

# **Exhibit 1**

D0001

ORDER FOR REMOVAL RESPONSE ACTIVITIES  
SOUTHERN IOWA MECHANICAL SITE

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
901 NORTH 5<sup>TH</sup> STREET  
KANSAS CITY, KANSAS

**IN THE MATTER OF:**

Southern Iowa Mechanical Site  
Ottumwa, Iowa

Titan Tire Corporation, and  
Dico, Inc.

Respondents

**ORDER FOR REMOVAL RESPONSE  
ACTIVITIES**

U.S. EPA Region 7  
CERCLA Docket No. CERCLA-07-2009-0006

Proceeding under Section 106(a) of the  
Comprehensive Environmental Response,  
Compensation, and Liability Act, as  
amended, 42 U.S.C. § 9606(a)

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**I. JURISDICTION AND GENERAL PROVISIONS**

1. This Order is issued to Dico, Inc. ("Dico") and Titan Tire Corporation ("Titan Tire"), referred to jointly as "Respondents," pursuant to the authority vested in the President of the United States by section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9606(a), as amended ("CERCLA"), and delegated to the Administrator of the United States Environmental Protection Agency ("EPA") by Executive Order No. 12580, January 23, 1987, 52 Fed. Reg. 2923, and further delegated to the Regional Administrators by EPA Delegation Nos. 14-14-A and 14-14-B. The Regional Administrator, EPA Region 7, redelegated these authorities to the Director, Superfund Division by EPA Delegation Nos. R7-14-014-A and R7-14-014B, dated April 24, 2002 and April 19, 1999, respectively.
2. This Order pertains to property located at 3043 Pawnee Drive in Ottumwa, Wapello County, Iowa, the "Southern Iowa Mechanical Site" or the "Site". This Order requires Respondents to conduct the removal actions described herein to abate an imminent and substantial endangerment to the public health, welfare or the environment that may be presented by the actual or threatened release of hazardous substances at or from the Site.
3. EPA has notified the State of Iowa ("State") of this action pursuant to section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

**II. PARTIES BOUND**

4. This Order applies to and is binding upon Respondents and each Respondent's directors, officers, employees, agents, receivers, trustees, successors and assigns. No change in the ownership or corporate status of any Respondent including, but not limited to, any transfer of assets or real or personal property shall in way alter Respondents' responsibilities under this Order.
5. Each Respondent is jointly and severally liable for carrying out all activities required by this Order. Compliance or noncompliance by one or more Respondent with any provision of this Order shall not excuse or justify noncompliance by any other Respondent. In the event of the insolvency or other failure of one Respondent to implement the requirements of this Order, the other Respondent shall complete all such requirements.
6. Respondents shall ensure that their contractors, subcontractors, and representatives receive a copy of this Order and comply with this Order. Respondents shall be responsible for any noncompliance with this Order.

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**III. DEFINITIONS**

7. Unless otherwise expressly provided herein, terms used in this Order which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Order or in attachments to or documents incorporated by reference into this Order, the following definitions shall apply:

a. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601, *et seq.*

b. "Day" shall mean a calendar day. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the close of business of the next working day.

c. "Effective Date" shall be the effective date of this Order as provided in Section XXXI.

d. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

e. "IDNR" shall mean the Iowa Department of Natural Resources and any successor departments or agencies of the State.

f. "National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

g. "Order" shall mean this Order for Removal Response Activities, all appendices attached hereto and all documents incorporated by reference into this document, including all EPA-approved submissions except for progress reports submitted pursuant to Paragraph 43. Submissions pursuant to this Order (other than progress reports) are incorporated into and become a part of the Order upon approval by EPA. In the event of conflict between this Order and any appendix or other incorporated document, this Order shall control.

h. "Parties" shall mean EPA and Respondents.

i. "RCRA" shall mean the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901, *et seq.* (also known as the Resource Conservation and Recovery Act).

j. "Respondents" shall mean Dico, Inc. ("Dico"), and Titan Tire Corporation ("Titan Tire").

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k. "Site" shall mean the Southern Iowa Mechanical Site located at 3043 Pawnee Drive in Ottumwa, Wapello County, Iowa, and depicted generally on the map attached as Appendix A.

l. "State" shall mean the State of Iowa.

m. "Waste Material" shall mean: 1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); 2) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); and 3) any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27).

n. "Work" shall mean all activities Respondents are required to perform under this Order.

**IV. FINDINGS OF FACT**

8. As part of the Des Moines TCE Site Operable Unit 2 Remedial Investigation (OU2 RI), in January 1992, Dico's consultant Eckenfelder, Inc. ("Eckenfelder") sampled insulation in buildings designated Buildings 1 through 5 and the Maintenance Building on Dico's property at 200 Southwest 16th Street, Des Moines, Iowa (the "Dico Property"). Eckenfelder collected samples at various depths within the insulation, ranging from the foil backing layer to insulation material adjacent to the roof. In general, higher concentrations of Polychlorinated Biphenyls ("PCBs") were found near the foil fabric lining than in the intermediate layer or the layer adjacent to the roof. The highest concentration of PCBs found was 29,000 mg/kg in Building 5. Other hazardous substances, including aldrin, dieldrin, chlordane, heptachlor, 2,4-D, 2,4,5-T, were found in the buildings.

9. In March 1994 EPA issued a Unilateral Administrative Order for Removal Action to Dico requiring it to prepare and, upon EPA approval, implement a work plan to, *inter alia*, repair, seal and protect the building insulation (In the matter of Dico Inc., US EPA Docket No. VII-94-F-0017). In its March 1994 work plan Dico described the planned activities associated with the repair and encapsulation of PCB-contaminated insulation in the building walls and ceilings. Damaged ceiling insulation was to be repaired or replaced as necessary, and any insulation beyond repair would be removed and replaced with new insulation. Salvageable insulation would be covered with new foil backing and all joints would be taped with duct tape or approved material. Following the repair of the insulation, all exposed interior surfaces of the buildings would be encapsulated with epoxy paint. Metal panels were to be installed along walls with exposed insulation to protect the insulation from further damage by machinery operating in the buildings.

