



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

NOV 01 2017

REPLY TO THE ATTENTION OF:

S-6J

The Paddington Irrevocable Trust
and Star-Let Corporation
c/o Art McMahon, Attorney
Taft, Stettinius & Hollister LLP
425 Walnut Street, Suite 1800
Cincinnati, Ohio 45202

Re: Lunkenheimer Foundry Site; 1519 Tremont Street, Cincinnati, Hamilton County, Ohio
Site Spill Identification Number: C5GB
Unilateral Administrative Order **CERCLA-05-2018-0001**

Dear Mr. McMahon:

Enclosed please find a Unilateral Administrative Order issued by the U.S. Environmental Protection Agency under Section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. §§ 9601-9675.

Please note that the Order allows an opportunity for a conference, if requested within five (5) calendar days after the Order is signed by the Director of the Superfund Division of EPA Region 5. If no such conference is requested, the Order also allows an opportunity to submit comments within ten (10) calendar days after the Order is signed by the Director of the Superfund Division of EPA Region 5.

If you have any questions regarding the Order, feel free to contact Nola M. Hicks, Associate Regional Counsel, at (312) 886-7949 or by email hicks.nola@epa.gov; Steve Renninger, On-Scene Coordinator at (513)260-7849 or by email renninger.steven@epa.gov; or Mike Rafati, Enforcement Specialist, at (312) 886-0390 or by email rafati.mike@epa.gov.

Sincerely,

A handwritten signature in cursive script that reads "M. Cecilia Moore for".

Margaret Guerriero
Director, Superfund Division

Enclosure

cc: Nick Pieczonka
Taft, Stettinius & Hollister LLP
425 Walnut Street, Suite 1800
Cincinnati, Ohio 45202

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 5



IN THE MATTER OF:)
)
Lunkenheimer Foundry Site)
1519 Tremont Street)
Cincinnati, Hamilton County, Ohio)
)
The Paddington Trust,)
The Star-Let Corporation)
Respondents)
)
Proceeding under Section 106(a))
of the Comprehensive Environmental)
Response, Compensation, and Liability)
Act, as amended, 42 U.S.C. § 9606(a).)
)
_____)

U.S. EPA Region 5
CERCLA Docket No. CERCLA-05-2018-0001

**UNILATERAL ADMINISTRATIVE
ORDER FOR REMOVAL ACTIONS**

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Appendix A – Action Memorandum

Appendix B – Site Map

I. JURISDICTION AND GENERAL PROVISIONS

1. This Administrative Order (Order) is issued under the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, (CERCLA), 42 U.S.C. § 9606(a). This authority was delegated to the Administrator of the United States Environmental Protection Agency by Executive Order No. 12580, 52 Fed. Reg. 2923 (Jan. 23, 1987), and further delegated to the Regional Administrators by EPA Delegation Nos. 14-14-A and 14-14-B.

2. This Order pertains to property located at 1519 Tremont Street in Cincinnati, Hamilton County, Ohio, known as the Lunkenheimer Foundry Superfund Site (the Site). This Order requires Respondents to conduct removal actions described herein to abate an imminent and substantial endangerment to the public health or 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 Ohio (the 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, The Paddington Trust and The Star-Let Corporation, and their heirs, successors, and assigns. Any change in ownership or control of the Site or change in the corporate or partnership status of Respondents, including, but not limited to, any transfer of assets or real or personal property, shall not alter Respondents' responsibilities under this Order.

5. Respondents are jointly and severally liable for implementing all activities required by this Order. Compliance or noncompliance by any Respondent with any provision of this Order shall not excuse or justify noncompliance by any other Respondent. No Respondent shall interfere in any way with the performance of Work in accordance with this Order by any other Respondent. In the event of the insolvency or other failure of any Respondent to implement the requirements of this Order, the remaining Respondent shall complete all such requirements.

6. Respondents shall provide a copy of this Order to each contractor hired to perform the work required by this Order (Work) and to each person representing any Respondent with respect to the Site or the Work, and shall condition all contracts entered into hereunder upon performance of the Work in conformity with the terms of this Order. Respondents or their contractors shall provide written notice of the Order to all subcontractors hired to perform any portion of the Work required by this Order. Respondents shall nonetheless be responsible for ensuring that their contractors and subcontractors perform the Work in accordance with the terms of this Order.

III. DEFINITIONS

7. Unless otherwise expressly provided in this Order, terms used in this Order that 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 appendices to or documents incorporated by reference into this Order, the following definitions shall apply:

“Affected Property” shall mean all real property at the Site and any other real property where EPA determines, at any time, that access, land, water, or other resource use restrictions are needed to implement the removal action, including, but not limited to, the property located at 1519 Tremont Street, Cincinnati, Hamilton County, Ohio.

“Action Memorandum” shall mean the EPA Action Memorandum relating to the Site signed on June 8, 2017, by Margaret Guerriero, Acting Superfund Director, EPA Region 5, and all attachments thereto. The Action Memorandum is attached as Appendix A.

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

“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 or state holiday, the period shall run until the close of business of the next working day.

“Effective Date” shall be the effective date of this Order as provided in Section VIII.

“EPA” shall mean the United States Environmental Protection Agency and their successor departments, agencies, or instrumentalities.

“EPA Hazardous Substance Superfund” shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

“Interest” shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1st of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1st of each year. Rates are available online at http://www.epa.gov/ocfopage/finstatement/superfund/int_rate.htm.

“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.

“Non-Respondent Owner” shall mean any person, other than Respondents, that owns or controls any Affected Property. The clause “Non-Respondent Owner’s Affected Property” means Affected Property owned or controlled by Non-Respondent Owner.

“Order” shall mean this Unilateral Administrative Order, all appendices attached hereto, and all documents incorporated by reference into this Order. In the event of conflict between this Order and any appendix or other incorporated document, this Order shall control.

“Owner Respondent” shall mean any Respondent that owns or controls any Affected Property, including The Paddington Trust and The Star-Let Corporation. The clause “Owner Respondent’s Affected Property” means Affected Property owned or controlled by Owner Respondent.

“Paragraph” shall mean a portion of this Order identified by an Arabic numeral or an upper or lower case letter.

“Parties” shall mean EPA and Respondents.

“Post-Removal Site Control” shall mean actions necessary to ensure the effectiveness and integrity of the removal action to be performed pursuant to this Order consistent with Sections 300.415(I) and 300.5 of the NCP and “Policy on Management of Post-Removal Site Control” (OSWER Directive No. 9360.2-02, Dec. 3, 1990).

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

“Respondents” shall mean The Paddington Trust and The Star-Let Corporation.

“Response Costs” shall mean all costs, including, but not limited to, direct and indirect costs, that the United States incurs in monitoring and supervising Respondents’ performance of the Work to determine whether such performance is consistent with the requirements of this Order, including costs incurred in reviewing plans, reports, and other deliverables submitted pursuant to this Order, as well as costs incurred in overseeing implementation of this Order, including, but not limited to, payroll costs, contractor costs, travel costs, and laboratory costs.

“Section” shall mean a portion of this Order identified by a Roman numeral.

“Site” shall mean the Lunkenheimer Foundry Superfund Site, encompassing approximately 1.5 acres, located at 1519 Tremont Street in Cincinnati, Hamilton County, Ohio, and depicted generally on the map attached as Appendix B.

“Transfer” shall mean 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.

