IN THE MATTER OF:

Exact Anodizing Superfund Site
Union County, New Jersey

CERCLA LIEN PROCEEDING
Docket No. II-CERCLA-02-2002-2004

RECOMMENDED DECISION

This matter is a proceeding to determine whether the United States Environmental Protection Agency (EPA) has a reasonable basis to perfect a lien pursuant to Section 107(l) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) on certain property in Union County, New Jersey owned by Garanod Co., Inc. (Garanod), a New Jersey corporation.

This proceeding, instituted at Garanod's request, is being conducted in accordance with EPA's *Supplemental Guidance on Federal Superfund Liens*, OSWER Directive No. 9832.12-1a, issued July 29, 1993 (*Supplemental Guidance*). As Regional Judicial Officer for EPA's Region 2, I am the neutral EPA official designated to conduct this proceeding and to make a written recommendation to the Regional Counsel (the Region 2 official authorized to file liens) as to whether EPA has a reasonable basis to perfect the lien.

In accordance with the *Supplemental Guidance*, I held a telephonic meeting with Garanod's Counsel and with Counsel for EPA-Region 2. The meeting notes have been transcribed and added to the Lien Filing Record (LFR),[1] as required by the *Supplemental Guidance*. The Regional Hearing Clerk has also added to the LFR a post-meeting submission filed by Counsel for EPA on January 23, 2002.[2] Counsel for Garanod did not file a post-meeting submission.

Section 107(l) of CERCLA, 42 U.S.C. § 9607(l) provides that all costs and damages for which a person is liable to the United States in a cost recovery action under CERCLA shall constitute a lien in favor of the United States upon all real property and rights to such property which (1) belong to such person and (2) are subject to or affected by a removal or remedial action. The lien arises at the time costs are first incurred by the United States with respect to a response action under CERCLA or at the time the landowner is provided written notice of potential liability, whichever is later. CERCLA §

107(l)(2); 42 U.S.C. § 9607 (l)(2). The lien also applies to all future costs incurred at the site. The lien continues until the liability for the costs or a judgment against the person arising out of such liability is satisfied or becomes unenforceable through operation of the statute of limitations. CERCLA § 107(l)(2); 42 U.S.C. § 9607(l)(2).

Under the *Supplemental Guidance* I am to consider all facts relating to whether EPA has a reasonable basis to believe that the statutory elements for perfecting a lien under Section 107(l) of CERCLA have been satisfied. Specific factors for my consideration under the *Supplemental Guidance* include:

1) Was the property owner sent notice by certified mail of potential liability?

2) Is the property owned by a person who is potentially liable under CERCLA?

3) Is the property subject to or affected by a removal or remedial action?

4) Has the United States incurred costs with respect to a response action under CERCLA?

5) Does the record contain any other information which is sufficient to show that the lien should not be filed?

Due Process Requirements

While CERCLA does not provide for challenges to the imposition of a lien under Section 107(l), in accordance with the *Supplemental Guidance* the Agency affords property owners an opportunity to present evidence and to be heard when it files CERCLA lien notices. The *Supplemental Guidance* was issued by the Agency in response to the decision in Reardon v. U.S., 947 F.2d 1509 (1st Cir. 1991). Under Reardon, the minimum procedural requirements would be notice of an intention to file a lien and provision for a hearing if the property owner claimed that the lien was wrongfully imposed. Reardon at 1522; In the Matter of Iron Mountain Mine, Inc., Determination of Probable Cause, May 4, 2000.

The Standard to be Applied

The "reasonable basis" standard applied here is that used in the *Supplemental Guidance*: "The neutral Agency official should consider all facts relating to whether EPA has a reasonable basis to believe that the statutory elements have been satisfied for the perfection of a lien." *Supplemental Guidance* at page 7. In addition, the *Supplemental Guidance* provides that ". . .the property owner may present information or submit documents purporting to establish that EPA has erred in believing that it has a reasonable basis to perfect a lien . . ." *Id.*

Factual Background

The Exact Anodizing Superfund site (Site), located at 74-82 Livingston Street in Union County, New Jersey, consists of a two-story brick industrial building situated on a parcel of less than 0.5 acre. The surrounding area is a mix of residential, commercial, and industrial properties. An elementary school is located within two blocks of the Site, and single-family residences are located directly adjacent to the Site.[3]