10. As described in the work plan Dico installed metal panels along walls with exposed insulation to protect the insulation from further damage. Damaged ceiling insulation was repaired or replaced. Salvageable insulation was re-taped and covered with new foil backing. Exposed interior surfaces of the buildings were encapsulated with epoxy paint.

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11. The primary O&M activities with regard to the PCB contaminated insulation were to maintain metal wall panels installed to protect insulation on the walls from damage by machinery, to conduct routine inspections and reporting, to make repairs as necessary, and to perform periodic wipe sampling of the walls, floors and ceilings for PCB analysis. Although EPA agreed to some changes in the O&M Plan as use of the buildings changed, EPA never agreed to eliminate the requirement that the PCB contaminated insulation be encapsulated in place.
12. By agreement signed on or about July 26, 2007, Titan Tire, on behalf of Dico, arranged with Southern Iowa Mechanical to dismantle certain buildings, including the Maintenance Building and Buildings 4 and 5 on the Dico Property. The Maintenance Building and Buildings 4 and 5 contained insulation in walls and ceilings contaminated with Polychlorinated Biphenyls ("PCBs") at levels up to 29,000 mg/kg.
13. Metal siding was reportedly sent to a recycling facility and insulation, lighting fixtures, doors and miscellaneous materials were reportedly disposed of at a landfill. Southern Iowa Mechanical transported the steel structural members ("beams") to its facility in Ottumwa, Iowa. The beams are currently stacked in an open area covering approximately 1 acre.
14. On May 16, 2008, EPA collected wipe samples from the beams, soil samples from the area beneath the beams, and a bulk insulation sample. The wipe samples contained PCBs at concentrations up to 330 micrograms per 100 centimeters squared ("ug/cm<sup>2</sup>"). Soil samples contained PCBs at concentrations up to 3100 micrograms per kilogram ("ug/kg"). The insulation sample contained PCBs at 6,300,000 ug/kg.
15. PCBs are listed as a hazardous substance listed in 40 C.F.R. § 302.4.
16. Actual or potential exposures may be occurring for SIM workers, site visitors, or trespassers who come into contact with the beams. The primary routes of exposure include dermal exposure by direct contact with contaminated areas and ingestion, which may occur if food is handled and consumed following contact with the beams or if exposed areas of skin are brought into contact with the mouth. Potential receptors include those who live at the home for troubled teens, located in very close proximity to the area where the beams are stored.
17. Potential adverse health effects associated with exposure to PCBs include liver damage, skin irritations, reproductive and developmental effects, and cancer.
18. Actual or threatened releases of hazardous substances from this site may present an imminent and substantial endangerment to public health, welfare, or the environment.
19. Dico is a Delaware corporation authorized to do business in the State of Iowa.
20. Titan Tire is an Illinois corporation authorized to do business in the State of Iowa.

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**V. CONCLUSIONS OF LAW AND DETERMINATIONS**

21. Based on the Findings of Fact set forth above and the Administrative Record supporting this removal action EPA has determined that:

a. The Southern Iowa Mechanical Site is a "facility" as defined by section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

b. The contaminants found at the Site, as identified in the Findings of Fact above, include a "hazardous substance" as defined by section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

c. The conditions described in the Findings of Fact, above, constitute an actual or threatened "release" of a hazardous substance from the Site as defined by Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

d. Each Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

e. Each Respondent arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment of hazardous substances at the Southern Iowa Mechanical facility, within the meaning of Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

f. Each Respondent is a responsible party under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and is jointly and severally liable for performance of response action and for response costs incurred and to be incurred at the Site.

g. The removal action required by this Order is necessary to protect the public health, welfare, or the environment and, if carried out in compliance with the terms of this Order, will be consistent with the NCP, as provided in Section 300.700(c)(3)(ii) of the NCP.

**VI. ORDER**

22. Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the Administrative Record for this Site, EPA hereby orders that Respondents comply with the following provisions, including but not limited to all attachments to this Order, all documents incorporated by reference into this Order, and all schedules and deadlines in this Order, attached to this Order, or incorporated by reference into this Order, and perform the following actions.

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**VII. NOTICE OF INTENT TO COMPLY**

23. Each Respondent shall notify EPA in writing within 5 days after the Effective Date of this Order of Respondents' irrevocable intent to comply with this Order. This notice shall be directed to the EPA RPM indentified in paragraph 27 of this Order. Failure of either Respondent to provide such notification within this time period shall be a violation of this Order by such Respondent.

**VIII. DESIGNATION OF CONTRACTOR, PROJECT COORDINATOR AND EPA  
REMEDIAL PROJECT MANAGER**

24. Respondents shall retain one or more contractors to perform the Work and shall notify EPA of the name(s) and qualifications of such contractor(s) within 10 days of the Effective Date. Respondents shall also notify EPA of the name(s) and qualification(s) of any other contractor(s) or subcontractor(s) retained to perform the Work at least 10 days prior to commencement of such Work. EPA retains the right to disapprove of any or all of the contractors and/or subcontractors retained by Respondents. If EPA disapproves of a selected contractor, Respondents shall retain a different contractor and shall notify EPA of that contractor's name and qualifications within 10 days of EPA's disapproval.

25. The proposed contractor must demonstrate compliance with ANSI/ASQC E-4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs" (American National Standard, January 5, 1995), by submitting a copy of the proposed contractor's Quality Management Plan ("QMP"). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B0-1/002), or equivalent documentation as required by EPA.

26. Within 5 days after the Effective Date, Respondents shall designate a Project Coordinator who shall be responsible for administration of all actions by Respondents required by this Order and shall submit to EPA the designated Project Coordinator's name, address, telephone number, and qualifications. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site work. EPA retains the right to disapprove of the designated Project Coordinator. If EPA disapproves of the designated Project Coordinator, Respondents shall retain a different Project Coordinator and shall notify EPA of that person's name, address, telephone number, and qualifications within 5 days following EPA's disapproval. Receipt by Respondents' Project Coordinator of any notice or communication from EPA relating to this Order shall constitute receipt by all Respondents.

