EPA docket number of this case.

XII. PAYMENTS FOR RESPONSE COSTS

47. **Reserved.**

48. **Payments by Respondent for Future Response Costs**

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

b. **Payment of Bill.** Respondent shall pay the bill, or if it initiates dispute resolution under Section XIV, the uncontested portion of the bill, if any, within 30 days after receipt of the bill. Respondent shall pay the contested portion of the bill determined to be owed, if any, within 30 days after the determination regarding the dispute. Each payment for: (i) the uncontested bill or portion of bill, if late, and; (ii) the contested portion of the bill determined to be owed, if any, must include an additional amount for Interest accrued from the date of receipt of the bill through the date of payment. Respondent shall make all payments at <https://www.pay.gov> using the “EPA Miscellaneous Payments Cincinnati Finance Center” link, and including references to the Site Name, Docket Number, and Site/Spill ID number 03W9, and the purpose of the payment. Respondent shall send notices of this payment, and include these references, by email to the (1) U.S. EPA Cincinnati Finance Office at CINWD_acctsreceivable@epa.gov; and (2) RPM.

49. **Reserved.**

50. **Reserved.**

51. **Deposit of Payments.** EPA may, in its unreviewable discretion, deposit the amounts paid under ¶ 48 in the Fund, in the Special Account, or both. EPA may, in its

unreviewable discretion, retain and use any amounts deposited in the Special Account to conduct or finance response actions at or in connection with the Site, or transfer those amounts to the Fund.

XIII. FORCE MAJEURE

52. **“Force majeure,”** for purposes of this Settlement, means any event arising from causes beyond the control of Respondent, of any entity controlled by Respondent, or of Respondent’s contractors that delays or prevents the performance of any obligation under this Settlement despite Respondent’s best efforts to fulfill the obligation. Given the need to protect public health and welfare and the environment, the requirement that Respondent exercise “best efforts to fulfill the obligation” includes using best efforts to anticipate any potential force majeure and best efforts to address the effects of any potential force majeure (a) as it is occurring and (b) following the potential force majeure such that the delay and any adverse effects of the delay are minimized to the greatest extent possible. “Force majeure” does not include financial inability to complete the Work or increased cost of performance.

53. If any event occurs for which Respondent will or may claim a force majeure, Respondent shall notify EPA’s RPM by email. The deadline for the initial notice is 3 days after the date Respondent first knew or should have known that the event would likely delay performance. Respondent shall be deemed to know of any circumstance of which any contractor of, subcontractor of, or entity controlled by Respondent knew or should have known. Within 7 days thereafter, Respondent shall send a further notice to EPA that includes: (a) a description of the event and its effect on Respondent’s completion of the requirements of the Settlement; (b) a description of all actions taken or to be taken to prevent or minimize the adverse effects or delay; (c) the proposed extension of time for Respondent to complete the requirements of the Settlement; (d) a statement as to whether, in the opinion of Respondent, such event may cause or contribute to an endangerment to public health or welfare, or the environment; and (e) all available proof supporting their claim of force majeure. Failure to comply with the notice requirements herein regarding an event precludes Respondent from asserting any claim of force majeure regarding that event, provided, however, that if EPA, despite the late or incomplete notice, is able to assess to its satisfaction whether the event is a force majeure under ¶ 52 and whether Respondent has exercised best efforts under ¶ 52, EPA may, in its unreviewable discretion, excuse in writing Respondent’s failure to submit timely or complete notices under this Paragraph.

54. EPA will notify Respondent of its determination whether Respondent is entitled to relief under ¶ 52, and, if so, the duration of the extension of time for performance of the obligations affected by the force majeure. An extension of the time for performance of the obligations affected by the force majeure shall not, of itself, extend the time for performance of any other obligation. Respondent may initiate dispute resolution under Section XIV regarding EPA’s determination within 15 days after receipt of the determination. In any such proceeding, Respondent has the burden of proving that it is entitled to relief under ¶ 52 and that its proposed extension was or will be warranted under the circumstances.

55. The failure by EPA to timely complete any activity under the Settlement is not a violation of the Settlement, provided, however, that if such failure prevents Respondent from

timely completing a requirement of the Settlement, Respondent may seek relief under this Section.

