

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
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IN THE MATTER OF:
CAMPBELL SUBSTATION
6500 HALL STREET
ST. LOUIS, MISSOURI

ADMINISTRATIVE SETTLEMENT
AGREEMENT AND ORDER ON
CONSENT FOR REMOVAL ACTION

UNION ELECTRIC COMPANY,

U.S. EPA Region VII
Docket No.: CERCLA-07-2007-0018

Respondent.

Proceeding Under Sections 104, 107 and
122 of the Comprehensive Environmental
Response, Compensation, and Liability Act,
as amended, 42 U.S.C. §§ 9604, 9607 and
9622

September 12, 2007

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Appendix A - Enforcement Action Memorandum

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I. JURISDICTION AND GENERAL PROVISIONS

1. This Administrative Settlement Agreement and Order on Consent (“Settlement Agreement”) is entered into voluntarily by the United States Environmental Protection Agency (“EPA”) and Union Electric Company d/b/a AmerenUE, a public utility duly organized and existing under Missouri law (“Respondent”). This Settlement Agreement provides for the performance of a removal action by Respondent and the reimbursement of certain response costs incurred by the United States at or in connection with property owned by Respondent and used as an electric transmission station sometimes referred to herein as the “Campbell Substation” which is located at 6500 Hall Street, St. Louis, Missouri (the “Site”).

2. This Settlement Agreement is issued under the authority vested in the President of the United States by Sections 104, 107, and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9604, 9607 and 9622, as amended (“CERCLA”).

3. EPA has notified the State of Missouri (the “State”) of this action pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

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

II. PARTIES BOUND

5. This Settlement Agreement applies to and is binding upon EPA and upon Respondent and its successors and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent’s responsibilities under this Settlement Agreement.

6. Respondent shall ensure that its contractors, subcontractors, and representatives receive a copy of this Settlement Agreement and comply with this Settlement Agreement. Respondent shall be responsible for any noncompliance with this Settlement Agreement.

III. DEFINITIONS

7. Unless otherwise expressly provided in this Settlement Agreement, terms used in this Settlement Agreement 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 Settlement Agreement or in the appendices attached hereto and incorporated hereunder, the following definitions shall apply:

- a. "Action Memorandum" shall mean the EPA Enforcement Action Memorandum relating to the Site signed June 29, 2007, by the Director of EPA Region VII's Superfund Division. The "Action Memorandum" is included in the administrative record for this Site and attached as Appendix A.
- b. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601, *et seq.*
- c. "Day" shall mean a calendar day. In computing any period of time under this Settlement Agreement, 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.
- d. "Effective Date" shall be the effective date of this Settlement Agreement as provided in Section XXXI.
- e. "Engineering Evaluation/Cost Analysis" or "EE/CA" refers to Engineering Evaluation/Cost Analysis dated October 2006, prepared by Burns & McDonnell Engineering Company and Geotechnology, Inc. on behalf of Respondent. The Engineering Evaluation/Cost Analysis is included in the administrative record for this Site and attached as Appendix B.
- f. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.
- g. "Future Response Costs" shall mean all costs, including but not limited to, direct and indirect costs, that the United States incurs from the Effective Date of this Settlement Agreement in reviewing or developing plans, reports and other items pursuant to this Settlement Agreement, verifying the Work, or otherwise implementing, overseeing, or enforcing this Settlement Agreement, including but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, the costs incurred pursuant to Paragraph 36 (costs and attorneys fees and any monies paid to secure access, including the amount of just compensation), and Paragraph 47 (emergency response), and Paragraph 74 (work takeover). Future

Response Costs shall also include all Interim Response Costs, and all Interest on those Past Response Costs Respondents have agreed to reimburse under this Order that has accrued pursuant to 42 U.S.C. § 9607(a) during the period from July 1, 2007 to the Effective Date.

- h. "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 1 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 1 of each year.
- i. "Interim Response Costs" shall mean all costs, including direct and indirect costs, a) paid by the United States in connection with the Site between July 1, 2007 and the Effective Date, or b) incurred prior to the Effective Date, but paid after that date.
- j. "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.
- k. "Settlement Agreement" shall mean this Administrative Settlement Agreement and Order on Consent and all appendices attached hereto. In the event of conflict between this Settlement Agreement and any appendix, this Settlement Agreement shall control.
- l. "Paragraph" shall mean a portion of this Settlement Agreement identified by an Arabic numeral.
- m. "Parties" shall mean EPA and Respondent.
- n. "Past Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States paid at or in connection with the Site through July 1, 2007, plus Interest on all such costs through such date.
- o. "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).
- p. "Section" shall mean a portion of this Settlement Agreement identified by a Roman numeral.

- q. "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) and any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27).
- r. "Work" shall mean all activities Respondent is required to perform under this Settlement Agreement.