27. EPA has designated Mary Peterson as its Remedial Project Manager ("RPM"). Except as otherwise provided in this Order, Respondents shall direct all submissions required by this Order to Ms Peterson at US Environmental Protection Agency Region 7, 901 North 5<sup>th</sup> Street, Kansas City, Kansas 66101.

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28. EPA and Respondents shall have the right, subject to Paragraph 26, to change their designated RPM or Project Coordinator, respectively. Respondents shall notify EPA 5 days before such a change is made. The initial notification may be made orally, but shall be promptly followed by a written notice.

**IX. WORK TO BE PERFORMED**

29. Respondents shall perform, at a minimum, the following removal action:

a. Contaminated Beams-- All residual insulation shall be removed from the beams and shall be containerized and transported offsite for disposal in accordance with 40 C.F.R. § 761.62. All beams or portions of beams contaminated with PCBs at concentrations greater than 10 ug/100 cm<sup>2</sup> PCBs, as determined using a standard wipe test in accordance with 40 C.F.R. § 761.123, shall be decontaminated using scarification to comply with 40 C.F.R. § 761.79(b)(3)(i)(B). Beams or portions of beams determined by visual inspection not to contain insulation or adhesive residues, and which do not undergo scarification, shall be tested by standard wipe testing to verify that those surfaces do not contain PCBs over a level of 10 ug/100 cm<sup>2</sup>. All materials removed from the beams by the scarification process and spent scarifying agent shall be containerized and transported offsite for disposal in accordance with 40 C.F.R. § 761.62. Storage requirements set forth at 40 C.F.R. § 761.65 and marking requirements set forth at 40 C.F.R. §761.40(a)(1) and § 761.40(a)(10) may be applicable for the spent scarifying agent.

b. Soils-- Soils at the Site underlying the areas where the beams have been stored shall be characterized and all soils contaminated with PCBs above 1 ppm shall be excavated and transported in containers meeting the requirements of the DOT Hazardous Materials Regulations at 49 C.F.R. parts 171 through 180 for disposal in accordance with 40 C.F.R. §761.61. Soils with PCB concentrations less than 1 ppm can be left in place.

c. All offsite waste shipments shall comply with manifesting requirements set forth at 40 C.F.R. §761.207, §761.208, §761.209, and §761.218.

**X. WORK PLAN AND IMPLEMENTATION**

30. Within 21 days after the Effective Date, Respondents shall submit to EPA for approval a Work Plan for performing the removal actions described in Section IX, above. The Work Plan shall:

a. Describe the protocol Respondents plan to use to determine which beams are contaminated with PCBs at concentrations greater than 10 ug/100 cm<sup>2</sup>, including identifying the laboratory Respondents plan to use for chemical analysis.

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b. Describe in detail Respondents' plans to decontaminate the beams, including the disposal facility Respondents plan to use for residual insulation and materials resulting from the scarification process.

c. Describe the sampling protocol Respondents plan to use to characterize soils so as to identify soils contaminated with PCBs above 1 ppm, including identifying the laboratory Respondents plan to use for chemical analysis.

d. Describe how Respondents plan to excavate any soils found to be contaminated with PCBs above 1 ppm, including the disposal facility Respondents plan to use for disposal of excavated soils.

e. A schedule for, the actions required by this Order.

f. A Quality Assurance Project Plan ("QAPP") meeting the requirements of Section XII of this Order.

g. A Health and Safety Plan that ensures the protection of the public health and safety during performance of on-site work under this Order. This plan shall be prepared in accordance with EPA's Standard Operating Safety Guide (PUB 9285.1-03, PB 92-963414, June 1992). In addition, the plan shall comply 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 plan shall also include contingency planning. Respondents shall incorporate all changes to the plan recommended by EPA and shall implement the plan during the pendency of the removal action.

31. EPA may approve, disapprove, require revisions to, or modify the Work Plan in whole or in part as provided in Section XI. Respondents shall implement the Work Plan as approved in writing by EPA in accordance with the schedule approved by EPA. Once approved, or approved with modifications, the Work Plan, the schedule, and any subsequent modifications shall be incorporated into and become fully enforceable under this Order.

32. Respondents shall not commence implementation of the Work Plan developed hereunder until receiving written EPA approval pursuant to Paragraph 31.

**XI. EPA APPROVAL OF PLANS AND OTHER SUBMISSIONS**

33. After review of any plan, report or other item that is required to be submitted for approval pursuant to this Order, in a notice to Respondents EPA shall: (a) approve, in whole or in part, the submission; (b) approve the submission upon specified conditions; (c) modify the submission to cure the deficiencies; (d) disapprove, in whole or in part, the submission, directing that Respondents modify the submission; or (e) any combination of the above. However, EPA shall not modify a submission without first providing Respondents at least one notice of deficiency and

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an opportunity to cure within 10 days, except where to do so would cause serious disruption to the Work or where previous submission(s) have been disapproved due to material defects.

34. In the event of approval, approval upon conditions, or modification by EPA, pursuant to Subparagraph 33(a), (b), (c) or (e), Respondents shall proceed to take any action required by the plan, report or other deliverable, as approved or modified by EPA. Following EPA approval or modification of a submission or portion thereof, Respondents shall not thereafter alter or amend such submission or portion thereof unless directed by EPA. In the event that EPA modifies the submission to cure the deficiencies pursuant to Subparagraph 33(c) and the submission had a material defect, EPA retains the right to seek penalties, as provided in Section XIX (Enforcement and Work Takeover).