The building on the Site is not currently in use. The Site is deserted and fenced in, but is not completely secured, and there is evidence of access by trespassers at the Site. Debris is scattered throughout the Site. [4]

Garanod purchased the property on which the site is located on May 12, 1966, and is the current owner of the Site.[5] Anodizing operations were performed at the Site by Exact Anodizing Co. until approximately 1999.[6] Exact Anodizing Co. was liquidated in bankruptcy in 2000.[7]

On September 26, 2001, NJDEP responded to a report by the Elizabeth Fire Dispatcher,[8] mobilized to the Site and began to stabilize the Site by stabilizing entrances, repairing an overhead door, covering vats with plastic tarp, removing solid waste and debris, and overpacking leaking drums. Through NJDEP's activities, approximately forty 200 gallon vats, and approximately forty to fifty 55-gallon drums were stabilized.[9]

On that same date, NJDEP verbally referred the Site to EPA, which performed a site visit on September 28, 2001. During this site visit, the EPA On-Site Coordinator (OSC) performed an expedited removal assessment that confirmed the presence of hazardous substances at the Site, making it eligible for a removal action,[10] and the Acting Director of EPA's Emergency and Remedial Response Division provided verbal authorization of $178,000 to provide security and to remove the anodizing wastes remaining on the Site. EPA immediately established 24-hour security at the Site.[11]

At this time, NJDEP informed EPA that Gary Kantor, President of Garanod, had indicated a willingness to perform the response action, and was procuring financing to facilitate this undertaking. On October 4, 2001, EPA received a call from DFH, an environmental consulting firm, explaining that they were anticipating that Garanod would retain them to perform the response action. After numerous unsuccessful attempts at communicating with Mr. Kantor, EPA spoke to Edward O'Byrne, Garanod's attorney. After some discussion, Mr. O'Byrne indicated that his client would prefer to perform the work under a unilateral order rather than order on consent.[12] EPA issued a Notice of Potential Liability and Request for Information dated October 11, 2001 to Garanod.[13]

On October 17, 2001, EPA again contacted Mr. O'Byrne, who indicated at that time that he had advised his client to obtain environmental counsel, as this matter was beyond his expertise. Two days later, DFH met with EPA to discuss the work plan, and informed EPA that they had not yet been

retained by Garanod to complete the response action.[14] With the understanding that Mr. Kantor intended to perform the response action, a Unilateral Administrative Order (UAO) dated October 22, 2001 was sent to Garanod, setting forth the work to be performed at the Site and the schedule for that work, and requiring Garanod to submit a notice of intent to comply with the terms of the order by November 5, 2001.[15] By letter to Garanod dated November 7, 2001, EPA stated that it had not received notice of compliance with the UAO to date, and that, therefore, it intended to conduct the removal action unilaterally.[16]

On that same date, EPA was contacted by Garanod's newly retained counsel, Alan Ashkinaze, who sent a letter on that date indicating that Garanod still intended to comply with the terms of the UAO and had selected a contractor to perform the required work. Counsel for Garanod also requested that EPA reconsider its decision to unilaterally perform clean up activities at the Site and permit his client to implement the required remedial activities.[17] However, EPA subsequently confirmed by letter dated November 19, 2001 that it had since been informed that a contractor had not in fact been retained by Garanod, and that Garanod did not have the financial ability to perform the response action. EPA further explained that it was unable to "postpone the removal action indefinitely while Garanod Co. attempts to research different options", and that it was proceeding with the unilateral removal action based on its determination that the conditions at the Site constituted a threat to the public health, welfare or the environment. [18]

By letter dated January 11, 2002,[19] EPA forwarded an inventory of material present at the Site, [20] inviting Mr. Kantor to advise EPA as to which material at the Site could be sold or given to a third party, thereby relieving EPA of the cost of disposing of those particular materials.

As of the date of the lien meeting, the status at the Site was that deteriorated drums containing hazardous substances were overpacked and stored in a room with a roof without visible holes. The open top vats, covered with plastic tarp, still contained anodizing material, some of which have been tested and found to be highly acidic or alkaline. The roof of the structure in which these vats are located had large holes, and these holes could be seen from the street. It appeared that this building could easily be accessed by a trespasser approaching from the roof of the adjoining building.[21]

As of November 27, 2001, as set forth in EPA's cost summary of that date, EPA had incurred costs of over $6,400.[22] Additional costs have been incurred since that date, and will continue to be incurred.[23] As set forth in the record, the Acting Director of the Emergency and Remedial Response Division gave verbal authorization for these costs on September 28, 2001, and the Acting Deputy Regional Administrator confirmed the earlier authorization and approved a ceiling increase, as discussed in more detail under the fourth factor for review, below.[24]

Factors for Review

1) Notice of Potential Liability

There is no dispute that the property owner, Garanod, was sent notice of potential liability, dated October 11, 2001, by certified mail, return receipt requested (Document 4 in the LFR).