IV. FINDINGS OF FACT

8. The Site is located on 10.9 acres in City Block 3470, City of St. Louis, Missouri, an industrial area located approximately 600 feet west of the Mississippi River in St. Louis, Missouri. Upon information and belief, from 1955 through 1967 an area which included the Site, composed of approximately 100 acres, was owned by Burlington-Northern Railroad Company and leased to Technical Services Corporation ("TSC") who used this property as a landfill. This landfill allegedly accepted municipal waste incinerator ash from the City of St. Louis, construction/demolition debris, and commercial and residential refuse.

9. Respondent acquired the Site on November 9, 1976, from Burlington Northern, Inc., a successor-in-interest to the Chicago, Burlington, and Quincy Railroad Company. Burlington Northern, Inc., or its predecessors acquired the Site in 1897.

10. In constructing the electric substation, Respondent imported overburden soil from a local quarry. As a result, surface water drainage, surface water migration through soils, and ground water migration may travel indirectly, from the top of the substation Site to the lower soils and drainage ways, and ultimately into the Mississippi River.

11. In June of 1981, Respondent, pursuant to Section 103(c) of CERCLA, notified EPA that it suspected that waste oil and solvents may have been used at the Site for dust suppression and weed control, and that the Site was located on top of a former landfill. In 1985, and in response to inquiries from EPA, Respondent informed EPA that herbicides had been applied at the Site and that transformers and circuit breakers at the Site contained non-PCB oil.

12. On February 29, 1984, EPA conducted soil sampling at the Site in an effort to supplement a preliminary assessment of the Site conducted by EPA in 1983. A 5 aliquot, 0-6 inch deep composite sediment sample was taken from a drainage ditch located along the eastern border of the substation. A 4 aliquot, 0-6 inch deep composite soil sample was taken along the face of the landfill. This face is located just east of the substation and is cut by the drainage ditch. A 3 aliquot, 0-6 inch deep composite control sample was taken from the landscape located west and up-slope of the substation. The results of the sampling indicated the presence of Hazardous Substances as defined in CERCLA, including: fluoranthene; benzo(a)anthracene; benzo(a)pyrene; benzo(b)fluoranthene; chrysene, benzo(ghi)perylene, phenanthrene; indeno(1,2,3,CD)pyrene; pyrene; chlorobenzene; o xylene; dieldrin; 4,4,DDE, PCB (Aroclor 1254); and PCB (Aroclor 1248).

13. In 1987, EPA conducted additional sampling at the Site in an attempt to determine the extent of contamination. The results identified multiple types of contamination in several types of media:

- a. PCB contamination at levels to 18 milligrams per kilogram (“mg/kg”) was documented in surface soil samples taken from locations outside the substation’s security fence.
- b. PCB contamination at 67 mg/kg and 190 mg/kg was documented in surface soil samples and sediment samples, respectively, located in on-Site drainage ditches.
- c. PCB contamination up to 27 mg/kg was documented in subsurface soil samples taken from locations outside the security fence on the north side of the Site.
- d. Total polynuclear aromatic hydrocarbon (“PAH”) contamination at levels to 530 mg/kg was documented in subsurface soil samples taken from locations outside the security fence, on the elevated fill material on the north side of the Site. Specifically, Benzo(a)pyrene was found at 42 mg/kg.
- e. Total PAH contamination at levels to 115 mg/kg and 63 mg/kg was documented on the north side of the Site in surface soils and sediments, respectively, with maximum Benzo(a)pyrene concentration of 16 mg/kg in the surface soils.
- f. Low levels of several volatile organic compounds were found in the drainage ditches in samples taken from surface soils, sediments, and surface water. Specifically, the identified contaminants included trichloroethylene, vinyl chloride, chlorobenzene, perchloroethylene and 1,2-dichloroethylene.
- g. Lead contamination up to 1,100 mg/kg was documented in subsurface soil samples taken from the north side of the Site.

14. On June 17, 2003, EPA and Respondent entered into an administrative Settlement Agreement and Order on Consent (“AOC”) for the performance of an engineering evaluation/cost analysis at the Site. An EE/CA is a document that identifies and evaluates feasible and cost-effective alternatives for proposed removal actions, and recommends a specific removal action. This AOC bears EPA Docket Number CERCLA-07-2003-0111 and is on file with EPA, Region VII’s Regional Hearing Clerk.

15. In 2004, Respondent conducted a site characterization and submitted to EPA a Site Characterization Report. Twenty surface soil samples were collected at a depth of 0.5 to 1 foot below ground surface (“bgs”). Six bore holes were advanced to assess the thickness of refuse/fill material and Site stratigraphy. Continuous sampling was conducted to assess subsurface soil conditions. Results show that limestone gravel covers the Site at a depth of 0.5 to 1.5 feet, and underlying the gravel is refuse/fill material. Some areas of the Site contain refuse/fill near the

surface. Refuse material consists of rubble, wood, brick, clay, and solid waste. Depths to the base of the refuse/fill material ranged from 8 to 23 feet bgs. Underlying the refuse/fill is gray to brown silty clay. Of the six advanced bore holes, four bore holes were used to establish monitoring wells. The monitoring wells were installed to depths ranging from 23 feet to 31 feet bgs. The monitoring wells were advanced to groundwater levels to monitor groundwater conditions. Groundwater was encountered at a depth of 5 to 12 feet bgs. Hydraulic conductivity testing was conducted using the slug testing method. The analytical results indicate the presence of the following hazardous substances at the Site:

- a. Arsenic to 6.8 mg/kg was detected in a surface soil sample collected 0.5 to 1 foot bgs.
- b. Barium to 330 mg/kg was detected in a surface soil sample collected 0.5 to 1 foot bgs.
- c. Cadmium to 5.5 mg/kg was detected in a surface soil sample collected 0.5 to 1 foot bgs.
- d. Benzene to 0.012 mg/kg was detected in a surface soil sample collected 0.5 to 1 foot bgs.
- e. Ethylbenzene to 9.8 mg/kg was detected in a surface soil sample collected 0.5 to 1 foot bgs.
- f. Chromium to 60 mg/kg was detected in a surface soil sample collected 0.5 to 1 foot bgs.
- g. Total xylene to 74 mg/kg was detected in a surface soil sample collected 0.5 to 1 foot bgs.
- h. PCB 1248 to 110 mg/kg was detected in a surface soil sample collected 0.5 to 1 foot bgs.
- i. The following contaminants were detected in surface soil samples collected 0.5 to 1 foot bgs: benzo(a)anthracene to 7.1 mg/kg; benzo(b)fluoranthene to 8.8 mg/kg; benzo(k)fluoranthene to 5.9 mg/kg; benzo(a)pyrene to 8.3 mg/kg, and indeno(1,2,3-cd)pyrene to 5.6 mg/kg.
- j. The following contaminants were detected in groundwater samples collected from monitoring well 2: vinyl chloride to 0.0076 mg/l; and cis-1,2-dichloroethene to 0.43 mg/l.

16. The EPA, Region IX Preliminary Remediation Goals (PRGs) are used to evaluate and clean up contaminated sites. They are risk-based concentrations that are intended to assist risk assessors in initial site screening and are frequently used as clean up goals. The PRGs are

generic and calculated without site specific information. PRG levels are EPA guidelines, not legally enforceable standards. The Site is not zoned for residential use, and access is restricted to Respondent's employees or supervised non-employees. Therefore, analytical results are compared to the standards set forth under the PRG "industrial" standards. Analytical results are also compared to the soil migration to groundwater standard. The PRGs for hazardous substances found at the Site are:

- a. Arsenic - 1.6 mg/kg (direct contact - industrial standard)
- b. Barium - 82 mg/kg (soil migration to groundwater standard)
- c. Cadmium - 0.4 mg/kg (soil migration to groundwater standard)
- d. Chromium - 2.0 mg/kg (soil migration to groundwater standard)
- e. Benzene - 0.002 mg/kg (soil migration to groundwater standard)
- f. Ethylbenzene - 0.7 mg/kg (soil migration to groundwater standard)
- g. Lead - 800 mg/kg (direct contact - industrial standard)
- h. Total xylene - 10 mg/kg (soil migration to groundwater standard)
- i. Polycyclic aromatic hydrocarbons (PAHs) (direct contact - industrial standard) - benzo(a)anthracene - 2.1 mg/kg; benzo(b)fluoranthene - 2.1 mg/kg; benzo(k)fluoranthene - 21 mg/kg; benzo(a)pyrene - .21 mg/kg; indeno(1,2,3-cd)pyrene - 2.1 mg/kg; and bis(2-ethylhexyl)phthalate - 120 mg/kg.
- j. PCB 1248 - 0.74 mg/kg (direct contact - industrial standard)

17. Human and environmental exposure to the hazardous substances, pollutants and/or contaminants such as those found at the Site may result in the following toxicological effects:

- a. PAHs are harmful to human health under certain circumstances. Studies of people show that individuals exposed by breathing or skin contact for long periods to mixtures that contain PAHs and other compounds can develop cancer. As a result, certain PAH compounds, including Benzo(a)pyrene ("BAP") are classified as probable human carcinogens. BAP has been found at the Site. In addition, studies in animals have shown that PAHs can cause harmful effects on skin, body fluids, and the body's system for fighting disease after both short and long-term exposures. There are more than 100 different PAHs. PAHs generally occur as complex mixtures, not as single compounds. Although the health effects of individual PAHs are not exactly alike, they are typically considered as a group rather than as individual compounds.