35. Resubmission.

a. Upon receipt of a notice of disapproval, Respondents shall, within 10 days or such time period as specified by EPA in such notice, correct the deficiencies and resubmit the plan, report, or other deliverable for approval. Respondents may be subject to penalties in accordance with Section XIX (Enforcement and Work Takeover) if the resubmission is disapproved or modified due to a material defect as provided in Paragraphs 36 and 37.

b. Notwithstanding the receipt of a notice of disapproval, Respondents shall proceed to take any action required by any non-deficient portions of the submission, unless otherwise directed by EPA. Implementation of any non-deficient portion of a submission shall not relieve Respondents of any liability for penalties under Section XIX (Enforcement and Work Takeover).

c. Respondents shall not proceed further with any subsequent activities or tasks until receiving EPA approval, approval on condition or modification of the Work Plan. While awaiting EPA approval, approval on condition or modification of these deliverables, Respondents shall proceed with all other tasks and activities which may be conducted independently of these deliverables, in accordance with the schedule set forth under this Order.

36. If EPA disapproves a resubmitted plan, report or other deliverable, or portion thereof, EPA may again direct Respondents to correct the deficiencies. EPA shall also retain the right to modify or develop the plan, report or other deliverable. Respondents shall implement any such plan, report, or deliverable as corrected, modified or developed by EPA.

37. If upon resubmission, a plan, report, or other deliverable is disapproved or modified by EPA due to a material defect, Respondents shall be deemed to have failed to submit such plan, report, or other deliverable timely and adequately.

38. All plans, reports, and other deliverables submitted to EPA under this Order shall, upon approval or modification by EPA, be incorporated into and enforceable under this Order. In the event EPA approves or modifies a portion of a plan, report, or other deliverable submitted to EPA

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under this Order, the approved or modified portion shall be incorporated into and enforceable under this Order.

39. Neither failure of EPA to expressly approve or disapprove of Respondents' submissions within a specified time period, nor the absence of comments, shall be construed as approval by EPA. Whether or not EPA gives express approval for Respondents' deliverables, Respondents are responsible for preparing deliverables acceptable to EPA.

**XII. QUALITY ASSURANCE AND SAMPLING**

40. All sampling and analyses performed pursuant to this Order shall conform to EPA direction, approval, and guidance regarding sampling, quality assurance/quality control ("QA/QC"), data validation, and chain of custody procedures. Respondents shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with the appropriate EPA guidance. Respondents shall follow, as appropriate, "Quality Assurance/Quality Control Guidance for Removal Activities: Sampling QA/QC Plan and Data Validation Procedures" (OSWER Directive No. 9360.4-01, April 1, 1990), as guidance for QA/QC and sampling. Respondents shall only use laboratories that have a documented Quality System that complies with ANSI/ASQC E-4 1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs" (American National Standard, January 5, 1995), and "EPA Requirements for Quality Management Plans (QA/R-2) (EPA/240/B-01/002, reissued May, 2006)," or equivalent documentation as determined by EPA. EPA may consider laboratories accredited under the National Environmental Laboratory Accreditation Program ("NELAP") as meeting the Quality System requirements.

41. Upon request by EPA, Respondents shall have such a laboratory analyze samples submitted by EPA for QA monitoring. Respondents shall provide to EPA the QA/QC procedures followed by all sampling teams and laboratories performing data collection and/or analysis.

42. Upon request by EPA, Respondents shall allow EPA or its authorized representatives to take split and/or duplicate samples. Respondents shall notify EPA not less than 14 days in advance of any sample collection activity, unless shorter notice is agreed to by EPA. EPA shall have the right to take any additional samples that EPA deems necessary. Upon request, EPA shall allow Respondents to take split or duplicate samples of any samples it takes as part of its oversight of Respondents' implementation of the Work.

**XIII. REPORTING**

43. Respondents shall submit a written progress report to EPA concerning actions undertaken pursuant to this Order every 14th day after the date of receipt of EPA's approval of the Work Plan until termination of this Order, unless otherwise directed in writing by the EPA. These reports shall describe all significant developments during the preceding period, including the actions performed and any problems encountered, analytical data received during the reporting period, and

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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.

44. Respondents shall submit 4 copies of all plans, reports or other submissions required by this Order, or any approved work plan. Upon request by EPA, Respondents shall submit such documents in electronic form.

45. Respondents who own or control property at the Site shall, at least 30 days prior to the conveyance of any interest in real property at the Site, give written notice to the transferee that the property is subject to this Order and written notice to EPA of the proposed conveyance, including the name and address of the transferee. Respondents who own or control property at the Site also agree to require that their successors comply with the immediately preceding sentence and Section XIV (Access to Property and Information).

46. Final Report. Within 60 days after completion of all Work required by this Order, Respondents shall submit for EPA review and approval a final report summarizing the actions taken to comply with this Order. The final report shall conform, at a minimum, with the requirements set forth in Section 300.165 of the NCP entitled "OSC Reports." The final report shall include a good faith estimate of total costs or a statement of actual costs incurred in complying with the Order, a listing of quantities and types of materials removed off-site or handled on-site, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destination(s) of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (e.g., manifests, invoices, bills, contracts, and permits). The final report shall also include the following certification signed by a person who supervised or directed the preparation of that report:

"Under penalty of law, I certify that to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of the report, the information submitted is 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."

**XIV. ACCESS TO PROPERTY AND INFORMATION**

47. Respondents shall provide and/or obtain access to the Site and off-site areas to which access is necessary to implement this Order, and provide access to all records and documentation related to the conditions at the Site and the action conducted pursuant to this Order. Such access shall be provided to EPA employees, contractors, agents, consultants, designees, representatives, and State of Iowa representatives. These individuals shall be permitted to move freely at the Site and appropriate off-site areas in order to conduct actions which EPA determines to be necessary. Respondents shall submit to EPA, upon receipt, the results of all sampling or tests and all other

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data generated by Respondents or their contractors, or on the Respondents' behalf during implementation of this Order.