2) Property Owned by Potentially Liable Party

There is no dispute as to Garanod's ownership of subject property since May of 1966. See *Deed*, Document 3 in the LFR. Under CERCLA § 107(a)(1) and (2), 42 U.S.C. § 9607(a)(1) and (2), liable persons include persons who presently own a facility or who owned the facility at the time of disposal of a hazardous substance. It is not disputed that Garanod is a person, as defined in CERCLA § 101(21), 42 U.S.C. § 9601(21), that owns a facility, as defined in CERCLA § 101(9), 42 U.S.C. § 9601(9), at which there was a disposal, as defined in CERCLA § 101(29), 42 U.S.C. § 9601(29). Therefore, Garanod, which currently owns the Site *and* owned the Site during the disposal of hazardous substances, is a potentially liable party.

3) Property Subject to Removal or Remedial Action

It is undisputed that EPA has commenced, and continues to undertake, a removal or remedial action on the property. However, Garanod disputes the reasonableness of EPA in taking the removal action, arguing that because the actions taken by EPA were unreasonable under the circumstances, Garanod is not liable for the cost of these actions under the applicable statutes. Therefore, Garanod continues, there is no reasonable basis for EPA to believe that the statutory elements for perfecting a lien on the property have been satisfied.[25]

Garanod argues that the issuance of the UAO was unnecessary because there was no imminent danger at the Site, which it believes had been adequately stabilized by NJDEP.[26] Garanod states, for example, that as result of NJDEP's overpacking of tanks, there is a very limited chance of release of a hazardous substance beyond the packing itself.[27] In addition, Garanod argues that may of the substances at the Site are not hazardous, but are common household products.[28] Garanod questions the necessity for any involvement at all on the part of EPA once NJDEP began to respond at the Site,[29] further alleging that the security which EPA established at the Site actually prevented Mr. Kantor from gaining the necessary access to the Site.[30]

Garanod also objects to the removal action on the grounds that Garanod should have been afforded the opportunity to control the cleanup. Garanod alleges that, given the parameters set by the UAO, including the timetable and type of removal action specified therein, Garanod was unable to undertake the removal.[31] Garanod believes that its proposal, to find financing for the removal action or

sell the Site to a Brownfield developer, clean up the Site and use the proceeds of the sale to reimburse EPA, would be the only way to ensure that EPA would receive reimbursement of its costs.[32]

Garanod states that the UAO, taken together with perfection of the proposed lien, would prevent Mr. Kantor from marketing the Site and obtaining the money necessary to reimburse EPA, NJDEP, and other parties.[33] Finally, Garanod notes that this Site is the only property owned by Garanod,[34] and claims that if EPA continues with the removal action, Garanod and Mr. Kantor will be unable to reimburse the parties for the removal costs.[35]

Garanod is making two separate but related arguments, that the response action being undertaken by EPA is unreasonable in that there is no longer any threat of release at the Site, and that EPA's actions at the site precluded Garanod from proceeding with what it perceives to be a more reasonable course of action. I interpret both arguments to constitute claims that the property is not subject to or affected by a valid removal or remedial action. Based on its interpretation of the circumstances, Garanod has concluded that any costs resulting from EPA's response action are unreasonable, and therefore, Garanod should not be deemed liable for the reimbursement of these costs. Therefore, Garanod argues that there is no reasonable basis to believe that EPA should file this lien.

As I am only to consider those issues having a bearing on the reasonableness of EPA in believing that the statutory elements for perfecting a lien have been satisfied, Garanod, in challenging the response action being taking by EPA, must make a showing that the removal action is inconsistent with the National Oil and Hazardous Substances Pollution Contingency Plan, as amended, 40 CFR Part 300 ("NCP"), and that therefore, EPA has not and will not incur costs for which Garanod could be found liable. It is inappropriate for me to consider the nature of the response action (See the more complete discussion of this point, below).