“Waste Material” shall mean (i) any “hazardous substance” under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (ii) any “pollutant or contaminant” under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (iii) any “solid waste” under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27). “Work” shall mean all activities Respondents are required to perform under this Order, except those required by Section XV - Retention of Records.

IV. FINDINGS OF FACT

8. Based on available information, including the Administrative Record in this matter, EPA hereby finds that:

a. The Site is currently owned by The Star-Let Corporation by virtue of a General Warranty Deed executed on July 6, 2000, and recorded on August 3, 2000, with the Hamilton County Recorder of Deeds.

b. The Paddington Trust is the sole share-holder of Star-Let Corporation.

c. The Site's building was constructed in 1908 by the Lunkenheimer Company as part of the Lunkenheimer Company's complex. The Lunkenheimer Company operated a foundry at the Site to manufacture valves.

d. Cincinnati Valve Company manufactured valves at the Site from some time in 2009 until January 2017, when it abandoned the property.

e. On March 27, 2017, EPA received a request from the Cincinnati Fire Department to conduct an assessment and potential emergency removal action at the Site.

f. On March 28, 2017, EPA, along with representatives from the Cincinnati Fire Department, Ohio EPA, the Cincinnati Metropolitan Sewer District, and The Paddington Trust, toured the Site and documented the presence of transformers containing polychlorinated biphenyls (PCBs), piles of foundry sand, drums and containers of metal waste, and other unknown materials, corrosive waste, and ignitable waste.

g. On April 25, 2017, EPA conducted a site investigation and documented the presence throughout the Site of approximately 600 55-gallon drums and 125 containers that are open, rusted and deteriorated with contents spilled onto the floor. The building is structurally impaired with rain leaking into waste areas. EPA also noted an indoor transformer pad containing four transformers with evidence of leaking and staining on the floor. Two of the transformers are labeled with "Caution PCBs." The first floor of the building includes a laboratory containing numerous acid and solvent containers, including hydrochloric acid, acetone, ether, benzene, and ethyl acetate. Uncovered waste piles or open drums containing foundry sand are located on Floors 3, 4 and 5 of the building. Four underground storage tanks (USTs) containing waste oil are located under the sidewalk adjacent to Beekman Street and Tremont Street. The USTs appear to be full and overflowing into the Beekman Street storm drain and nearby Mill Creek. Analysis of samples collected during the site investigation revealed corrosive, ignitable, and toxic hazardous wastes at the Site.

h. EPA is issuing the June 8, 2017 Action Memorandum concurrent with this Order that selects the actions detailed in Section VIII (Work to Be Performed) below, as the remedy to address the conditions at the Site.

i. In the Action Memorandum, EPA discusses its determinations on release, threat, and endangerment. The Action Memorandum is incorporated into this Settlement as Appendix A.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

9. Based on the Findings of Fact set forth above and the Administrative Record supporting the removal action(s), EPA has determined that:

a. The Lunkenheimer Foundry Site is a “facility” as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

b. Each Respondent is “person” as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

c. Each Respondent is a liable party under one or more provisions of Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

(1) Respondent, The Paddington Trust, is the sole shareholder of Respondent, The Star-Let Corporation, which is the “owner” and/or “operator” of the facility, as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20), and within the meaning of Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).

d. 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, 42 U.S.C. § 9601(14), that may present an imminent and substantial danger to public health or welfare or the environment under Section 104(a)(1) of CERCLA, 42 U.S.C. § 9604(a)(1)].

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

f. The conditions at the Site may constitute a threat to public health or welfare or the environment, based on the factors set forth in Section 300.415(b)(2) of the NCP. These factors include, but are not limited to, the following:

(1) Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances. During the April 25, 2017, Site investigation, EPA documented abandoned chemical waste, including containers holding characteristic ignitable, corrosive, and toxic hazardous waste at the Site. Analytical results from samples LFS-LW-006 and LFS-LW-010 documented liquids with flash points less than 140°F, which, according to 40 C.F.R. § 261.21, verifies the characteristic of a hazardous waste for ignitability (D001). A flashpoint was documented as low as 100.5°F in sample LFS-010.

A. Analytical results from liquid samples LFS-LW-007 (pH<0.1) and LFS-LW-008 (pH,0.1), documented liquid waste having a pH level less than 2.0 standard units, which, according to 40 C.F.R. § 261.22, verifies the characteristic of a hazardous waste for corrosivity (D002). Analytical results from liquid sample LFS-LW-001 (pH=14) documented liquid waste having a pH level greater than 12.5 standard units, which, according to 40 C.F.R. § 261.22, verifies the characteristic of a hazardous waste for corrosivity (D002).

B. Analytical results from numerous Site waste piles and drums documented elevated levels of arsenic, cadmium, chromium, lead, and selenium above TCLP regulatory levels: Analytical results from solid samples LFS-SW-006 (lead =34 mg/l), LFS-SW-007 (lead =31,200

mg/l), LFS-SW-008 (lead =30 mg/l), LFS-SW-009 (lead =30 mg/l), LFS-FS-001 (lead = 9 mg/l), LFS-FS-002 (lead = 12), LFS-FS-003 (lead = 6 mg/l) documented solid waste having TCLP lead concentrations greater than the TCLP regulatory level of 5 mg/l, which satisfies the 40 C.F.R. § 261.24 criteria for hazardous waste that is toxic (D008). Additionally, solid sample LFS-SW-007 documented arsenic, cadmium, chromium, and selenium above TCLP regulatory levels for each chemical.

(2) hazardous substances in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release: This factor is present at the Site due to the existence of approximately 600 55-gallon drums and 125 other containers that are open, rusted, and deteriorating with their contents spilled on the floor; four transformers with evidence of leaking; acids and solvents in containers in the on-site laboratory; and piles of foundry sand containing heavy metals throughout the building

(3) weather conditions that may cause hazardous substances to migrate or be released: This factor is present at the Site due to the structural impairment of the building with rain leaking into waste areas;

(4) threat of fire or explosion: Analytical results from the EPA Site investigation indicate that material in containers is ignitable wastes and posed a threat of fire or explosion (AR#4). Analytical results from samples LFS-LW-006 and LFS-LW-010 documented liquid having flash points less than 140°F, which, according to 40 C.F.R. § 261.21, verifies the characteristic of a hazardous waste for ignitability (D001). A flashpoint was documented as low as 100.5°F in sample LFS-010. As such, these materials represent a threat of fire or explosion.

(5) the unavailability of other appropriate federal or state response mechanisms to respond to the release: This factor supports the actions required by this Order at the Site because; Ohio EPA does not have the resources to respond to this Site. On March 27, 2017, the Cincinnati Fire Department requested EPA's assistance to conduct an assessment and a potential emergency removal action at the Lunkenheimer Foundry Site

- a. The conditions at the Site may constitute an imminent and substantial endangerment to public health or welfare or the environment.
- b. The removal actions required by this Order are 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

10. Based upon the foregoing Findings of Fact, Conclusions of Law and Determinations, and the Administrative Record, Respondents are hereby ordered to comply with all provisions of this Order and any modifications hereto, including all appendices to this Order and all documents incorporated by reference into this Order.

VII. OPPORTUNITY TO CONFER

11. Within ten (10) days after this Order is signed by the Director, Superfund Division, Respondents may request a conference with EPA to discuss this Order, including their applicability, the factual findings and the determinations upon which it is based, the appropriateness of any actions Respondents are ordered to take, or any other relevant and material issues or contentions that Respondents may have regarding this Order.