48. Where action under this Order is to be performed in areas owned by or in possession of someone other than Respondents, Respondents shall use their best efforts to obtain all necessary access agreements within 15 days after the effective date of this Order, or as otherwise specified in writing by the RPM. Respondents shall immediately notify EPA if after using their best efforts they are unable to obtain such agreements. Respondents shall describe in writing their efforts to obtain access. EPA may then assist Respondents in gaining access, to the extent necessary to effectuate the removal actions described herein, using such means as EPA deems appropriate. EPA reserves the right to seek reimbursement from Respondents for all costs and attorney's fees incurred by the United States in obtaining access for Respondents.

**XV. RECORD RETENTION, DOCUMENTATION, AVAILABILITY OF INFORMATION**

49. Each Respondent shall preserve all records and documents (including records and documents in electronic form) now in its possession or control or which come into its possession or control that relate in any manner to the performance of the Work, hazardous substances found on or released from the Site or the liability of any person under CERCLA with respect to the Site, for ten years following completion of the Work, regardless of any corporate retention policy to the contrary. Respondents shall also instruct their contractors and agents to preserve all documents, records, and information of whatever kind, nature or description relating to performance of the Work.

50. At the end of this ten year period and 90 days before any document or information is destroyed, Respondents shall notify EPA that such documents and information are available to EPA for inspection, and upon request, shall provide the originals or copies of such records and documents to EPA. In addition, Respondents shall provide records and documents retained under this Section at any time before expiration of the ten year period at the written request of EPA.

51. Respondents may assert a business confidentiality claim pursuant to 40 C.F.R. § 2.203(b) with respect to part or all of any information submitted to EPA pursuant to this Order, provided such claim is allowed by section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7). Analytical and other data specified in section 104(e)(7)(F) of CERCLA shall not be claimed as confidential by the Respondents. EPA shall only disclose information covered by a business confidentiality claim to the extent permitted by, and by means of the procedures set forth at, 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, EPA may make it available to the public without further notice to Respondents.

52. Respondents shall maintain a running log of privileged documents on a document-by-document basis, containing the date, author(s), addressee(s), subject, the privilege or grounds claimed (e.g., attorney work product, attorney-client), and the factual basis for assertion of the privilege. Respondents shall keep the "privilege log" on file and available for inspection. EPA

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may at any time challenge claims of privilege through negotiations or otherwise as provided by law or the Federal Rules of Civil Procedure.

53. Off-Site Shipments-- Respondents shall, prior to any off-Site shipment of Waste Material from the Site to an out-of-state waste management facility, provide written notification of such shipment of Waste Material to the appropriate state environmental official in the receiving facility's state and to the RPM. However, this notification requirement shall not apply to any off-Site shipments when the total volume of all such shipments will not exceed 10 cubic yards.

a. Respondents shall include in the written notification the following information: 1) the name and location of the facility to which the Waste Material is to be shipped; 2) the type and quantity of the Waste Material to be shipped; 3) the expected schedule for the shipment of the Waste Material; and 4) the method of transportation. Respondents shall notify the state in which the planned receiving facility is located of major changes in the shipment plan, such as a decision to ship the Waste Material to another facility within the same state, or to a facility in another state.

b. The identity of the receiving facility and state will be determined by Respondents following the award of the contract for the removal action. Respondents shall provide the information required by Paragraphs 53.a. as soon as practicable after the award of the contract and before the Waste Material is actually shipped.

c. Before shipping any hazardous substances, pollutants, or contaminants from the Site to an off-site location, Respondents shall obtain EPA's certification that the proposed receiving facility is operating in compliance with the requirements of CERCLA Section 121(d)(3), 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440. Respondents shall only send hazardous substances, pollutants, or contaminants from the Site to an off-site facility that complies with the requirements of the statutory provision and regulation cited in the preceding sentence.

**XVI. COMPLIANCE WITH OTHER LAWS**

54. Respondents shall perform all actions required pursuant to this Order in accordance with all applicable local, state, and federal laws and regulations except as provided in CERCLA section 121(e) and 40 C.F.R. § 300.415(i). In accordance with 40 C.F.R. § 300.415(i), all on-site actions required pursuant to this Order shall, to the extent practicable, as determined by EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements ("ARARs") under federal environmental, state environmental, or facility siting laws.

**XVII. EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES**

55. In the event of any action or occurrence during performance of the Work which causes or threatens a release of Waste Material from the Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Respondents shall immediately take all appropriate action. Respondents shall take these actions in accordance with

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all applicable provisions of this Order, including, but not limited to, the Health and Safety Plan, in order to prevent, abate or minimize such release or endangerment caused or threatened by the release. Respondents shall also immediately notify the RPM or, in the event of his/her unavailability, the Region 7 24-hour emergency spill line at 913-281-0991 of the incident or Site conditions. In the event that Respondents fail to take appropriate response action as required by this Paragraph, then EPA may respond to the release or endangerment and EPA reserves the right to pursue cost recovery if it so responds.

56. In addition, in the event of any release of a hazardous substance from the Site, Respondents shall immediately notify the Region 7 24-hour emergency spill line at 913-281-0991, and the National Response Center at (800) 424-8802. Respondents shall submit a written report to EPA within 7 days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. This reporting requirement is in addition to, and not in lieu of, reporting under Section 103(c) of CERCLA, 42 U.S.C. § 9603(c), and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11004, *et seq.*

**XVIII. AUTHORITY OF THE RPM**

57. The RPM shall have the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any Work required by this Order, or to direct any other removal action undertaken at the Site. Absence of the RPM from the Site shall not be cause for stoppage of work unless specifically directed by the RPM.

**XIX. ENFORCEMENT AND WORK TAKEOVER**

58. Violation of any provision of this Order may subject Respondents to civil penalties of up to thirty-two thousand five hundred dollars (\$32,500) per violation per day, as provided in section 106(b)(1) of CERCLA, 42 U.S.C. § 9606(b)(1). Respondents may also be subject to punitive damages in an amount up to three times the amount of any cost incurred by the United States as a result of such violation, as provided in section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Should Respondent(s) violate this Order or any portion hereof, EPA may carry out the required actions unilaterally, pursuant to section 104 of CERCLA, 42 U.S.C. § 9604, and/or may seek judicial enforcement of this Order pursuant to section 106 of CERCLA, 42 U.S.C. § 9606. In the event EPA takes over performance of the Work pursuant to this provision, EPA shall have the right to immediately access any and all performance guarantee instruments provided pursuant to Section XX (Performance Guarantee) of this Order.