XIV. DISPUTE RESOLUTION

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

57. A dispute will be considered to have arisen when Respondent sends a written notice of dispute (“Notice of Dispute”) to EPA. Disputes arising under this Settlement must in the first instance be the subject of informal negotiations between Respondent and EPA. If Respondent objects to any EPA action taken pursuant to this Settlement, it shall send EPA a Notice of Dispute describing the objection(s) within 14 days after such action. The period for informal negotiations may not exceed 30 days after the dispute arises, unless EPA otherwise agrees. If the parties cannot resolve the dispute by informal negotiations, the position advanced by EPA is binding unless Respondent initiates formal dispute resolution under ¶ 58. By agreement of the parties, mediation may be used during this informal negotiation period to assist the parties in reaching a voluntary resolution or narrowing of the matters in dispute.

58. Formal Dispute Resolution

a. **Statements of Position.** Respondent may initiate formal dispute resolution by submitting, within 20 days after the conclusion of informal dispute resolution under ¶ 57, an initial Statement of Position regarding the matter in dispute. The EPA's responsive Statement of Position is due within 30 days after receipt of the initial Statement of Position. All Statements of Position must include supporting factual data, analysis, opinion, and other documentation. If appropriate, EPA may extend the deadlines for filing statements of position for up to 15 days and may allow the submission of supplemental statements of position.

b. **Formal Decision.** The Director of the Superfund & Emergency Management Division, EPA Region III, will issue a formal decision resolving the dispute (“Formal Decision”) based on the Statements of Position and any replies and supplemental statements of position. The Formal Decision is binding on Respondent, and shall be incorporated into and become an enforceable part of this Settlement.

59. **Escrow Account.** For disputes regarding a Future Response Costs billing, Respondent shall: (a) establish, in a duly chartered bank or trust company, an interest-bearing escrow account that is insured by the Federal Deposit Insurance Corporation (“FDIC”); (b) remit to that escrow account funds equal to the amount of the contested Future Response Costs; and (c) send to EPA a copy of the transmittal letter and check paying the uncontested Future Response Costs, and a copy of the correspondence that established and funded the escrow account, including the name of the bank, the bank account number, and a bank statement showing the initial balance in the account. EPA may, in its unreviewable discretion, waive the requirement to establish the escrow account. Respondent shall cause the escrow agent to pay the amounts due to EPA under ¶ 48, if any, by the deadline for such payment in ¶ 48. Respondent is responsible for any balance due under ¶ 48 after the payment by the escrow agent.

60. The initiation of dispute resolution procedures under this Section does not extend, postpone, or affect in any way any requirement of this Settlement, except as EPA agrees. Stipulated penalties with respect to the disputed matter will continue to accrue, but payment is stayed pending resolution of the dispute, as provided in ¶ 63.

XV. STIPULATED PENALTIES

61. Unless the noncompliance is excused under Section XIII (Force Majeure), Respondent is liable to EPA for the following stipulated penalties:

a. for any failure: (1) to pay any amount due under Section XII; (2) to establish any escrow account required under ¶ 59; (3) to comply with the requirements of ¶ 11 (including the designation of a Project Coordinator); ¶ 12 (including the identification of contractors and subcontractors); ¶ 17 (including the submission of a Removal Work Plan for EPA approval); ¶ 18 (including the submission of a Health and Safety Plan to EPA); ¶ 19 (including use of approved Quality Assurance and Quality Control procedures); ¶ 21 (including following the general and technical requirements for submission of deliverables to EPA); ¶ 22 (including requirements for off-site shipment of wastes; ¶¶ 24-25 (including providing notice of, and responding to, emergencies); ¶ 26 (including submission of Progress Reports); ¶ 27 (including performing additional removal actions); ¶ 28 (including submission of a Final Report); ¶¶ 32-33 (including obtaining access and providing access to EPA); ¶ 46 (including obtaining insurance); and ¶ 64 (including payment of stipulated penalties):

Period of Noncompliance	Penalty Per Noncompliance Per Day
1st through 14th day	\$750.00
15th through 30th day	\$1,000.00
31st day and beyond	\$1,500.00

b. for any failure to comply with the requirements of Section XIX (Records):

Period of Noncompliance	Penalty Per Noncompliance Per Day
1st through 14th day	\$500.00
15th through 30th day	\$750.00
31st day and beyond	\$1,000.00

62. **Work Takeover Penalty.** If EPA assumes performance of all of the Work under ¶ 31 (Work Takeover), Respondent is liable for a stipulated penalty in the amount of \$100,000.00. If EPA assumes performance of a specific portion, but not all of, the remaining Work under ¶ 31 (Work Takeover), Respondent shall be liable for a stipulated penalty in the amount of \$50,000.00.