12. Respondents may appear in person or by an attorney or other representative at the conference. Respondents may also submit written comments or statements of their position on any matter pertinent to this Order no later than the time of the conference, or at least ten (10) days after the Effective Date if Respondents does not request a conference. 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. Any request for a conference or written comments or statements should be submitted to:

Nola Hicks, Office of Regional Counsel
United States Environmental Protection Agency
77 West Jackson Street
Chicago, Illinois 60604-3590
312-886-7949
Hicks.Nola@epa.gov

VIII. EFFECTIVE DATE

13. This Order shall be effective ten (10) days after the Order is signed by the Regional Administrator or his/her delegate unless a conference is requested as provided in this Order. If a conference is requested, this Order shall be effective on the tenth day following the day of the conference unless modified in writing by EPA.

IX. NOTICE OF INTENT TO COMPLY

14. On or before the Effective Date, Respondents shall notify EPA in writing of Respondents' irrevocable intent to comply with this Order. Such written notice shall be sent to:

Nola Hicks, Office of Regional Counsel
United States Environmental Protection Agency
77 West Jackson Street
Chicago, Illinois 60604-3590
312-886-7949
Hicks.Nola@epa.gov

Each Respondent's written notice shall describe, using facts that exist on or prior to the Effective Date, any "sufficient cause" defenses asserted by Respondent under Sections 106(b) and 107(c)(3) of CERCLA, 42 U.S.C. §§ 9606(b) and 9607(c)(3). The absence of a response by EPA to the notice required by this Paragraph shall not be deemed to be acceptance of any

Respondent's assertions. Failure of any Respondent to provide such notification within this time period shall, as of the Effective Date, will be treated as a violation of this Order by Respondents.

X. DESIGNATION OF CONTRACTOR, PROJECT COORDINATOR, AND ON-SCENE COORDINATOR

15. Selection of Contractors, Personnel. All Work performed under this Order shall be under the direction and supervision of qualified personnel. Within ten (10) days before the Work outlined below begins, Respondents shall notify EPA in writing of the names, titles, and qualifications of the personnel, including contractors, subcontractors, consultants, and laboratories to be used in carrying out such Work. If, after the commencement of Work, Respondents retain additional contractor(s) or subcontractor(s), Respondents shall notify EPA of the name(s) and qualification(s) of such contractor(s) or subcontractor(s) retained to perform the Work at least two (2) days prior to commencement of Work by such additional contractor(s) or subcontractor(s). EPA retains the right, at any time, to disapprove of any or all of the contractors and/or subcontractors retained by Respondents. If EPA disapproves of a selected contractor or subcontractor, Respondents shall retain a different contractor or subcontractor and shall notify EPA of that contractor's or subcontractor's name and qualifications within ten (10) days after EPA's disapproval. With respect to any proposed contractor, Respondents shall demonstrate that the proposed contractor demonstrates compliance with ANSI/ASQ E-4-2004, "Quality Systems for Environmental Data and Technology Programs: Requirements with Guidance for Use" (American Society for Quality, August 2004), 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/B-01/002, Reissued May 2006) or equivalent documentation as determined by EPA. The qualifications of the persons undertaking the Work for Respondents shall be subject to EPA's review for verification that such persons meet minimum technical background and experience requirements.

16. Within ten (10) days after the Effective Date, Respondents shall designate a Project Coordinator who shall be responsible for administration of the Work required by this Order and shall submit to EPA the designated Project Coordinator's name, address, telephone number, email address, and qualifications. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during the 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 ten (10) days following EPA's disapproval. Respondents shall have the right to change their Project Coordinator, subject to EPA's right to disapprove. Respondents shall notify EPA ten (10) days before such a change is made. The initial notification may be made orally, but shall be promptly followed by a written notification. Communications between Respondents and EPA, and all documents concerning the activities performed pursuant to this Order, shall be directed to the Project Coordinator.

17. EPA has designated Steve Renninger of the Emergency and Enforcement Response Branch, Region 5, as their On-Scene Coordinator (OSC). EPA will notify Respondents of a change of their designated OSC. Communications between Respondents and EPA, and all

documents concerning the activities performed pursuant to this Order, shall be directed to the EPA OSC in accordance with Paragraph 22.a(1).

18. The OSC shall be responsible for overseeing Respondents' implementation of this Order. The OSC 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 response action when he determines that conditions at the Site constitute an emergency situation or may present a threat to public health or welfare or the environment. Absence of the OSC from the Site shall not be cause for stoppage or delay of Work.

XI. WORK TO BE PERFORMED

19. Respondents shall perform, at a minimum, all actions necessary to implement the Action Memorandum. The actions to be implemented generally include, but are not limited to, the following:

- a. Develop and implement a Site-Specific Health and Safety Plan, including an Air Monitoring Plan, and a Site Emergency Contingency Plan;
- b. Develop and implement a Site Security Plan;
- c. Secure the Site with fence repair, boarding and/or locking windows and doors;
- d. Inventory, sample, and perform hazard characterization, in compliance with a Site-Specific Quality Assurance/Quality Control (QA/QC) Plan, on all substances contained in drums, containers, tanks, vats, pits, transformers, the laboratory area, the ventilation system, USTs and waste piles;
- e. Consolidate and package all hazardous substances, pollutants and contaminants for transportation and off-site disposal;
- f. Dismantle and decontaminate process equipment and building components associated with the foundry area for recycling or disposal, as necessary;
- g. Consolidate and package heavy metal-contaminated debris found in drums, waste piles, the ventilation system, and floor sweepings for transportation and off-site disposal;
- h. Transport and dispose of all characterized or identified hazardous substances, pollutants, wastes, debris, or contaminants at a RCRA/CERCLA-approved disposal facility in accordance with EPA's Off-Site Rule (40 C.F.R. § 300.440);
- i. Recycle decontaminated process equipment; and

- j. Take any other response actions to address any release or threatened release of a hazardous substance, pollutant or contaminant that the EPA OSC determines may pose an imminent and substantial endangerment to the public health or welfare or the environment.

20. For any regulation or guidance referenced in the Order, 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 Respondents receive notification from EPA of the modification, amendment, or replacement.

21. Work Plan and Implementation.

a. Within ten (10) days after the Effective Date, in accordance with Paragraph 22 - Submission of Deliverables, Respondents shall submit to EPA for review and approval a draft work plan for performing the removal actions (the Removal Work Plan) generally described in Paragraph 19 above. The draft Removal Work Plan shall provide a description of, and an expeditious schedule for, the Work required by this Order.

b. EPA may approve, disapprove, require revisions to, or modify the draft Removal Work Plan in whole or in part. If EPA requires revisions, Respondents shall submit a revised draft Removal Work Plan within ten (10) days after receipt of EPA's notification of the required revisions. Respondents shall implement the Removal Work Plan as approved in writing by EPA in accordance with the schedule approved by EPA. Once approved, or approved with modifications, the Removal Work Plan, the schedule, and any subsequent modifications shall be incorporated into and become fully enforceable under this Order.

c. Upon approval, or approval with modifications, of the Removal Work Plan, Respondents shall commence implementation of the Work in accordance with the schedule included therein. Respondents shall not commence any Work except in conformance with the terms of this Order. Respondents shall notify EPA at least 48 hours prior to performing any on-Site Work pursuant to the EPA-approved Removal Work Plan.

d. Unless otherwise provided in this Order, any additional deliverables that require EPA approval under the Removal Work Plan shall be reviewed and approved by EPA in accordance with this Paragraph.

e. Non-compliance with any EPA-approved plans, reports, specifications, schedules, or other deliverables shall be considered a violation of the requirements of this Order. Determinations of non-compliance shall be made by EPA. Approval of the Removal Work Plan shall not limit EPA's authority under the terms of this Order to require Respondents to conduct activities consistent with this Order to accomplish the Work outlined in this Section.