**XX. PERFORMANCE GUARANTEE**

59. Within 30 days of the Effective Date, Respondents shall establish and maintain financial security for the benefit of EPA in the amount of \$300,000 in one or more of the following forms, in order to secure the full and final completion of Work by Respondents:

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- a. a surety bond unconditionally guaranteeing payment and/or performance of the Work;
- b. one or more irrevocable letters of credit, payable to or at the direction of EPA, issued by financial institution(s) acceptable in all respects to EPA;
- c. a trust fund administered by a trustee acceptable in all respects to EPA;
- d. a policy of insurance issued by an insurance carrier acceptable in all respects to EPA, which ensures the payment and/or performance of the Work;

60. Any and all performance guarantee instruments provided pursuant to this Section shall be in form and substance satisfactory to EPA, determined in EPA's sole discretion. In the event that EPA determines at any time that the performance guarantee provided pursuant to this Section (including, without limitation, the instrument(s) evidencing such assurances) are inadequate, Respondents shall, within 30 days of receipt of notice of EPA's determination, obtain and present to EPA for approval one of the other forms of performance guarantee listed in paragraph 59, above. In addition, if at any time EPA notifies Respondents that the anticipated cost of completing the Work has increased, then, within 30 days of such notification, Respondents shall obtain and present to EPA for approval a revised form of performance guarantee (otherwise acceptable under this Section) that reflects such cost increase. Respondents' inability to demonstrate financial ability to complete the Work shall in no way excuse performance of any activities required under this Order.

61. If, after the Effective Date, Respondents can show that the estimated cost to complete the remaining Work has diminished below the amount set forth in paragraph 59 of this Section, Respondents may, on any anniversary date of the Effective Date, or at any other time agreed to by the Parties, reduce the amount of the financial security provided under this Section to the estimated cost of the remaining Work to be performed. Respondents shall submit a proposal for such reduction to EPA, in accordance with the requirements of this Section, and may reduce the amount of the security after receiving written approval from EPA.

62. In the event that EPA determines at any time that a Performance Guarantee provided by any Respondent pursuant to this Section is inadequate or otherwise no longer satisfies the requirements set forth in this Section, whether due to an increase in the estimated cost of completing the Work or for any other reason, or in the event that any Respondent becomes aware of information indicating that a Performance Guarantee provided pursuant to this Section is inadequate or otherwise no longer satisfies the requirements set forth in this Section, whether due to an increase in the estimated cost of completing the Work or for any other reason, Respondents, within thirty days of receipt of notice of EPA's determination or, as the case may be, within thirty days of any Respondent becoming aware of such information, shall obtain and present to EPA for approval a proposal for a revised or alternative form of Performance Guarantee listed in Paragraph

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59 of this Order that satisfies all requirements set forth in this Section XX. In seeking approval for a revised or alternative form of Performance Guarantee, Respondents shall follow the procedures set forth in Paragraph 64 of this Order. Respondents' inability to post a Performance Guarantee for completion of the Work shall in no way excuse performance of any other requirements of this Order, including, without limitation, the obligation of Respondents to complete the Work in strict accordance with the terms hereof.

63. The commencement of any Work Takeover pursuant to Paragraph 58 of this Order shall trigger EPA's right to receive the benefit of any Performance Guarantee(s) provided pursuant to Paragraph 59a., b., c., or d., and at such time EPA shall have immediate access to resources guaranteed under any such Performance Guarantee(s), whether in cash or in kind, as needed to continue and complete the Work assumed by EPA under the Work Takeover. If for any reason EPA is unable to promptly secure the resources guaranteed under any such Performance Guarantee, whether in cash or in kind, necessary to continue and complete the Work assumed by EPA under the Work Takeover, Respondents shall immediately upon written demand from EPA deposit into an account specified by EPA, in immediately available funds and without setoff, counterclaim, or condition of any kind, a cash amount up to but not exceeding the estimated cost of the remaining Work to be performed as of such date, as determined by EPA.

64. Respondents may change the form of performance guarantee provided under this Section at any time, upon notice to and prior written approval by EPA, provided that EPA determines that the new form of assurance meets the requirements of this Section.

**XXI. REIMBURSEMENT OF OVERSIGHT COSTS**

65. Respondents shall reimburse EPA, upon written demand, for all response costs incurred by the United States in overseeing Respondents' implementation of the requirements of this Order. EPA may submit to Respondents on a periodic basis a bill for all response costs incurred by the United States with respect to this Order.

66. Respondents shall, within 30 days of receipt of the bill, remit a cashiers or certified check for the amount of those costs made payable to the "Hazardous Substance Superfund," referencing the name and address of the parties making payment and EPA Site/Spill ID number A7K9. Respondents shall send the checks to:

US Environmental Protection Agency  
Superfund Payments  
Cincinnati Finance Center  
PO Box 979076  
St. Louis, MO 63197-9000

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67. Respondents shall simultaneously transmit a copy of the check to EPA RPM identified in paragraph 27. Payments shall reference the payor's name and address, EPA site identification number A7K9, and the docket number of this Order.

68. Interest at the rate established under section 107(a) of CERCLA shall begin to accrue on the unpaid balance from the day of the original demand notwithstanding any dispute or objection to any portion of the costs.

**XXII. RESERVATION OF RIGHTS**

69. Except as specifically provided in this Order, nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring the Respondents in the future to perform additional activities pursuant to CERCLA or any other applicable law. EPA reserves the right to bring an action against Respondents under section 107 of CERCLA, 42 U.S.C. Section 9607, for recovery of any response costs incurred by the United States related to this Order or the Site and not reimbursed by Respondents.

**XXIII. OTHER CLAIMS**

70. By issuance of this Order, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents. The United States or EPA shall not be deemed a party to any contract entered into by the Respondents or their directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Order.