63. **Accrual of Penalties.** Stipulated penalties accrue from the date performance is due, or the day a noncompliance occurs, whichever is applicable, until the date the requirement is completed or the final day of the correction of the noncompliance. Nothing in this Settlement prevents the simultaneous accrual of separate penalties for separate noncompliances with this

Settlement. Stipulated penalties accrue regardless of whether Respondent has been notified of its noncompliance, and regardless of whether Respondent has initiated dispute resolution under Section XIV, provided, however, that no penalties will accrue as follows:

a. with respect to a submission that EPA subsequently determines is deficient, during the period, if any, beginning on the 31st day after EPA's receipt of such submission until the date that EPA notifies Respondent of any deficiency; or

b. with respect to a matter that is the subject of dispute resolution under Section XIV, during the period, if any, beginning on the 21st day after EPA's Statement of Position is received until the date of the Formal Decision under ¶ 58.b.

64. Demand and Payment of Stipulated Penalties. EPA may send Respondent a demand for stipulated penalties. The demand will include a description of the noncompliance and will specify the amount of the stipulated penalties owed. If EPA sends a demand for payment of stipulated penalties, a copy of the demand, including references to the Site Name, Docket Number, and Site/Spill ID number 03W9, will be sent by email to the (1) U.S. EPA Cincinnati Finance Office at CINWD_AcctsReceivable@epa.gov, and (2) U.S. EPA Region III Regional Hearing Clerk at R3_Hearing_Clerk@epa.gov. Respondent may initiate dispute resolution under Section XIV within 30 days after receipt of the demand. Respondent shall pay the amount demanded or, if it initiates dispute resolution, the uncontested portion of the amount demanded, within 30 days after receipt of the demand. Respondent shall pay the contested portion of the penalties determined to be owed, if any, within 30 days after the resolution of the dispute. Each payment for: (a) the uncontested penalty demand or uncontested portion, if late, and; (b) the contested portion of the penalty demand determined to be owed, if any, must include an additional amount for Interest accrued from the date of receipt of the demand through the date of payment. Respondent shall make payment at <https://www.pay.gov> using the link for "EPA Miscellaneous Payments Cincinnati Finance Center," including references to the Site Name, Docket Number, and Site/Spill ID number 03W9 and the purpose of the payment. Respondent shall send notices of this payment, including the references, by email to the (1) U.S. EPA Cincinnati Finance Office at CINWD_AcctsReceivable@epa.gov; (2) U.S. EPA Region III Regional Hearing Clerk at R3_Hearing_Clerk@epa.gov; and (3) the U.S. EPA Region III Office of Regional Counsel at R3_ORC_Mailbox@epa.gov. The payment of stipulated penalties and Interest, if any, does not alter any obligation by Respondent under the Settlement.

65. Nothing in this Settlement limits the authority of the EPA to seek any other remedies or sanctions available by virtue of Respondent's noncompliance with this Settlement or the statutes and regulations upon which it is based, including penalties under sections 106(b) and 122(l) of CERCLA, and punitive damages pursuant to section 107(c)(3) of CERCLA, provided, however, that the EPA may not seek civil penalties under section 122(l) of CERCLA for any noncompliance for which a stipulated penalty is provided for in this Settlement, except in the case of a willful noncompliance with this Settlement or in the event that EPA assumes performance of a portion or all of the Work pursuant to ¶ 31 (Work Takeover).

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

XVI. COVENANTS BY EPA

67. **Covenants for Respondent.** Subject to ¶ 70, EPA covenants not to sue or to take administrative action against Respondent under sections 106 and 107(a) of CERCLA regarding the Work and Future Response Costs.

68. **Reserved.**

69. The covenants under ¶ 67: (a) take effect upon the Effective Date; (b) are conditioned on the complete and satisfactory performance by Respondent of the requirements of this Settlement; (c) extend to the successors of Respondent but only to the extent that the alleged liability of the successor of the Respondent is based solely on its status as a successor of the Respondent; and (d) do not extend to any other person.

70. **General Reservations.** Notwithstanding any other provision of this Settlement, EPA reserves, and this Settlement is without prejudice to, all rights against Respondent regarding the following:

- a. liability for failure by Respondent to meet a requirement of this Settlement;
- b. liability for performance of response action other than the Work;
- c. liability for costs not included within the definition of Future Response;
- d. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- e. liability for violations of federal or state law that occur during or after implementation of the Work;
- f. liability arising from the past, present, or future disposal, release or threat of release of Waste Materials outside of the Site; and
- g. criminal liability.