22. Submission of Deliverables

a. General Requirements for Deliverables.

(1) Except as otherwise provided in this Order, Respondents shall direct all submissions required by this Order to the OSC, Steven Renninger, at U.S. EPA Region 5,

26 West Martin Luther King Drive, Cincinnati, Ohio 45268, 513-260-7849, renninger.steven@epa.gov. Respondents shall submit all deliverables required by this Settlement, or any approved work plan to EPA in accordance with the schedule set forth in such plan,

(2) Respondents shall submit all deliverables in electronic format. If any deliverable includes maps, drawings, or other exhibits that are larger than 8.5" by 11", Respondents shall also provide EPA with paper copies of such exhibits.

b. Technical Specifications for Deliverables.

(1) Sampling and monitoring data should be submitted in standard regional electronic data deliverable, also known as EDD, format. Other delivery methods may be allowed if electronic direct submission presents a significant burden or as technology changes.

(2) Spatial data, including spatially-referenced data and geospatial data, should be submitted: (a) in the Environmental Systems Research Institute (ESRI) File Geodatabase format; and (b) as unprojected geographic coordinates in decimal degree format using North American Datum 1983 or World Geodetic System 1984 as the datum. If applicable, submissions should include the collection method(s). Projected coordinates may optionally be included but must be documented. Spatial data should be accompanied by metadata, and such metadata should be compliant with the Federal Geographic Data Committee (FGDC) Content Standard for Digital Geospatial Metadata and their EPA profile, the EPA Geospatial Metadata Technical Specification. An add-on metadata editor for ESRI software, the EPA Metadata Editor (EME), complies with the FGDC and EPA metadata requirements and is available at <https://edg.epa.gov/EME/>.

(3) Each file must include an attribute name for each unit or sub-unit submitted. Consult <http://www.epa.gov/geospatial/policies.html> for any further available guidance on attribute identification and naming.

(4) Spatial data submitted by Respondents does not, and is not intended to, define the boundaries of the Site.

23. Sampling and Analysis Plan. Within ten (10) days after the Effective Date, Respondents shall submit a Sampling and Analysis Plan to EPA for review and approval. This plan shall consist of a Field Sampling Plan (FSP) and a Quality Assurance Project Plan (QAPP) that is consistent with the NCP and applicable guidance documents, including, but not limited to, "Guidance for Quality Assurance Project Plans (QA/G-5)" EPA/240/R-02/009 (December 2002) and "EPA Requirements for Quality Assurance Project Plans (QA/R-5)" EPA 240/B-01/003 (March 2001, reissued May 2006). Upon their approval by EPA, the Sampling and Analysis Plan shall be incorporated into and become enforceable under this Order.

24. Site Health and Safety Plan. Within ten (10) days after the Effective Date, Respondents shall submit for EPA review and comment a Site Health and Safety Plan that ensures the protection of on-site workers and the public during performance of on-site Work under this Order. This plan shall be prepared in accordance with "OSWER Integrated Health and Safety Program Operating Practices for OSWER Field Activities," Pub. 9285.0-OIC (Nov. 2002), available on the NSCEP database at <http://www.epa.gov/nscep/index.html>, and "EPA's

Emergency Responder Health and Safety Manual,” OSWER Directive 9285.3-12 (July 2005 and updates), available at <http://www.epaossc.org/HealthSafetyManual/manual-index.htm>. 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 actions.

25. Community Involvement Plan. If necessary, EPA will prepare a Community Involvement Plan, in accordance with EPA guidance and the NCP. If requested by EPA, Respondents shall participate in community involvement activities pursuant to the plan, including participation in (a) the preparation of information regarding the Work for dissemination to the public, with consideration given to including 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. Respondents’ support of EPA’s community involvement activities may include providing online access to initial submissions and updates of deliverables to (a) any community advisory groups, (b) any technical assistance grant recipients and their advisors, and (c) other entities to provide them with a reasonable opportunity for review and comment. All community involvement activities conducted by Respondents at EPA’s request are subject to EPA’s oversight. At EPA’s discretion, Respondents shall establish a community information repository at or near the Site to house one copy of the Administrative Record.

26. Post-Removal Site Control. In accordance with the Removal Work Plan schedule, or as otherwise directed by EPA, Respondents shall submit a proposal for Post-Removal Site Control. Upon EPA approval, Respondents shall either conduct Post-Removal Site Control activities, or obtain a written commitment from another party to conduct such activities, until such time as EPA determines that no further Post-Removal Site Control is necessary. Respondents shall provide EPA with documentation of all Post-Removal Site Control commitments.

27. Progress Reports. Respondents shall submit a written progress report to EPA concerning actions undertaken pursuant to this Order on a monthly basis, or as otherwise requested by EPA, from the date of receipt of EPA’s approval of the Removal Work Plan until issuance of Notice of Completion of Work pursuant to Section XXVII, unless otherwise directed in writing by the OSC. 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 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.

28. Final Report. Within 45 days after completion of all Work required by this Order, with the exception of any continuing obligations required by this Order, Respondents shall submit for EPA review and approval a final report summarizing the actions taken to comply with this Order. EPA will review and approve the final report in accordance with Section XXVII (Notice of Completion of Work). The final report shall conform, at a minimum, with the requirements set forth in Section 300.165 of the NCP, “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 actions (e.g., manifests, invoices, bills, contracts, and permits). The final report shall also include the following certification signed by a responsible corporate official of Respondents or Respondents' Project Coordinator: "I certify under penalty of law 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 am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

29. Off-Site Shipments.

a. Respondents 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, 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440. Respondents will be deemed to be in compliance with CERCLA Section 121(d)(3) and 40 C.F.R. § 300.440 regarding a shipment if Respondents obtain 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). Respondents may ship Investigation Derived Waste from the Site to an off-Site facility only if it complies with EPA's "Guide to Management of Investigation Derived Waste," OSWER 9345.3-03FS (Jan. 1992).

b. Respondents may ship Waste Material from the Site to an out-of-state waste management facility only if, prior to any shipment, it provides written notice to the appropriate state environmental official in the receiving facility's state and to the EPA OSC. This notice requirement will not apply to any off-Site shipments when the total quantity of all such shipments will not exceed ten 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. Respondents shall also notify the EPA OSC of any major changes in the shipment plan, such as a decision to ship the Waste Material to a different out-of-state facility. Respondents shall provide the notice after the award of the contract for the removal action and before the Waste Material is shipped.

XII. QUALITY ASSURANCE, SAMPLING, AND DATA ANALYSIS

30. Respondents shall use quality assurance, quality control, and other technical activities and chain of custody procedures for all samples consistent with "EPA Requirements for Quality Assurance Project Plans (QA/R5)", EPA/240/B-01/003 (March 2001, reissued May 2006), "Guidance for Quality Assurance Project Plans (QA/G-5)," EPA/240/R-02/009 (December 2002), "Uniform Federal Policy for Quality Assurance Project Plans," Parts 1-3, EPA/505/B-04/900A-900C (March 2005).