71. This Order does not constitute a pre-authorization of funds under section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2).

72. Nothing in this Order shall constitute a satisfaction of or release from any claim or cause of action against the Respondents or any person not a party to this Order, for any liability such person may have under CERCLA, other statutes, or the common law, including but not limited to any claims of the United States for costs, damages and interest under section 106(a) and 107(a) of CERCLA, 42 U.S.C. § 9606(a) and 9607(a).

**XXIV. MODIFICATIONS**

73. Modifications to any plan or schedule may be made in writing by the RPM or at the RPM's oral direction. If the RPM makes an oral modification, it will be memorialized in writing within

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10 days; provided, however, that the effective date of the modification shall be the date of the RPM's oral direction. Any other requirements of this Order may be modified in writing by signature of the Director, Superfund Division, EPA Region 7 or her designee.

74. If Respondents seek permission to deviate from any approved plan or schedule, Respondents' Project Coordinator shall submit a written request to EPA for approval outlining the proposed modification and its basis.

75. No informal advice, guidance, suggestion, or comment by EPA regarding reports, plans, specifications, schedules, or any other writing submitted by the Respondents shall relieve the Respondents of their obligation to obtain such formal approval as may be required by this Order, and to comply with all requirements of this Order unless it is formally modified.

**XXV. NOTICE OF COMPLETION**

76. When EPA determines, after EPA's review of the Final Report, that all removal actions have been fully performed in accordance with this Order, with the exception of any continuing obligations required by this Order, including retention of records pursuant to Section XV and payment of oversight costs pursuant to Section XXI of this Order, EPA will provide notice to the Respondents. If EPA determines that any removal actions have not been completed in accordance with this Order, EPA will notify the Respondents, provide a list of the deficiencies, and require that Respondents modify the Work Plan to correct such deficiencies. The Respondents shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the EPA notice. Failure by Respondents to implement the approved modified Work Plan shall be a violation of this Order.

**XXVI. ACCESS TO ADMINISTRATIVE RECORD**

77. EPA has established an Administrative Record which contains the documents that form the basis for the issuance of this Order. It is available for review by appointment on weekdays between the hours of 9:00 AM and 4:00 PM at the EPA Region 7 office at 901 North 5<sup>th</sup> Street, Kansas City, Kansas. To review the Administrative Record, please contact Mary Peterson at 913-551-7882 to make an appointment.

**XXVII. OPPORTUNITY TO CONFER**

78. Respondents may request a conference with EPA. A request for a conference must be received by EPA no later than January 9, 2009 and the conference shall be held no later than January 14, 2009, unless extended by agreement of the parties. At any conference held pursuant to the request, Respondents may appear in person or be represented by an attorney or other representative. The conference may be held by telephone rather than in person.

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79. If a conference is held, Respondents may present any information, arguments or comments regarding this Order. Regardless of whether a conference is held, Respondents may submit any information, arguments or comments in writing to EPA within 5 days following the conference, or no later than January 16, 2009, if no conference is requested. This conference is not an evidentiary hearing, does not constitute a proceeding to challenge this Order, and does not give Respondents a right to seek review of this Order. Requests for a conference, or any written submittal under this paragraph, shall be directed to Daniel J. Shiel, Assistant Regional Counsel, at 901 N. 5<sup>th</sup> Street, Kansas City, KS 66101, telephone 913-551-7278.

**XXVIII. INSURANCE**

80. At least seven (7) days prior to commencing any on-site work under this Order, the Respondents shall secure, and shall maintain for the duration of this Order, comprehensive general liability insurance and automobile insurance with limits of 2.0 million dollars, combined single limit. Within the same time period, the Respondents shall provide EPA with certificates of such insurance and a copy of each insurance policy. If the Respondents demonstrate 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 the Respondents need provide only that portion of the insurance described above which is not maintained by such contractor or subcontractor.

**XXIX. ADDITIONAL REMOVAL ACTIONS**

81. If EPA determines that additional removal actions not included in an approved plan are necessary to protect public health, welfare, or the environment, EPA will notify Respondents of that determination. Unless otherwise stated by EPA, within thirty (30) days of receipt of notice from EPA that additional removal actions are necessary to protect public health, welfare, or the environment, Respondents shall submit for approval by EPA a Work Plan for the additional removal actions. The plan shall conform to the applicable requirements of Section X of this Order. Upon EPA's approval of the plan, Respondents shall implement the plan for additional removal actions in accordance with the provisions and schedule contained therein. This section does not alter or diminish the RPM's authority to make oral modifications to any plan or schedule pursuant to Section XVIII.

**XXX. SEVERABILITY**

82. If a court issues an order that invalidates any provision of this Order or finds that Respondents has sufficient cause not to comply with one or more provisions of this Order, Respondents shall remain bound to comply with all provisions of this Order not invalidated or determined to be subject to a sufficient cause defense by the court's order.

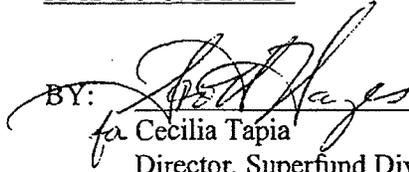
ORDER FOR REMOVAL RESPONSE ACTIVITIES  
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**XXXI. EFFECTIVE DATE**