- b. Lead exposures to humans can occur by inhalation, ingestion, or dermal contact. The main target for lead toxicity is the nervous system, both in adults and in children. Some studies have suggested that lead exposure can cause high blood pressure and anemia. At high levels of exposure, lead can severely damage the brain and kidneys. In pregnant women, high levels of exposure may cause miscarriage. High level exposure to men can damage the organs responsible for sperm production. Also, lead is classified as a probable human carcinogen.
- c. Polychlorinated biphenyls ("PCBs") are a group of synthetic organic chemicals that can cause a number of different harmful effects. Routes of exposure mainly include ingestion, dermal contact, and inhalation. Skin conditions, such as acne and rashes, may occur in people exposed to high levels of PCBs. Some studies indicate that exposures may cause irritation of the nose and lungs, gastrointestinal discomfort, changes in the blood and liver, and depression and fatigue. Other studies suggest that the immune system may be affected in children born to and nursed by mothers exposed to PCBs. Animal studies have shown harmful effects such as prenatal death and changes in immune system, thyroid, and reproductive organs. PCBs are classified as a probable human carcinogen.
- d. Arsenic is a naturally occurring element that when combined with oxygen, chlorine, and sulfur forms inorganic arsenic compounds. People may be exposed to arsenic through ingesting small amounts present in food and water or breathing air containing arsenic. Breathing high levels of inorganic arsenic can cause a sore throat or irritated lungs. Ingesting very high levels of arsenic can result in death. Exposure to lower levels can cause nausea and vomiting, decreased production of red and white blood cells, abnormal heart rhythm, and damage to blood vessels. Ingesting or breathing low levels of inorganic arsenic for a long time can cause a darkening of the skin. Skin contact with inorganic arsenic may cause redness and swelling. Inorganic arsenic is carcinogenic to humans.
- e. Barium is a silvery-white metal which exists in nature only in ores containing mixtures of elements. It combines with other chemicals such as sulfur or carbon and oxygen to form barium compounds. People may be exposed to barium through ingestion of small amounts present in food and water or breathing air containing very low levels of barium. Barium has been found to potentially cause gastrointestinal disturbances and muscular weakness when people are exposed to it at levels above the EPA drinking water standards for relatively short periods of time. Exposure may cause vomiting, abdominal cramps, diarrhea, difficulties with breathing, increased or decreased blood pressure, numbness around the face, and muscle weakness. Eating or drinking very large amounts of barium compounds that easily dissolve can cause changes in heart rhythm or paralysis and possibly death.
- f. Cadmium is a natural element in the earth's crust. It is usually found as a mineral combined with other elements such as oxygen, chlorine, or sulfur. People may be

exposed to cadmium through breathing air containing cadmium or eating food containing it. Breathing high levels of cadmium severely damages the lungs and can cause death. Eating food or drinking water with very high levels severely irritates the stomach, leading to vomiting and diarrhea. Long-term exposure to lower levels of cadmium in air, food, or water leads to a buildup of cadmium in the kidneys and possible kidney disease.

- g. Benzene is a known carcinogen. People living around hazardous waste sites may be exposed to higher levels of benzene in the air. When exposed at low levels, benzene may cause drowsiness, dizziness, rapid heart rate, headaches, tremors, confusion, and unconsciousness. Prolonged exposure to benzene has been associated with development of one kind of leukemia.
- h. Chromium (VI) is much more toxic than chromium (III), for both acute and chronic exposures. The respiratory tract is the major target organ for chromium (VI) following inhalation exposure in humans. Ingestion of high amounts of chromium (VI) causes gastrointestinal effects in humans and animals, including abdominal pain, vomiting, and hemorrhage. Acute animal tests have shown chromium (VI) to have extreme toxicity from inhalation and oral exposure. Chromium (III) is an essential element in humans. Acute animal tests have shown chromium (III) to have moderate toxicity from oral exposure.
- i. Ethylbenzene is a colorless, flammable liquid. People living near hazardous waste sites may be exposed to elevated levels of ethylbenzene in the air, water, and soil. Exposure to high levels can cause dizziness and decreased mobility. At lower exposure levels, people may experience eye and throat irritation.
- j. Xylene is a colorless, flammable liquid and is sometimes released into water and soil as a result of use, storage, and transport of petroleum products. Short-term exposure at high levels of xylene can cause irritation of the skin, eyes, nose, and throat. Short-term and long-term exposure to high concentrations of xylene can cause adverse effects to the nervous system. Exposure of high levels of xylene to pregnant women may cause harmful effects to the fetus.
- k. Vinyl chloride is a colorless, flammable gas at room temperature. All vinyl chloride is manufactured or results from the breakdown of other manufactured substances, such as TCE. Routes of exposure include inhalation, ingestion, and dermal contact. Human health effects include dizziness, severe dermal rashes, liver damage, nerve damage, blood circulation problems, and reproduction problems. In animal studies, miscarriages and prenatal problems are documented. Human and animal studies have documented that vinyl chloride is a known human carcinogen.

18. In July 2004, Respondent submitted a draft EE/CA to EPA for review and approval. The EE/CA evaluated alternatives for responding to the presence of certain hazardous substances

at the Site. As a result of comments by EPA and Missouri Department of Natural Resources ("MDNR"), the EE/CA was revised by Respondent and resubmitted to EPA and MDNR in October 2006. In accordance with the NCP, EPA began publishing notice of the availability of the EE/CA in the *St. Louis Post Dispatch*, a major newspaper of general circulation in the St. Louis area on May 15, 2006. EPA provided to the public a 30-day opportunity - from May 15, 2006, through June 13, 2006 - for submitting written and oral comments on the response alternatives set forth in the EE/CA. No comments were received by EPA.