31. Access to Laboratories.

a. Respondents shall ensure that EPA personnel and their authorized representatives are allowed access at reasonable times to all laboratories utilized by Respondents pursuant to this Order. In addition, Respondents shall ensure that such laboratories shall analyze all samples submitted by EPA pursuant to the QAPP for quality assurance, quality control, and technical activities that will satisfy the stated performance criteria as specified in the QAPP and that sampling and field activities are conducted in accordance with EPA's "Field Operations Group Operational Guidelines for Field Activities"

(<http://www.epa.gov/region8/qa/FieldOperationsGroupOperationalGuidelinesForFieldActivities.pdf>) and "EPA QA Field Activities Procedure" (<http://www.epa.gov/irmpoli8/policies/2105-p-02.pdf>).

b. Respondents shall ensure that the laboratories it utilizes for the analysis of samples taken pursuant to this Order meet the competency requirements set forth in EPA's "Policy to Assure Competency of Laboratories, Field Sampling, and Other Organizations Generating Environmental Measurement Data under Agency-Funded Acquisitions"

(<http://www.epa.gov/fem/pdfs/fem-lab-competency-policy.pdf>) and that the laboratories perform all analyses using EPA-accepted methods. Accepted EPA methods consist of, but are not limited to, methods that are documented in the EPA's Contract Laboratory Program (<http://www.epa.gov/superfund/programs/clp/>), SW 846 "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (<http://www.epa.gov/epawaste/hazard/testmethods/sw846/online/index.htm>), "Standard Methods for the Examination of Water and Wastewater" (<http://www.standardmethods.org/>), 40 C.F.R. Part 136, "Air Toxics - Monitoring Methods" (<http://www.epa.gov/ttnamti1/airtox.html>), and any amendments made thereto during the course of the implementation of this Order.

c. Upon approval by EPA, Respondents may use other appropriate analytical methods, as long as (a) QA/QC criteria are contained in the method(s) and the method(s) are included in the QAPP, (b) the analytical method(s) are at least as stringent as the methods listed above, and (c) the method(s) have been approved for use by a nationally recognized organization responsible for verification and publication of analytical methods, e.g., EPA, American Society for Testing And Materials, The National Institute for Occupational Safety and Health, OSHA, etc. Respondents shall ensure that all laboratories it uses for analysis of samples taken pursuant to this Order have a documented Quality System that complies with ANSI/ASQC E4-1994, "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, March 2001, reissued May 2006), or equivalent documentation as determined by EPA. EPA may consider Environmental Response Laboratory Network laboratories, laboratories accredited under the National Environmental Laboratory Accreditation Program, or laboratories that meet International Standardization Organization (ISO 17025) standards or other nationally recognized programs (<http://www.epa.gov/fem/accredit.htm>) as meeting the Quality System requirements. Respondents shall ensure that all field methodologies utilized in collecting samples for subsequent analysis pursuant to this Order are conducted in accordance with the procedures set forth in the QAPP approved by EPA.

d. Upon request, Respondents shall provide split or duplicate samples to EPA or its authorized representatives. Respondents shall notify EPA not less than seven (7) days in advance of any sample collection activity. In addition, EPA shall have the right to take any additional samples that EPA deems necessary. Upon request, EPA shall provide to Respondents split or duplicate samples of any samples it takes as part of EPA's oversight of Respondents' implementation of the Work.

e. Respondents shall submit to EPA in the next monthly progress report as described in Paragraph 27 copies of the results of all sampling and/or tests or other data obtained or generated by or on behalf of Respondents with respect to the Site and/or the implementation of this Order.

f. Notwithstanding any provision of this Order, the United States retains all of their information gathering and inspection authorities and rights, including enforcement actions related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

XIII. PROPERTY REQUIREMENTS

32. Agreements Regarding Access and Non-Interference. Respondents shall, with respect to any Non-Respondent Owner's Affected Property, use best efforts to secure from such Non-Respondent Owner an agreement, enforceable by Respondents and EPA, providing that such Non-Respondent Owner: (i) provide EPA, Respondents, and their representatives, contractors, and subcontractors with access at all reasonable times to such Affected Property to conduct any activity regarding the Order, including those activities listed in Paragraph 32.a (Access Requirements); and (ii) refrain from using such Affected Property in any manner that EPA determines will pose an unacceptable risk to human health or to the environment due to exposure to Waste Material, or interfere with or adversely affect the implementation, integrity, or protectiveness of the removal action.

a. Access Requirements. The following is a list of activities for which access is required regarding the Affected Property:

- (1) Monitoring the Work;
- (2) Verifying any data or information submitted to EPA;
- (3) Conducting investigations for contamination at or near the Site;
- (4) Obtaining samples;
- (5) Assessing the need for, planning, implementing, or monitoring response actions;
- (6) Implementing the Work pursuant to the conditions set forth in Section XIX (Enforcement/Work Takeover);

(7) Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Respondents or their agents, consistent with Section XIV(Access to Information);

(8) Assessing Respondents' compliance with the Order;

(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 Order; and

(10) Implementing, monitoring, maintaining, reporting on, and enforcing any land, water, or other resource use restrictions regarding the Affected Property.

33. Best Efforts. As used in this Section, "best efforts" means the efforts that a reasonable person in the position of Respondents would use so as 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 Respondents are unable to accomplish what is required through "best efforts" it shall notify EPA, and include a description of the steps taken to comply with the requirements. If EPA deems it appropriate, it may assist Respondents or take independent action in obtaining such access and/or use restrictions. EPA reserves the right to seek payment from Respondents for all costs, including cost of attorneys' time, incurred by the United States in obtaining such access or agreements to restrict land, water, or other resource use.

34. Owner Respondent shall not Transfer its Affected Property unless it has first secured EPA's approval of, and transferee's consent to, an agreement that: (i) is enforceable by EPA; and (ii) requires the transferee to provide access to and refrain from using the Affected Property to the same extent as is provided under Paragraphs 32.a.

35. If EPA determines in a decision document prepared in accordance with the NCP that institutional controls in the form of state or local laws, regulations, ordinances, zoning restrictions, or other governmental controls or notices are needed, Respondents shall cooperate with EPA's efforts to secure and ensure compliance with such institutional controls.

36. In the event of any Transfer of the Affected Property, unless EPA otherwise consents in writing, Respondents shall continue to comply with their obligations under this Order, including their obligation to secure access.

37. Notice to Successors-in-Title.

a. Owner Respondent shall, within 15 days after the Effective Date, submit for EPA approval a notice to be filed regarding Owner Respondent's Affected Property in the appropriate land records. The notice must: (1) include a proper legal description of the Affected Property; (2) provide notice to all successors-in-title that: (i) the Affected Property is part of, or related to, the Site; (ii) EPA has selected a removal action for the Site; and (iii) EPA has ordered potentially responsible parties to implement that removal action; and (3) identify the EPA docket number and Effective Date of this Order. Owner Respondent shall record the notice within ten

(10) days after EPA's approval of the notice and submit to EPA, within ten (10) days thereafter, a certified copy of the recorded notice.

b. Owner Respondent shall, prior to entering into a contract to Transfer its Affected Property, or 60 days prior to Transferring their Affected Property, whichever is earlier:

(1) Notify the proposed transferee that EPA has selected a removal action regarding the Site, that EPA has ordered potentially responsible parties to implement such removal action, (identifying the EPA docket number and the Effective Date of this Order); and

(2) Notify EPA of the name and address of the proposed transferee and provide EPA with a copy of the above notice that it provided to the proposed transferee.

38. Notwithstanding any provision of this Order, EPA retains all of their access authorities and rights, including enforcement authorities related thereto under CERCLA, RCRA, and any other applicable statute or regulations.