71. Subject to ¶ 67, nothing in this Settlement limits any authority of EPA to take, direct, or order all appropriate action to protect human health and the environment or to prevent, abate, respond to, or minimize an actual or threatened release of Waste Material on, at, or from the Site, or to request a Court to order such action.

XVII. COVENANTS BY RESPONDENT

72. **Covenants by Respondent**

a. Subject to ¶ 73, Respondent covenants not to sue and shall not assert any claim or cause of action against the United States under CERCLA, section 7002(a) of RCRA, the United States Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act,

28 U.S.C. § 2412, the State Constitution, State law, or at common law regarding the Work, Future Response Costs, and this Settlement.

b. Subject to ¶ 73, Respondent covenants not to seek reimbursement from the Fund through CERCLA or any other law for costs of the Work, Future Response Costs, or any claim arising out of response actions at or in connection with the Site.

73. **Respondent’s Reservation.** The covenants in ¶ 72 do not apply to any claim or cause of action brought, or order issued, after the Effective Date by the United States to the extent such claim, cause of action, or order is within the scope of a reservation under ¶¶ 70.a through 70.g.

74. **Reserved.**

75. **Reserved.**

76. **Reserved.**

77. **Reserved.**

78. **Reserved.**

XVIII. EFFECT OF SETTLEMENT; CONTRIBUTION

79. The Parties agree that: (a) this Settlement constitutes an administrative settlement under which Respondent has, as of the Effective Date, resolved its liability to EPA within the meaning of sections 113(f)(2), 113(f)(3)(B), and 122(h)(4) of CERCLA; and (b) Respondent is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by sections 113(f)(2) and 122(h)(4) of CERCLA, or as may be otherwise provided by law, for the “matters addressed” in this Settlement. The “matters addressed” in this Settlement are the Work and Future Response Costs, provided, however, that if EPA exercises rights against Respondent under the reservations in ¶¶ 70.a through 70.g, the “matters addressed” in this Settlement do not include those response costs or response actions that are within the scope of the exercised reservation.

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

81. **Res Judicata and Other Defenses.** In any subsequent administrative or judicial proceeding initiated against Respondent by EPA or by the United States on behalf of EPA for injunctive relief, recovery of response costs, or other appropriate relief relating to the Site, Respondent shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, claim preclusion (res judicata), issue preclusion (collateral estoppel), claim-

splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the instant case.

82. Nothing in this Settlement creates any rights in, or grants any defense or cause of action to, any person not a Party to this Settlement. Except as provided in Section XVII (Covenants by Respondent), each of the Parties expressly reserves any and all rights (including pursuant to section 113 of CERCLA), defenses, claims, demands, and causes of action that each Party may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto. Nothing in this Settlement diminishes the right of the United States under sections 113(f)(2) and 113(f)(3) of CERCLA to pursue any person not a party to this Settlement to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to section 113(f)(2).

83. **Reserved.**

XIX. RECORDS

84. **Respondent's Certification.** Respondent certifies that: (a) it has implemented a litigation hold on documents and electronically stored information relating to the Site, including information relating to its potential liability under CERCLA regarding the Site, since the notification of potential liability by the United States or the State; and (b) it has fully complied with any and all EPA requests for information under sections 104(e) and 122(e) of CERCLA, and section 3007 of RCRA.

85. **Reserved.**

86. **Retention of Records and Information**

a. Respondent shall retain, and instruct its contractors and agents to retain, the following documents and electronically stored data ("Records") until 10 years after the Notice of Completion of the Work under ¶ 29.a ("Record Retention Period"):

- (1) All records regarding Respondent's liability and the liability of any other person under CERCLA regarding the Site;
- (2) All reports, plans, permits, and documents submitted to EPA in accordance with this Settlement, including all underlying research and data; and
- (3) All data developed by, or on behalf of, Respondent in the course of performing the Work.

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

87. Respondent shall provide to EPA, upon request, copies of all Records and information required to be retained under this Section. Respondent shall also make available to EPA, for purposes of investigation, information gathering, or testimony, their employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

88. Privileged and Protected Claims

a. Respondent may assert that all or part of a record requested by EPA is privileged or protected as provided under federal law, in lieu of providing the record, provided that Respondent complies with ¶ 88.b, and except as provided in ¶ 88.c.