EPA responds to Garanod's characterization of the response as unreasonable by stating that EPA has documented and evaluated conditions at the Site consistent with the factors enumerated at 40 CFR § 300.415(b)(2). Based on those factors, EPA argues that it properly made the determination called for in 40 CFR § 300.415(a)(1) and (b)(1), that a removal action is appropriate as the conditions create a "threat to the public health or welfare of the United States or the environment." [36]

According to the *Action Memorandum*, LFR Document 8 at 6, the following criteria for a CERCLA removal action under 40 CFR § 300.415(b)(2) of the NCP were presented by the conditions at the Site:

- actual or potential exposure to nearby human populations, animals or the food chain from hazardous substances or pollutants or contaminants;

- hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release;

- threat of fire or explosion; and

- the unavailability of other appropriate Federal or State response mechanisms to respond to the release.

After carefully reviewing the record, as well as the relevant statutes, regulations, and case law, I agree with EPA in concluding that these factors were indeed present at the Site and did justify a removal action under the NCP. First of all, hazardous substances, pollutants and contaminants were present in drums, vats and other containers on the Site.[37] These substances were documented in the Inventory forwarded to Garanod by EPA.[38] Despite NJDEP's stabilizaiton efforts, there are still 282 containers at the Site, many containing hazardous substances, which have not been overpacked, and a great deal of debris remains at the Site.[39] As stated above, the Site was located near private residences and a school, and there was also evidence of trespassing at the Site. Therefore, there was in fact a potential for exposure to nearby human populations from these substances.[40]

EPA also emphasizes that a threat of release is posed by the fact that some of the bulk storage containers are in deteriorated condition, and evidence of past spills and release can be found at the Site. There is also floor deterioration. In addition, there is still the possibility that additional deteriorated containers and/or drums will be found amid the cutter at the Site.[41]

The RJO in Region 8, finding a threat of release of hazardous substances where there were four deteriorating 35 gallon drums of a hazardous substance, noted that the courts have found that the storage of hazardous substances in deteriorating drums does present a threat of release. In the Matter of Layton Salvage Yard Site, Recommended Decision, Region 8.

It also appears that there is a potential for fire resulting from the large amount of debris present at the Site, as well as the possibility of fires started by trespassers. In addition, explosions could be precipitated if certain chemicals were combined.[42]

Finally, in direct contradiction to Garanod's claim that once NJDEP was on the site, EPA intervention was unnecessary, EPA has concluded that relevant State and local governments would be unable to provide response assistance on timely basis, and notes NJDEP's specific request that EPA assume responsibility for the Site.[43]

My review of the LFR support EPA's characterization of the Site. EPA has throughly documented the presence of hazardous substances at the Site, and I find reasonable EPA's conclusion that a removal action at the Site was necessitated by a continuing threat of a release, as defined in CERCLA § 101(22), 42 U.S.C. § 9601(22). In addition, Garanod has not offered any documentation

which successfully challenges EPA's findings supporting the undertaking of a removal action under the NCP.

Garanod's second objection is to the nature of the response action, and control over that action. EPA accurately states, in LFR Document 15 at page 1, that it appears that Garanod has conceded that it cannot perform the removal activities set forth in the UAO and has therefore apparently abandoned its initial argument that, because it had indicated its intent to comply with the UAO, there is no need for EPA to file the lien. However, as stated above, Garanod continues to pursue the argument that it might be able to complete part of the removal if given more time. Basically, at this point, Garanod is asking for an opportunity to fashion some sort of financial arrangement where clean up is facilitated and sale of the property is made, without compliance with the UAO or the perfection of a lien. Garanod states that any other requirements on the part of EPA will work a financial hardship on Garanod, rendering it unable to sell and/or clean up the Site, and leaving it unable to pay for the response which EPA is undertaking, as that response will cost more than the total value of the property, Garanod's only asset.[44]

First of all, I must emphasize that these allegations do not have any bearing whatsoever on the reasonableness of EPA's belief that all the statutory elements for perfecting a lien have been satisfied. As I have emphasized throughout this decision, the scope of my review of EPA's proposal to file a notice of lien is limited to this inquiry. This review cannot focus on the selection of the remedy. As stated in a Recommended Decision issued by the RJO in Region 8, when faced with a similar claim,

> The review can not focus on the selection of the remedy or other matters which are only reviewable in a cost recovery action under Section 107, or are not subject to review. See, Section 113(h), 42 U.S.C. § 9613(h).