XIV. ACCESS TO INFORMATION

39. Upon request, Respondents shall provide to EPA copies of all records, reports, documents, and other information (including records, reports, documents, and other information in electronic form) (hereinafter referred to as Records) within Respondents' possession or control or that of their contractors or agents relating to activities at the Site or to the implementation of this Order, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information regarding the Work. Respondents 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.

40. Privileged and Protected Claims.

a. Respondents 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 Respondents comply with Paragraph 40.b, and except as provided in Paragraph 40.c.

b. If any Respondent asserts a claim of privilege or protection, it 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. Each 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. Respondents may make no claim of privilege or protection regarding: (1) any data regarding the Site, including, but not limited to, 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 Respondents are required to create or generate pursuant to this Order.

41. Business Confidential Claims. Respondents may assert that all or part of a Record provided to EPA under this Section or Section XV (Retention of Records) is business confidential to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Respondents shall segregate and clearly identify all Records or parts thereof submitted under this UAO for which Respondents assert business confidentiality claims. Records submitted to EPA determined to be confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies Records when they are submitted to EPA, or if EPA has notified Respondents that the Records are not confidential 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 Respondents.

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

XV. RETENTION OF RECORDS

43. During the pendency of this Order and for a minimum of ten (10) years after Respondents' receipt of EPA's notification pursuant to Section XXVII (Notice of Completion of Work), Respondents shall preserve and retain all non-identical copies of Records (including Records in electronic form) now in their possession or control, or that come into their possession or control, that relate in any manner to their liability under CERCLA with respect to the Site, and all Records that relate to the liability of any other person under CERCLA with respect to the Site. Respondents must also retain, and instruct their contractors and agents to preserve, for the same period of time specified above, all non-identical copies of the last draft or final version of any Records (including Records in electronic form) now in their possession or control or that come into their possession or control that relate in any manner to the performance of the Work, provided, however, that each Respondent (and its contractors and agents) must retain, in addition, copies of all data generated during performance of the Work and not contained in the aforementioned Records required to be retained. Each of the above record retention requirements shall apply regardless of any corporate retention policy to the contrary maintained by the Respondents and their contractors and agents.

44. At the conclusion of this document retention period, Respondents shall notify EPA at least 90 days prior to the destruction of any such Records, and, upon request by EPA and except as provided in Paragraph 40, Respondents shall deliver any such Records to EPA.

45. Within ten (10) days after the Effective Date, each Respondents shall submit a written certification to EPA's OSC that, to the best of their knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed, or otherwise disposed of any Records (other than identical copies) relating to its potential liability regarding the Site since notification by EPA of their potential liability regarding the Site, and that it has fully complied with any and all EPA requests for information regarding the Site pursuant to Sections 104(e) and 122(e) of

CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927. If any Respondent is unable to so certify, it shall submit a modified certification that explains in detail why it is unable to certify in full with regard to all Records.

XVI. COMPLIANCE WITH OTHER LAWS

46. Nothing in this Order limits Respondents' obligations to comply with the requirements of all applicable state and federal laws and regulations, except as provided in Section 121(e) of CERCLA, 42 U.S.C. § 6921(e), and 40 C.F.R. §§ 300.400(e) and 300.415(j). In accordance with 40 C.F.R. § 300.415(j), all on-Site actions required pursuant to this Order shall, to the extent practicable, as determined by EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements (ARARs) under federal environmental or state environmental or facility siting laws. Respondents shall identify ARARs in the Removal Work Plan subject to EPA approval.

47. No local, state, or federal permit shall be 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), including studies, if the action is selected and carried out in compliance with Section 121 of CERCLA, 42 U.S.C. § 9621. Where any portion of the Work that is not on-Site requires a federal or state permit or approval, Respondents shall submit timely and complete applications and take all other actions necessary to obtain and to comply with all such permits or approvals. This Order is not, and shall not be construed to be, a permit issued pursuant to any federal or state statute or regulation.

XVII. EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES

48. Emergency Response. If any event occurs during performance of the Work that causes or threatens to cause a release of any Waste Material on, at, or from the Site that either constitutes an emergency situation or that may present an immediate threat to public health or welfare or the environment, Respondents shall immediately take all appropriate action to prevent, abate, or minimize such release or threat of release. Respondents shall take these actions in accordance with all applicable provisions of this Order, including, but not limited to, the Health and Safety Plan. Respondents shall also immediately notify the EPA OSC of the incident or Site conditions. In the event that Respondents fail to take appropriate response action as required by this Paragraph, and EPA takes such action instead, EPA reserves the right to pursue cost recovery for their response action.

49. Release Reporting. Upon the occurrence of any event during performance of the Work that Respondents are required to report pursuant to Section 103 of CERCLA, 42 U.S.C. § 9603, or Section 304 of the Emergency Planning and Community Right-To-Know Act (EPCRA), 42 U.S.C. § 11004, Respondents shall immediately orally notify the EPA OSC, or in his absence, the Regional Duty Officer at (312) 353-2318, and the National Response Center at (800) 424-8802. This reporting requirement is in addition to, and not in lieu of, the reporting required by CERCLA Section 103 or EPCRA Section 304.

50. For any event covered under this Section, Respondents shall submit a written report to EPA within seven (7) days after the onset of such event, setting forth the action or event that occurred and the measures taken, and to be taken, to mitigate any release or threat of release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release or threat of release.

XVIII. PAYMENT OF RESPONSE COSTS

51. Upon EPA's written demand, Respondents shall pay EPA all Response Costs incurred or to be incurred in connection with this Order. On a periodic basis, EPA will send Respondents a bill requiring payment of all Response Costs incurred by the United States with respect to this Order that includes an Itemized Cost Summary, which includes direct and indirect costs incurred by EPA, their contractors, and the Department of Justice.

52. Respondents shall make all payments within 30 days after receipt of each written demand requiring payment. Payment shall be made to EPA by Fedwire Electronic Funds Transfer to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

and shall reference Site/Spill ID Number C5GB and the EPA docket number for this action.

53. At the time of payment, Respondents shall send notice that payment has been made to OSC Steve Renninger, U.S. EPA Region 5, 26 West Martin Luther King Drive, Cincinnati, Ohio 45268, 513-260-7849, renninger.steven@epa.gov; Nola Hicks, hicks.nola@epa.gov; and to the EPA Cincinnati Finance Office by email at cinwd_acctsreceivable@epa.gov, or by mail to:

EPA Cincinnati Finance Office
26 W. Martin Luther King Drive
Cincinnati, Ohio 45268

Such notice shall reference Site/Spill ID Number C5GB and EPA docket number for this action.

54. In the event that the payments for Response Costs are not made within 30 days after Respondents' receipt of a written demand requiring payment, Respondents shall pay Interest on the unpaid balance. The Interest on Response Costs shall begin to accrue on the date of the written demand and shall continue to accrue until the date of payment. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to the United States by virtue of Respondents' failure to make timely payments under

this Section. Respondents shall make all payments required by this Paragraph in the manner described in Paragraphs 52 and 53.

XIX. ENFORCEMENT/WORK TAKEOVER

55. Any willful violation, failure, or refusal to comply with any provision of this Order may subject Respondents to civil penalties of up to \$37,500 per violation per day, as provided in Section 106(b)(1) of CERCLA, 42 U.S.C. § 9606(b)(1), and the Civil Monetary Penalty Inflation Adjustment Rule, 69 Fed. Reg. 7121, 40 C.F.R. Part 19.4. In the event of such willful violation, or failure or refusal to comply, 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 addition, nothing in this Order shall limit EPA's authority under Section XXIII (Financial Assurance). Respondents may also be subject to punitive damages in an amount up to three times the amount of any costs incurred by the United States as a result of such failure to comply, as provided in Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3).