19. By Enforcement Action Memorandum dated June 29, 2007, EPA selected the second removal action alternative recommended in the EE/CA. The selected alternative includes the following requirements:

- a. Respondent shall install a perimeter fence to reduce potential exposure by limiting access to the entire Site. The fence will be six to eight feet in height with barbed wire on the top.
- b. Respondent shall place a geotextile liner, riprap, or other approved stabilization/erosion control materials in the areas along the eastern bank of the Site adjacent to the offsite drainage ditch, where erosion has caused exposure of landfill materials.
- c. For protection of human health, Respondent shall implement an institutional control to restrict property use to industrial/commercial uses. This institutional control to be implemented at the Site is expected to include a proprietary or governmental control in the form of a deed restriction, restrictive covenant, easement, municipal ordinance, or other appropriate instrument to restrict land use.
- d. Respondent shall implement appropriate institutional controls to address contaminated groundwater to prohibit groundwater use and prohibit the installation of water wells. This institutional control to be implemented at the Site is expected to include proprietary or governmental controls in the form of a deed restriction, restrictive covenant, easement, municipal ordinance, or other appropriate instrument.
- e. Respondent shall implement appropriate institutional controls to prohibit residential use of the property and ensure that informational devices are continued so that EPA or MDNR is notified if the property is sold will be addressed through the imposition of institutional controls. This institutional control to be implemented at the Site is expected to include proprietary or governmental controls in the form of a deed restriction, restrictive covenant, easement, municipal ordinance, or other appropriate instrument.
- f. Respondent shall notify future workers at the Site prior to any subsurface work on the Site. Workers shall be informed of the potential exposures and Respondent

shall recommend the use of personal protective equipment. An approved health and safety plan shall also be implemented when any excavation work is conducted on the Site.

- g. Respondent shall prepare an annual report (“Annual Report”) for EPA and MDNR which includes photographs and a detailed summary of Site conditions for five years. The Annual Report shall be submitted to EPA and MDNR on or before the Effective Date of this Settlement Agreement for the succeeding five years. EPA shall have the authority to approve or disapprove or provide comments on the Annual Report.
- h. Five years after the Effective Date of this Settlement Agreement, Respondent shall evaluate the need to continue preparing the Annual Report. Respondent shall summarize its findings and provide a detailed report (“Five Year Report”) to EPA and MDNR evaluating the need for the Annual Report. EPA shall have the authority to approve or disapprove or provide comments on the report. Upon written approval by EPA, Respondent may cease submitting the Annual Report. Upon written denial by EPA, Respondent shall continue submitting the Annual Report to EPA and MDNR on an annual basis until EPA notifies Respondent it may cease submitting the Annual Report.
- i. Respondent shall conduct the following monitoring requirements:
 - i. Quarterly monitoring of the existing four groundwater monitoring wells for one year after the Effective Date of this Settlement Agreement. Respondent shall submit groundwater monitoring results to EPA and MDNR on a quarterly basis. One year after the Effective Date, Respondent shall evaluate the need to continue groundwater monitoring and provide a recommendation of whether and how frequently groundwater monitoring should continue in the Annual Report. EPA shall have the authority to approve, disapprove, or provide comments on the conclusion reached in the Annual Report regarding groundwater monitoring. Upon written approval by EPA, Respondent may cease groundwater monitoring. Upon written denial by EPA, Respondent shall continue quarterly groundwater monitoring and reporting to EPA and MDNR until EPA notifies Respondent it may cease groundwater monitoring.
 - ii. Annual methane monitoring in methane monitoring wells and inside existing buildings located on the Site for five years after the Effective Date of this Settlement Agreement. The results of the methane monitoring shall be included in the Annual Report. Respondent shall evaluate the need to continue methane monitoring and provide a recommendation of whether and how frequently methane monitoring should continue in the Five Year Report. EPA shall have the authority to approve, disapprove, or provide

comments on the conclusion reached in the Five Year Report regarding methane monitoring. Upon written approval by EPA, Respondent may cease methane monitoring. Upon written denial by EPA, Respondent shall continue annual methane monitoring and reporting to EPA and MDNR until EPA notifies Respondent it may cease methane monitoring.