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

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

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

90. Notwithstanding any provision of this Settlement, EPA retains all of its information gathering and inspection authorities and rights, including enforcement actions related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

XX. NOTICES AND SUBMISSIONS

91. All agreements, approvals, consents, deliverables, modifications, notices, notifications, objections, proposals, reports, waivers, and requests specified in this Settlement

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

As to EPA: Include on all notices:

Re: North Penn Area 6 Superfund Site – Former Parker Hannifin Property;
Docket No. CERCLA-03-2023-0007DC;
Site/Spill ID #03W9.

If via email to RPM (preferred):

Huu Ngo ngo.huu@epa.gov

If via regular mail to RPM (if the deliverable cannot be sent via email):

Huu Ngo (3SD21)
Eastern Pennsylvania Remedial Section
Superfund and Emergency Management Division
U.S. Environmental Protection Agency
Four Penn Center
1600 John F. Kennedy Blvd.
Philadelphia, PA 19103-2852

If via email to the U.S. EPA Region III Office of Regional Counsel:

R3_ORC_Mailbox@epa.gov

If via email to the U.S. EPA Region III Regional Hearing Clerk:

R3_Hearing_Clerk@epa.gov

If via email to the U.S. EPA Cincinnati Finance Office:

CINWD_AcctsReceivable@epa.gov

As to Via email to:

Respondent:

Jonathan Waddell
jonathan.waddell@ehs-support.com

XXI. APPENDIXES

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

“Appendix A” is a map of the Affected Property.

“Appendix B” is a map of the Site.

“Appendix C” is a diagram of the Excavation Area.

XXII. MODIFICATIONS

93. The RPM may modify any plan or schedule in writing or by oral direction. EPA will promptly memorialize in writing any oral modification, which will be effective on the date of the RPM’s oral direction. Any other requirements of this Settlement may be modified in writing by mutual agreement of the parties.

94. If Respondent seeks permission to deviate from any approved Removal Work Plan or schedule, Respondent’s Project Coordinator shall submit a written request to EPA for approval outlining the proposed modification and its basis. Respondent may not proceed with a requested deviation until receiving oral or written approval from the RPM pursuant to ¶ 93.

95. No informal advice, guidance, suggestion, or comment by the RPM or other EPA representatives regarding any deliverable submitted by Respondent relieves Respondent of its obligation to obtain any formal approval required by this Settlement, or to comply with all requirements of this Settlement, unless it is formally modified.

XXIII. RESERVED

96. **Reserved.**

XXIV. SIGNATORIES

97. The undersigned representative of EPA and the undersigned representative of Respondent each certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement and to execute and legally bind such party to this Settlement.

XXV. INTEGRATION

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

XXVI. RESERVED

99. **Reserved.**

XXVII. EFFECTIVE DATE

100. This Settlement is effective when EPA issues notice to Respondent that the Regional Administrator or his/her delegatee has signed the Settlement.

IT IS SO AGREED AND ORDERED:

**BY THE U.S. ENVIRONMENTAL
PROTECTION AGENCY:**

[Digitally signed and dated]

PAUL LEONARD

Director

Superfund & Emergency Management Division

U.S. Environmental Protection Agency

Region III

Signature Page for Settlement Regarding North Penn Area 6 Superfund Site – Former Parker Hannifin Corporation Property

FOR: PARKER HANNIFIN CORPORATION

A handwritten signature in black ink, appearing to read "Paul Taylor", enclosed within a thin black rectangular border.