XX. RESERVATIONS OF RIGHTS BY EPA

56. Nothing in this Order shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health or 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 in this Order shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Respondents in the future to perform additional activities pursuant to 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. § 9607, for recovery of any response costs incurred by the United States related to this Order or the Site and not paid by Respondents.

XXI. OTHER CLAIMS

57. 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 Respondents or their directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Order.

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

59. Nothing in this Order shall be deemed to constitute preauthorization of a claim within the meaning of Section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2).

60. No action or decision by EPA pursuant to this Order shall give rise to any right to judicial review, except as set forth in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

XXII. INSURANCE

61. At least seven (7) days prior to commencing any Work on-Site under this Order, Respondents shall secure, and shall maintain for the duration of this Order, commercial general liability insurance with limits of \$2 million dollars, for any one occurrence, and automobile insurance with limits of \$2 million dollars, combined single limit, and umbrella liability insurance with limits of liability of \$5 million in excess of the required commercial general liability and automobile liability limits, naming EPA as an additional insured with respect to all liability arising out of the activities performed by or on behalf of Respondents pursuant to this Order. Within the same time period, Respondents shall provide EPA with certificates of such insurance and a copy of each insurance policy. Respondents shall submit such certificate and copies of policies each year on the anniversary of the Effective Date. In addition, for the duration of the Order, Respondents shall satisfy, or shall ensure that their contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing Work on behalf of Respondents in furtherance of this Order. If Respondents demonstrate by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering some or all of the same risks but in an equal or lesser amount, then, with respect to that contractor or subcontractor, Respondents need provide only that portion of the insurance described above which is not maintained by such contractor or subcontractor.

XXIII. FINANCIAL ASSURANCE

62. In order to ensure completion of the Work, Respondents shall secure financial assurance, initially in the amount of \$1.25 million (Estimated Cost of the Work). The financial assurance must be one or more of the mechanisms listed below, in a form substantially identical to the relevant sample documents available under "Financial Assurance" at <http://cfpub.epa.gov/compliance/resources/policies/cleanup/superfund/index.cfm>), and satisfactory to EPA. Respondents may use multiple mechanisms if it is limited to trust funds, surety bonds guaranteeing payment, and/or letters of credit.

a. A trust fund: (1) established to ensure that funds will be available as and when needed for performance of the Work required by this Order; (2) administered by a trustee that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency; and (3) governed by an agreement that requires the trustee to make payments from the fund only when the Superfund Division Director advises the trustee in writing that: (A) payments are necessary to fulfill Respondents' obligations under the Order; or (B) funds held in trust are in excess of the funds that are necessary to complete the performance of Work in accordance with this Order;

b. A surety bond, issued by a surety company among those listed as acceptable sureties on federal bonds as set forth in Circular 570 of the U.S. Department of the Treasury, guaranteeing payment or performance in accordance with Paragraph 67 (Access to Financial Assurance);

c. An irrevocable letter of credit, issued by an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency, guaranteeing payment in accordance with Paragraph 67 (Access to Financial Assurance);

d. A demonstration by Respondents that Respondents meets the relevant financial test criteria of 40 C.F.R. § 264.143(f)) and reporting requirements of this Section for the sum of the Estimated Cost of the Work and the amounts, if any, of other federal, state, or tribal environmental obligations financially assured through the use of a financial test or guarantee; or

e. A guarantee to fund or perform the Work executed by one or more of the following: (1) a direct or indirect parent company of Respondents; or (2) a company that has a “substantial business relationship” (as defined in 40 C.F.R. § 264.141(h)) with Respondents; provided, however, that any company providing such a guarantee must demonstrate to EPA’s satisfaction that it meets the relevant financial test criteria of 40 C.F.R. § 264.143(f) and reporting requirements of this Section for the sum of the Estimated Cost of the Work and the amounts, if any, of other federal, state, or tribal environmental obligations financially assured through the use of a financial test or guarantee.

63. Standby Trust. If Respondents seek to establish financial assurance by using a surety bond, a letter of credit, or a corporate guarantee, Respondents shall at the same time establish and thereafter maintain a standby trust fund, which must meet the requirements specified in Paragraph 62.a, and into which funds from the other financial assurance mechanism can be deposited if the financial assurance provider is directed to do so by EPA pursuant to Paragraph 67 (Access to Financial Assurance). An originally signed duplicate of the standby trust agreement must be submitted, with the other financial mechanism, to EPA in accordance with Paragraph 64. Until the standby trust fund is funded pursuant to Paragraph 67 (Access to Financial Assurance), neither payments into the standby trust fund nor annual valuations are required.

64. Within ten (10) days after the Effective Date, Respondents shall submit to EPA proposed financial assurance mechanisms in draft form in accordance with Paragraph 62 for EPA’s review. Within 30 days after EPA’s approval of the form and substance of Respondents’ financial assurance, Respondents shall secure all executed and/or otherwise finalized mechanisms or other documents consistent with the EPA-approved form of financial assurance and shall submit such mechanisms and documents to the Regional Financial Management Officer at:

EPA Cincinnati Finance Office
26 W. Martin Luther King Drive
Cincinnati, Ohio 45268

65. If Respondents provide financial assurance by means of a demonstration or guarantee under Paragraph 62.d or 62.e, Respondents shall also comply, and shall ensure that their guarantors comply, with the other relevant criteria and requirements of 40 C.F.R. § 264.143(f) and this Section, including: (a) the initial submission to EPA of required documents

from the affected entity's chief financial officer and independent certified public accountant no later than 90 days after the Effective Date; (b) the annual resubmission of such documents within 90 days after the close of each such entity's fiscal year; and (c) the notification to EPA no later than 30 days, in accordance with Paragraph 66, after any such entity determines that it no longer satisfies the financial test criteria and requirements set forth at 40 C.F.R. § 264.143(f)(1). For purposes of this Section, references in 40 C.F.R. Part 264, Subpart H, to: (1) the terms "current closure cost estimate," "current post-closure cost estimate," and "current plugging and abandonment cost estimate" include the Estimated Cost of the Work; (2) "the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates" mean the sum of all environmental obligations (including obligations under CERCLA, RCRA, and any other federal, state, or tribal environmental obligation) guaranteed by such company or for which such company is otherwise financially obligated, in addition to the Estimated Cost of the Work under this Order; (3) the terms "owner" and "operator" include each Respondent making a demonstration or obtaining a guarantee under Paragraph 62.d or 62.e; and (4) the terms "facility" and "hazardous waste management facility" include the Site.

66. Respondents shall diligently monitor the adequacy of the financial assurance. If Respondents become aware of any information indicating that the financial assurance provided under this Section is inadequate or otherwise no longer satisfies the requirements of this Section, Respondents shall notify EPA of such information within 30 days. If EPA determines that the financial assurance provided under this Section is inadequate or otherwise no longer satisfies the requirements of this Section, EPA will notify the affected Respondent of such determination. Respondents shall, within 30 days after notifying EPA or receiving notice from EPA under this Paragraph, secure and submit to EPA for approval a proposal for a revised or alternative financial assurance mechanism that satisfies the requirements of this Section. Respondents shall follow the procedures of Paragraph 68 in seeking approval of, and submitting documentation for, the revised or alternative financial assurance mechanism. Respondents' inability to secure and submit to EPA financial assurance in accordance with this Section 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 accordance with the terms of this Order.