- iii. Concurrent with the annual methane monitoring Summa canisters will be utilized for the collection of ambient air at the methane gas monitoring wells (MGMW-5,-6, and -8) for VOC analysis. A Summa canister VOC sample will also be collected inside the one-story block building inside the substation. The results of the VOC analysis shall be included in the Annual Report. Respondent shall evaluate the need to continue ambient air monitoring for VOCs and provide a recommendation of whether and how frequently ambient air monitoring for VOCs should continue in the Five Year Report. EPA shall have the authority to approve, disapprove, or provide comments on the conclusion reached in the Five Year Report regarding ambient air monitoring for VOCs. Upon written approval by EPA, Respondent may cease ambient air monitoring for VOCs. Upon written denial by EPA, Respondent shall continue ambient air monitoring for VOCs in methane monitoring wells and the one-story block building inside the substation and reporting to EPA and MDNR until EPA notifies Respondent it may cease VOC monitoring.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

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

- a. The Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).
- b. The contamination found at the Site, as identified in the Findings of Fact above, includes "hazardous substances" as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).
- c. Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).
- d. Respondent is the "owner" 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).
- e. The conditions described in the Findings of Fact above constitute an actual 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 removal action required by this Settlement Agreement is necessary to protect the public health, welfare, or the environment and, if carried out in compliance with the terms of this Settlement Agreement, will be consistent with the NCP, as provided in Section 300.700(c)(3)(ii) of the NCP.
- g. A planning period of at least six (6) months exists before on-Site removal response activities must be initiated, and a non-time critical removal action is appropriate.

VI. SETTLEMENT AGREEMENT AND ORDER

21. Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the Administrative Record for this Site, it is hereby Ordered and Agreed that Respondent shall comply with all provisions of this Settlement Agreement, including, but not limited to, all attachments, and all documents incorporated by reference into this Settlement Agreement.

VII. DESIGNATION OF CONTRACTOR AND PROJECT COORDINATOR

22. Respondent has designated a Project Coordinator who shall be responsible for administration of all actions by Respondent required by this Order. To the greatest extent possible, Respondent's Project Coordinator shall be readily available during Site work. While EPA does not disapprove of this Project Coordinator, EPA retains the right to disapprove of the designated Project Coordinator. If EPA disapproves of the designated Project Coordinator, Respondent shall retain a different Project Coordinator and shall notify EPA of that person's name, address, telephone number, and qualifications within 30 days of Respondent's receipt of EPA's disapproval. Receipt by Respondent's Project Coordinator of any notice or communication from EPA relating to this Order shall constitute receipt by Respondent. Respondent's Project Coordinator is:

Barbara Miller
Senior Environmental Scientist
Ameren Services
Environmental Safety & Health
One Ameren Plaza
1901 Chouteau Ave.
P.O. Box 66149
St. Louis, MO 63166-6149
Phone: 314-554-2194
Fax: 314-551-4182.

23. Respondent has retained Environmental Resources Management Inc. as its primary contractor to perform the Work. While EPA does not disapprove of this contractor, EPA retains the right to disapprove of any or all of the contractors and/or subcontractors retained by Respondent. If EPA disapproves of a contractor, Respondent shall retain a different contractor

and shall notify EPA of that contractor's name and qualifications within 30 days of Respondent's receipt of EPA's disapproval.

24. EPA has designated Jeff Field of EPA, Region VII's Superfund Division, Missouri/Kansas Remedial Branch, as its Project Coordinator for this Settlement Agreement. Except as otherwise provided in this Settlement Agreement, Respondent shall direct all submissions required by this Settlement Agreement to the Project Coordinator at the following address:

Jeff Field
SUPR/MOKS
U.S. Environmental Protection Agency, Region VII
901 North 5th Street
Kansas City, Kansas 66101
Telephone: 913-551-7548
Facsimile: 913-551-9548
field.jeff@epa.gov.

25. EPA and Respondent shall have the right, subject to Paragraph 22, to change their respective designated Project Coordinator. Respondent shall notify EPA 10 days before such a change is made. The initial notification may be made orally, but shall be promptly followed by a written notice.

VIII. WORK TO BE PERFORMED

26. Respondent shall perform, at a minimum, all actions necessary to implement the requirements of this Settlement Agreement, and perform at a minimum, all actions necessary to implement the Enforcement Action Memorandum and the alternative selected in the EE/CA. The actions to be implemented generally include, but are not limited to, the following:

27. Work Plan and Implementation.

- a. Work Plan. Within 45 days after the Effective Date, Respondent shall submit to EPA for approval a draft Work Plan for performing the removal action generally described in Paragraph 26 above. The draft Work Plan shall provide a description of, and an expeditious schedule for, the actions required by this Settlement Agreement. Upon approval by EPA the draft Work Plan shall become the approved Work Plan and the approved Work Plan shall be incorporated in its entirety herein and shall be enforceable as a part of this Settlement Agreement.
- b. Work Plan Requirements. The Work Plan shall include a detailed description of the tasks and submissions that Respondent will complete during the removal action and shall include a schedule for completing such tasks and submissions. The Work Plan shall include a detailed description

of the removal work to be performed consistent with the Enforcement Action Memorandum and EE/CA, including but not limited to, the following:

- i. A schedule for all removal activities;
 - ii. A design plan for the location and installation of the perimeter fence. The plan shall be consistent with the plan described in the EE/CA;
 - iii. A design plan for the location and installation of the geotextile liner, riprap, or other approved stabilization/erosion control materials in the area along the eastern bank of the Site adjacent to the offsite drainage ditch. The plan shall be consistent with the plan described in the EE/CA;
 - iv. A plan for conducting groundwater monitoring, methane monitoring, and ambient air monitoring. The plan shall address how monitoring will be conducted, the monitoring schedule, and the reporting schedule for both Annual Reports and the Five Year Report. The plan shall also consist of contingency plans in the event that emissions detected during monitoring exceed health-based standards;
 - v. A plan for procedures that will be followed when transporting any materials off-Site, including contingency plans to address any release of such materials during transport; and
 - vi. Factors the Respondent will take into consideration when preparing Annual Reports and the Five Year Report to EPA and MDNR on whether any of the monitoring activities should be continued.
- c. EPA may approve, disapprove, require revisions to, or modify the draft Work Plan in whole or in part. If EPA requires revisions, Respondent shall submit a revised draft Work Plan within 30 days of receipt of EPA's notification of the required revisions. Respondent 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 Settlement Agreement.
- d. Respondent shall not commence any Work except in conformance with the terms of this Settlement Agreement. Respondent shall not commence

implementation of the Work Plan developed hereunder until receiving written EPA approval pursuant to Paragraph 27(c).

28. Health and Safety Plan. Within 45 days after the Effective Date, Respondent shall submit for EPA review and comment a plan that ensures the protection of the public health and safety during performance of on-Site work under this Settlement Agreement. 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. Respondent shall incorporate all changes to the plan recommended by EPA and shall implement the plan during the pendency of the removal action.

29. Quality Assurance and Sampling.

- a. All sampling and analyses performed pursuant to this Settlement Agreement shall conform to EPA direction, approval, and guidance regarding sampling, quality assurance/quality control ("QA/QC"), data validation, and chain of custody procedures. Respondent shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with the appropriate EPA guidance. Respondent 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. Respondent 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, March 2001)," 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.
- b. Upon request by EPA, Respondent shall have such a laboratory analyze samples submitted by EPA for QA monitoring. Respondent shall provide to EPA the QA/QC procedures followed by all sampling teams and laboratories performing data collection and/or analysis.
- c. Upon request by EPA, Respondent shall allow EPA or its authorized representatives to take split and/or duplicate samples. Respondent shall notify EPA not less than 30 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 Respondent to take split or duplicate samples of any samples it takes as part of its oversight of Respondent's implementation of the Work.

30. Post-Removal Site Control. In accordance with the Work Plan schedule, or as otherwise directed by EPA, Respondent shall submit a proposal for post-removal site control consistent with Section 300.415(I) of the NCP and OSWER Directive No. 9360.2-02. Upon EPA approval, Respondent shall implement such controls and shall provide EPA with documentation of all post-removal site control arrangements.

31. Reporting.

- a. Respondent shall submit a written progress report to EPA concerning actions undertaken pursuant to this Settlement Agreement every 30th day after the date of receipt of EPA's approval of the Work Plan until termination of this Settlement Agreement, unless otherwise directed in writing by EPA's Project Coordinator. 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.
- b. Respondent shall submit an Annual Report described in Paragraph 19(g) above on the Effective Date of this Settlement Agreement for the succeeding five years. EPA shall have the authority to approve, disapprove, or provide comments on the Annual Report. Respondent shall submit a Five Year Report described in Paragraph 19(h) above five years after the Effective Date of this Settlement Agreement. EPA shall have the authority to approve or disapprove or provide comments on the Five Year Report.
- c. Respondent shall submit 3 copies of all plans, reports, or other submissions required by this Settlement Agreement, the selected EE/CA alternative, or any approved work plan. Upon request by EPA, Respondent shall submit such documents in electronic form. Copies shall be sent to the EPA Project Coordinator at the address identified in Paragraph 24.
- d. Respondent shall submit to MDNR one copy of all plans, reports, or other submissions required by this Settlement Agreement to:

Wane Roberts
Hazardous Waste Program
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, Missouri 65102-0176.

- e. Respondent 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 Settlement Agreement and written notice to EPA and MDNR of the proposed conveyance, including the name and address of the transferee. Respondent also agrees to require that its successors comply with the immediately preceding sentence and Sections IX (Access/Institutional Controls) and X (Access to Information).

32. Final Report. Within 30 days after completion of all Work required by this Settlement Agreement, Respondent shall submit for EPA review and approval a final report summarizing the actions taken to comply with this Settlement Agreement. 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 Settlement Agreement, 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."

33. Off-Site Shipments.

- a. Respondent 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 Project Coordinator. 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.
 - i. Respondent 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. Respondent 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.

- ii. The identity of the receiving facility and state will be determined by Respondent following the award of the contract for the removal action. Respondent shall provide the information required by Paragraph 33(a) and 33(b) as soon as practicable after the award of the contract and before the Waste Material is actually shipped.
- b. Before shipping any hazardous substances, pollutants, or contaminants from the Site to an off-Site location, Respondent 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. Respondent 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.