In the Matter of Layton Salvage Yard Site, supra at 4.

The fact that Garanod has offered to devise a plan of action , to be taken some time in the future, does not in any way diminish EPA's legal authority to file a lien. In the Matter of Iron Mountain Mine, Inc., supra.

However, I will briefly address each element of Garanod's position. First, the extent to which EPA will work out an arrangement with a property owner is within the discretion of EPA's management. In the Matter of Iron Mountain Mine, Inc., supra; In the Matter of Picollo Farm Superfund Site, CERCLA Lien Proceeding, August 27, 1997. I do note that the record shows that EPA worked with Garanod during the month of October and early November 2001, contacting its counsel and contractors as indicated earlier in this recommended decision, and relying on Garanod's initial representation that it was willing and able to undertake the removal action. As stated above, it

was Garanod's first counsel that requested that the process be accomplished by EPA's issuance of a UAO. Since that time, it has become apparent that Garanod does not intend, nor has the ability, to complete a removal action. Therefore, it appears that EPA has attempted to accommodate Garanod's concerns, but that Garanod is now seeking to further delay the removal action.

Such a delay is not contemplated by either the statutes or the case law on CERCLA liens. One purpose of a lien is to ensure that there is property available to reimburse EPA for its unrecovered costs. The amount of the potential liability of the party against whose property a lien is to be filed need not be established with any exactitude prior to the filing of the lien. Furthermore, in light of this underlying purpose of a CERCLA lien, to protect the United States' ability to recover public funds expended on the cleanup of contamination on the property, as a matter of policy the Agency will consider perfecting a lien on subject property whenever settlement negotiations have not yet resulted in appropriate assurance that the United States will be able to recover the funds it has expended at the site. *Guidance on Federal Superfund Liens,* OSWER Directive No. 9832.12, issued September 22, 1987 *(Guidance),* Section IV.

Morever, the potential financial consequences to Garanod of a lien filing are not relevant to the issue of whether EPA is reasonable in believing that such a lien should be filed. In fact, in this case, where the property owner has indicated that the property is its only asset, the lien is particularly appropriate. As discussed in Recommended Decisions issued by RJO's in other Regions where the property owners presented similar hardship arguments, those financial difficulties are of the same nature as those anticipated by EPA to warrant filing of a lien notice under EPA's applicable policy. See In the Matter of CryoChem, Inc. EPA Docket No. III-93-003L, November 29, 1993; In the Matter of Harvey and Knotts Drum Site, EPA Docket No. III-93-001L, November 10, 1993.

As set forth in the *Guidance*, at pages 3-4:

> Filing of notice of the federal lien will be particularly beneficial to the government's efforts to recover costs in a subsequent Section 107 action in the following situations:
>
> (1) the property is the chief or the substantial asset of the PRP;
> (2) the property has substantial monetary value;
> (3) there is a likelihood that the defendant owner may file for bankruptcy . . . ;
> (4) the value of the property will increase significantly as a result of the removal or remedial work; or
> (5) the PRP plans to sell the property.

Garanod has indicated that the first and fifth factors are present in this case.[45] In addition, it is usually a fair assumption to state that the value of the Site will increase and the Site will become more marketable as a result of EPA's response action. This brings me to another consideration addressed by EPA's lien filing policy, the prevention of windfalls to the property owner.

As quoted on page 4 of In the Matter of Iron Mountain Mine, Inc., supra: "A statutory lien would allow the Federal government to recover the enhanced value of the property and thus prevent the owner from realizing a windfall from cleanup and restoration activities." The RJO cites 131 Cong. Rec. S11580 (statement of Senator Stafford)(September 17, 1985). See also House Energy and Commerce Report on H.R. 2817, page 40, indicating that the lien provision was intended to prevent unjust enrichment. In the Matter of Copley Square Plaza Site, Determination of Probable Cause, June 5, 1997.

To the extent that EPA's efforts will render the Site marketable and more valuable, perfecting a lien on the Site would best serve the purpose of preventing windfalls to the landowner, who in this case, will most likely realize an appreciated value on the Site from the efforts of EPA on that Site.

Thus, I find Garanod's assertion that EPA should permit it to pursue its own remedies on the Site according to its financial means and at its own pace to be an insufficient basis for delaying the filing of a lien.