67. Access to Financial Assurance.

a. If EPA determines that Respondents (1) have ceased implementation of any portion of the Work, (2) are seriously or repeatedly deficient or late in their performance of the Work, or (3) are implementing the Work in a manner that may cause an endangerment to human health or the environment, EPA may issue a written notice (Performance Failure Notice) to both Respondents and the financial assurance provider regarding Respondents' failure to perform. Any Performance Failure Notice issued by EPA will specify the grounds upon which such notice was issued and will provide Respondents a period of ten (10) days within which to remedy the circumstances giving rise to EPA's issuance of such notice. If, after expiration of the ten-day period specified in this Paragraph, Respondents have not remedied to EPA's satisfaction the circumstances giving rise to EPA's issuance of the relevant Performance Failure Notice, then, in accordance with any applicable financial assurance mechanism, EPA may at any time thereafter direct the financial assurance provider to immediately: (i) deposit any funds assured pursuant to this Section into the standby trust fund; or (ii) arrange for performance of the Work in accordance with this Order.

b. If EPA is notified by the provider of a financial assurance mechanism that it intends to cancel the mechanism, and Respondents fail to provide an alternative financial assurance mechanism in accordance with this Section at least 30 days prior to the cancellation date, EPA may, prior to cancellation, direct the financial assurance provider to deposit any funds guaranteed under such mechanism into the standby trust fund for use consistent with this Section.

68. Modification of Amount, Form, or Terms of Financial Assurance. Respondents may submit, on any anniversary of the Effective Date or following Respondents' request for, and EPA's approval of, another date, a request to reduce the amount, or change the form or terms, of the financial assurance mechanism. Any such request must be submitted to the EPA individuals referenced in Paragraph 64, and must include an estimate of the cost of the remaining Work, an explanation of the basis for the cost calculation, a description of the proposed changes, if any, to the form or terms of the financial assurance, and any newly proposed financial assurance documentation in accordance with the requirements of Paragraphs 62 and 63. EPA will notify Respondents of its decision to approve or disapprove a requested reduction or change. Respondents may reduce the amount of the financial assurance mechanism only in accordance with EPA's approval. Within 30 days after receipt of EPA's approval of the requested modifications pursuant to this Paragraph, Respondents shall submit to the EPA individuals referenced in Paragraph 64 all executed and/or otherwise finalized documentation relating to the amended, reduced, or alternative financial assurance mechanism. Upon EPA's approval, the Estimated Cost of the Work shall be deemed to be the estimate of the cost of the remaining Work in the approved proposal.

69. Release, Cancellation, or Discontinuation of Financial Assurance. Respondents may release, cancel, or discontinue any financial assurance provided under this Section only: (a) after receipt of documentation issued by EPA certifying completion of the Work; or (b) in accordance with EPA's written approval of such release, cancellation, or discontinuation.

XXIV. MODIFICATION

70. The EPA OSC may make modifications to any plan or schedule in writing or by oral direction. Any oral modification will be memorialized in writing by EPA within ten (10) days, but shall have as their effective date the date of the EPA /OSC's oral direction. Any other requirements of this Order may be modified the Director, Superfund Division. If Respondents seek permission to deviate from any approved Work Plan or schedule, Respondents' Project Coordinator shall submit a written request to EPA for approval outlining the proposed modification and their basis. Respondents may not proceed with the requested deviation until receiving approval from the OSC pursuant to Paragraph 70.

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

XXV. DELAY IN PERFORMANCE

72. Any delay in performance of this Order that, in EPA's judgment, is not properly justified by Respondents under the terms of the following Paragraph shall be considered a violation of this Order. Any delay in performance of this Order shall not affect Respondents' obligations to fully perform all obligations under the terms and conditions of this Order.

73. Respondents shall notify EPA of any delay or anticipated delay in performing any requirement of this Order. Such notification shall be made by telephone and email to the EPA OSC within 48 hours after Respondents first knew or should have known that a delay might occur. Respondents shall adopt all reasonable measures to avoid or minimize any such delay. Within seven (7) days after notifying EPA by telephone and email, Respondents shall provide to EPA written notification fully describing the nature of the delay, the anticipated duration of the delay, any justification for the delay, all actions taken or to be taken to prevent or mitigate the delay or the effect of the delay, a schedule for implementation of any measures to be taken to mitigate the effect of the delay, and any reason why Respondents should not be held strictly accountable for failing to comply with any relevant requirements of this Order. Increased costs or expenses associated with implementation of the activities called for in this Order are not justification for any delay in performance.

XXVI. ADDITIONAL REMOVAL ACTIONS

74. If EPA determines that additional removal actions not included in an approved plan are necessary to protect public health or welfare, or the environment, EPA will notify Respondents of that determination and will either modify this Order or issue a new Order to address any additional removal actions.

XXVII. NOTICE OF COMPLETION OF WORK

75. When EPA determines, after its review of the final report, that all Work has been fully performed in accordance with this Order, with the exception of any continuing obligations required by this Order (including reimbursement of response costs and record retention), EPA will provide written notice to Respondents. If EPA determines that any Work has not been completed in accordance with this Order, EPA will notify Respondents, provide a list of the deficiencies, and require that Respondents modify the Work Plan, if appropriate, in order to correct such deficiencies. The modified Work Plan shall include a schedule for correcting such deficiencies. Within ten (10) days after receipt of written approval of the modified Work Plan, 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.

XXVIII. ADMINISTRATIVE RECORD

76. EPA has established an Administrative Record that contains the documents that form the basis for the issuance of this Order. No later than 60 days after initiation of on-site removal activity, it shall be made available for review by appointment on weekdays between the hours of 8:30 and 4:30 at the EPA offices in the Superfund Records Center, 77 West Jackson

Boulevard, 7th Floor, Chicago, Illinois 60604-3590. To review the Administrative Record, please contact Todd Quesada at 312-886-4465 to make an appointment.

XXVIV. SEVERABILITY

77. If a federal 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 federal court's order.

It is so ORDERED.

BY: M. Cecilia Moore for DATE: 11/01/2017
Margaret Guerriero, Director
Superfund Division
Region 5
U.S. Environmental Protection Agency
EFFECTIVE DATE: NOV - 2 2017

In the matter of: *Lunkenheimer Foundry Site: 1519 Tremont Street, Cincinnati, Hamilton County, Ohio – Site Spill Identification Number: C5GB*
Docket Number: CERCLA-05-2018-0001

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing *Unilateral Administrative Order*, which was filed on November 2, 2017, in the following manner to the addressees:

Copy by Certified Mail

Return-receipt: CERTIFIED MAIL RECEIPT NUMBER: 7011 1150 0000 2639 3724
The Paddington Irrevocable Trust and Star-Let Corporation
c/o Art McMahon, Attorney
Taft, Stettinius & Hollister LLP
425 Walnut Street, Suite 1800
Cincinnati, Ohio 45202

CERTIFIED MAIL RECEIPT NUMBER: 7011 1150 0000 2639 3731
Nick Pieczonka
Taft, Stettinius & Hollister LLP
425 Walnut Street, Suite 1800
Cincinnati, Ohio 45202

Copy by E-mail to

Enforcement Specialist: Michael Rafati
Rafati.Michael@epa.gov

Dated: November 2, 2017



LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5