Dated

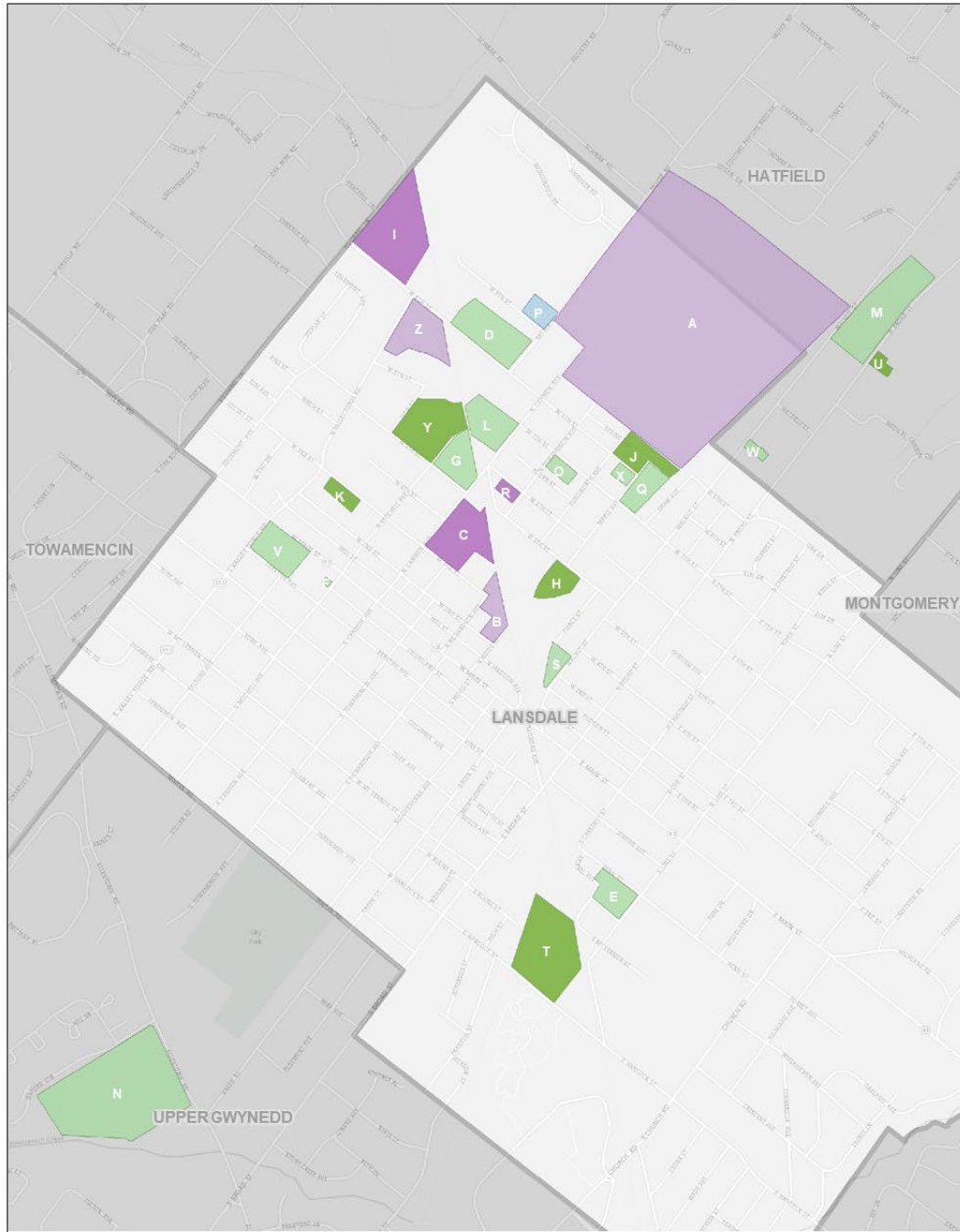
Name:
Title:
Address:

APPENDIX A

APPENDIX B

North Penn 6 Site: Property Locations

Lansdale, Pennsylvania

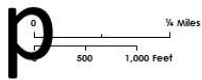


Appendix B
Map of North Penn Area 6 Superfund Site

Properties:

- | | | |
|------------------------|--|-----------------------------|
| A. American Clean Tile | J. John Evans and Sons | S. REP |
| B. Borough Of Lansdale | K. Keystone Hydraulics | T. Rogers Mechanical |
| C. Central Sprinkler | L. Landaca Associates | U. Royal Cleaners |
| D. Crystal Soap | M. Lansdale Realty | V. Rybond, Inc. |
| E. Decision Data | N. Lehigh Valley Dairies | W. Tri-Kris Co. |
| F. Dip 'N Strip | O. Mattero Brothers | X. United Knitting Mills |
| G. Eaton Laboratories | P. Ninth and Moyers | Y. Westside Industries |
| H. Electra Products | Q. Philadelphia Toboggan And Skee Ball | Z. William M. Wilson's Sons |
| I. J.W. Rex | R. Precision Rebuilding | |

- | | |
|-----|--------|
| OU1 | OU 1,3 |
| OU2 | OU 2,3 |
| OU3 | |



US EPA Region 3, GIS Team - J Ford, 11/24/2015 - Map 4010

EPA United States Environmental Protection Agency
 Sources: EPA Region 3 - Property Locations

APPENDIX C