Based on the various conisderations discussed herein, I conclude that the Site was in fact, and continues to be, subject to a removal or remedial action for purposes of Section 107(l) of CERCLA.

4) United States Incurred Costs

There is no dispute that the United States incurred costs with respect to a response action on the Site under CERCLA. See LFR Document 2. In addition, EPA, in its *Action Memorandum* dated November 16, 2001, estimated that the response actions which were necessary to mitigate the threats at the Site were expected to substantially exceed those provided for in EPA's September 28, 2001 verbal authorization. Based on the updated estimate, the memorandum increased the project ceiling from $250,00 ($178,000 of which was for mitigation contracting) to $592,000 ($386,00 of which covered mitigation contracting).[46]

As stated in the *Guidance*, the statute does not require that an exact sum of costs be specified as a prerequisite to perfection of a lien, especially since the lien includes the cost of ongoing response work. As noted in one Recommended Decision, "it was anticipated that CERCLA liens would often

be filed early in the history of a response action, at a point where EPA would not know the full cost of its response action." In the Matter of Iron Mountain Mine, Inc., supra at 8.

To the extent that Garanod is arguing that the actions taken to date and the ongoing removal actions are unreasonable, it is challenging the reasonableness of the resulting costs. However, this challenge is addressed in the preceding section, where Garanod's challenge to the validity of the removal action as well as Garanod's request to perform its own removal action are addressed.

5) Other Information Showing Lien Should Not Be Filed

Garanod has not presented other information which shows that the lien should not be filed.

Conclusion

I find that the LFR supports a determination that EPA has a reasonable basis to perfect a lien under Section 107(l) of CERCLA. Garanod has not submitted any information that would rebut EPA's claim that it has a reasonable basis to perfect a lien. Issues such as Garanod's request for more time to initiate, and more control over, the response at the Site does not reach the issue of the reasonable basis to file the lien, but address matters of discretion within the prerogative of Region 2's management. The decision to actually file a lien remains within the Regional Counsel's discretion.

The scope of this proceeding is narrowly limited to the issue of whether or not EPA has a reasonable basis to perfect its lien. This Recommended Decision does not compel the filing of the lien; it merely establishes that there is a reasonable basis for doing so. This Recommended Decision does not bar EPA or the property owner from raising any claims or defenses in later proceedings; it is not a binding determination of liability. The recommendation has no preclusive effect and shall not be given any deference or otherwise constitute evidence in subsequent proceedings.

Dated: February 14, 2002

/s/
HELEN S. FERRARA
Regional Judicial and Presiding Officer
U.S. EPA-Region II

1. LFR Document 14.

2. LFR Document 15.

3. LFR Document 8 at 3.

4. LFR Document 8 at 3.

5. LFR Document 3.

6. LFR Document 7 at 4.

7. LFR 15, Exhibit C.

8. At approximately the same time, the Union County Department of Emergency Management contacted NJDEP, also requesting assistance at the Site.

9. LFR Document 8 at 5 - 6.

10. LFR Document 5.

11. LFR Document 8 at 5.

12. LFR Document 15 at 4.

13. LFR Document 4.

14. LFR Document 15 at 4.

15. LFR Document 7.

16. LFR Document 11.

17. LFR Document 12.

18. LFR Document 13.

19. LFR Document 15, Exhibit B.

20. LFR Document 15, Exhibit A.

21. LFR Document 15 at 5.

22. LFR Document 2.

23. LFR Document 15 at 6.

24. LFR Document 8.

25. LFR Document 14 at 10.

26. LFR Document 14 at 10.

27. LFR Document 14 at 18.

28. LFR Document 14 at 17.

29. LFR Document 14 at 19.

30. LFR Document 14 at 20.

31. LFR Document 14 at 10.

32. LFR Document 14 at 11.

33. LFR Document 14 at 21.

34. LFR Document 14 at 29.

35. LFR Document 14 at 28.

36. LFR Document 16 at 2.

37. LFR Document 8 at 6, 14 at 22.

38. LFR Document 15, Exhibit A.

39. LFR Document 15 at 7.

40. LFR Document 8 at 6, LFR Document 14 at 23.

41. LFR Document 8 at 6, LFR Document 14 at 15, 23, 32.

42. LFR Document 8 at 6 - 7.

43. LFR Document 8 at 7.

44. LFR Document 14.

45. LFR Document 14 at 28 - 29.

46. LFR Document 8.