83. This Order shall be effective on January 23, 2009, unless this date is modified in writing by EPA.

**IT IS SO ORDERED**

BY:



for Cecilia Tapia

Director, Superfund Division

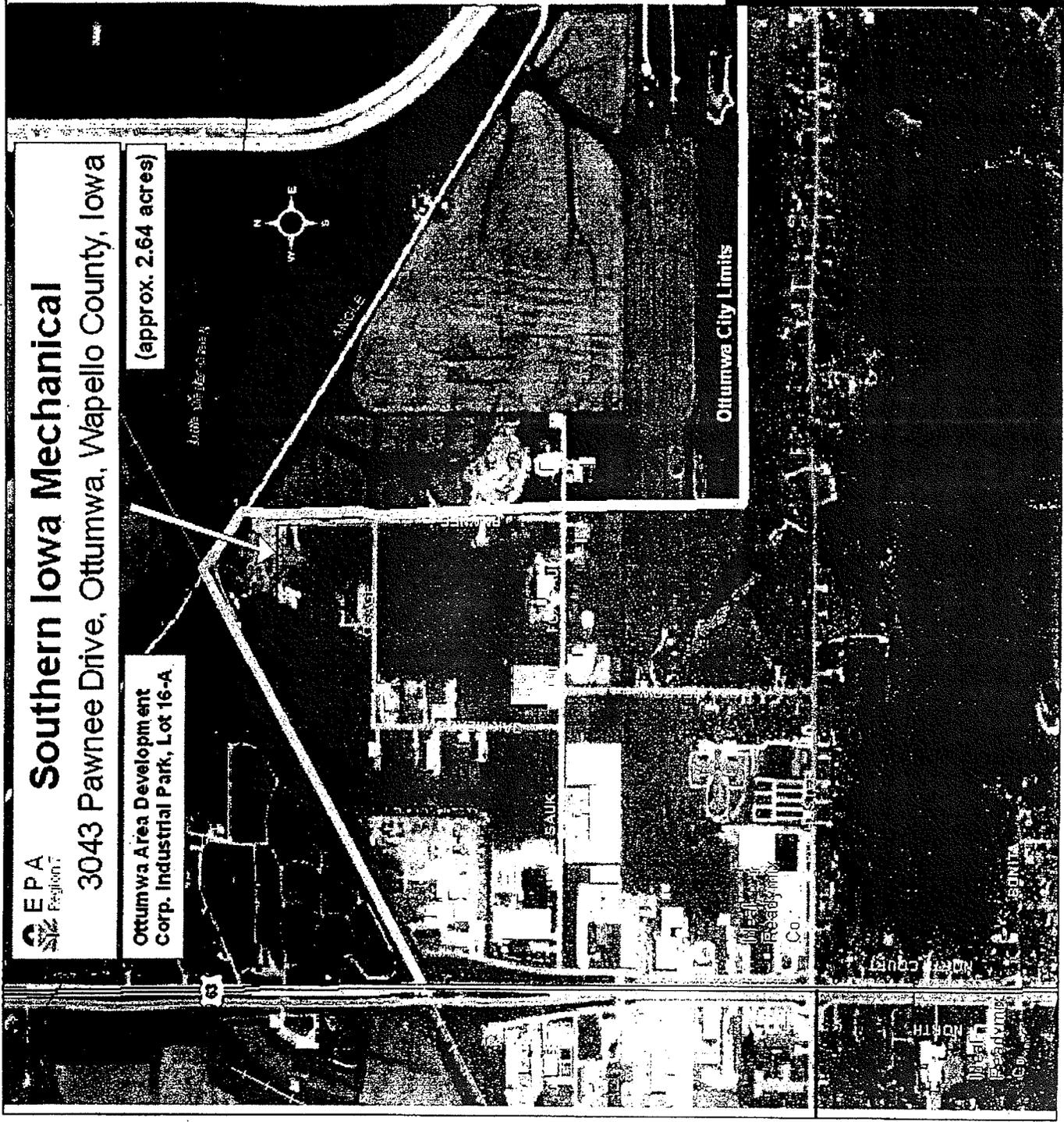
U.S. Environmental Protection Agency

Region 7

DATE:

12/30/08

EFFECTIVE DATE: January 23, 2009

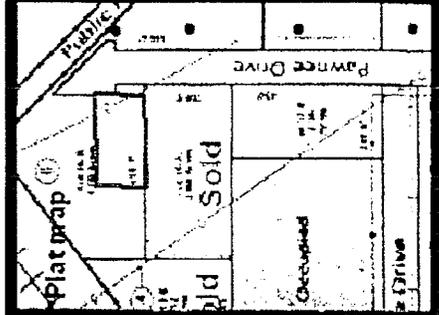
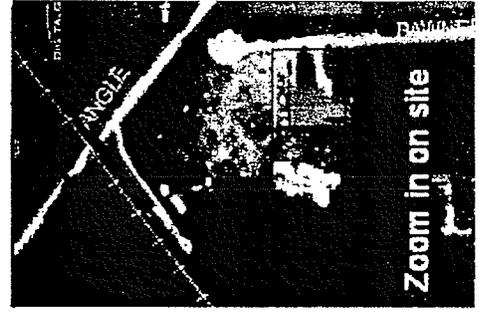
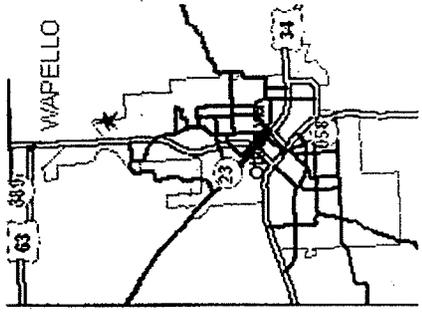
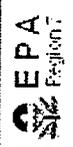


# Southern Iowa Mechanical

3043 Pawnee Drive, Ottumwa, Wapello County, Iowa

Ottumwa Area Development Corp. Industrial Park, Lot 16-A

(approx. 2.64 acres)



IN THE MATTER OF Southern Iowa Mechanical Site; Titan Tire Corporation,  
and Dico, Inc., Respondents  
Docket No. CERCLA-07-2009-0006

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order for Removal Response  
Activities was sent this day in the following manner to the addressees:

Copy hand delivered to  
Attorney for Complainant:

Daniel J. Shiel  
Assistant Regional Counsel  
Region VII  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Mr. Mark E. Johnson  
Stinson Morrison Hecker LLP  
1201 Walnut, Suite 2900  
Kansas City, Missouri 64106-1208

Dated: 2/30/08



Kathy Robinson  
Hearing Clerk, Region 7