IX. ACCESS AND INSTITUTIONAL CONTROLS

34. If the Site, or any other property where access and/or land/water use restrictions are needed to implement this Settlement Agreement, is owned or controlled by Respondent, Respondent shall:

- a. commencing on the effective date of this Settlement Agreement, provide to EPA and its representatives, including contractors, access at all reasonable times to the Site, or such other property, for the purpose of conducting any activity related to this Settlement Agreement including, but not limited to, the following:
 - i. Monitoring the Work;
 - ii. Verifying any data or information submitted to EPA;
 - iii. Conducting any Site-related investigations relating to contamination at or from the Site;
 - iv. Obtaining samples;

- v. Assessing the need for, planning, or implementing additional response actions at or near the Site;
 - vi. Implementing the Work pursuant to the conditions set forth in Paragraph 74 of this Settlement Agreement;
 - vii. Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Respondent or its agents;
 - viii. Assessing Respondent's compliance with this Settlement Agreement; and
 - ix. Determining whether the Site or other property is being used in a manner that is prohibited or restricted, or that may need to be prohibited or restricted, by or pursuant to this Settlement Agreement;
- b. commencing on the Effective Date of this Settlement Agreement, refrain from using the Site, or such other property, in any manner that would interfere with or adversely affect the implementation, integrity, or protectiveness of the response action to be implemented pursuant to this Settlement Agreement; and execute and record in the Recorder's Office (or other appropriate land records office) of the City of St. Louis, Missouri, an enforceable easement, restrictive covenant, or other appropriate instrument ("instrument") that runs with the land, and ensures non-interference with and the protectiveness of the response action to be implemented pursuant to this Settlement Agreement. Respondent shall also execute and record in the Recorder's Office (or other appropriate land records office) of the City of St. Louis, Missouri, enforceable easements, restrictive covenants, or other appropriate instruments that run with the land, and ensure the Site will be restricted to industrial/commercial uses, prohibit groundwater use, prohibit installation of water wells, and provide notification to EPA and MDNR if any portion of the Site is sold. Respondent shall, within 90 days of EPA's approval of the Work Plan, submit to EPA for review and approval with respect to such property:
- i. all appropriate draft instruments that are enforceable under the laws of the State of Missouri; and
 - ii. a current title insurance commitment or some other evidence of title acceptable to EPA, which shows title to the land described in the instrument to be free and clear of all prior liens and encumbrances (except when those liens or encumbrances are approved by EPA or when, despite best efforts, Respondent is unable to obtain release or subordination of such prior liens or encumbrances).

Within 15 days of EPA's approval and acceptance of the instrument and title evidence, Respondent shall update the title search and, if it is determined that nothing has occurred since the Effective Date of the commitment to adversely affect title, record the instrument with the Recorder's Office (or other appropriate land records office) of the City of St. Louis, Missouri. Within 30 days of recording the instrument, Respondent shall provide to EPA a final title insurance policy, or other final evidence of title acceptable to EPA, and a certified copy of the original recorded instrument showing the clerk's recording stamps.

35. If the Site, or any other property where access and/or land/water use restrictions are needed to implement this Settlement Agreement, is owned or controlled by persons other than Respondent, Respondent shall use best efforts to secure from such persons:

- a. within 60 days of EPA's approval of the Work Plan, an agreement to provide access to such property to EPA and the state, as well as their representatives (including contractors), for the purpose of conducting any activity related to this Settlement Agreement including, but not limited to, those activities set forth in Paragraph 34.a. above;
- b. within 60 days of EPA's approval of the Work Plan, an agreement, enforceable by Respondent and EPA, to refrain from using the Site, or such other property, in any manner that would interfere with or adversely affect the implementation, integrity, or protectiveness of the response action to be implemented pursuant to this Settlement Agreement;
- c. within 90 days of EPA's approval of the Work Plan, an enforceable easement, restrictive covenant, or other appropriate instrument ("instrument") that runs with the land, and ensures non-interference with and the protectiveness of the response action to be implemented pursuant to this Settlement Agreement. This instrument shall be recorded in the Recorder's Office (or other appropriate land records office) of the City of St. Louis, Missouri. Within 90 days of EPA's approval of the Work Plan, Respondent shall submit to EPA for review and approval with respect to such property:
 - i. a draft instrument enforceable in the State of Missouri; and
 - ii. a current title insurance commitment or some other evidence of title acceptable to EPA, which shows title to the land described in the instrument to be free and clear of all prior liens and encumbrances (except when those liens or encumbrances are approved by EPA or when, despite best efforts, Respondent is unable to obtain release or subordination of such prior liens or encumbrances).

Within 21 days of EPA's approval and acceptance of the instrument and title evidence, Respondent shall update the title search and, if it is determined that nothing has occurred since the effective date of the commitment to adversely affect title, the instrument shall be recorded with the Recorder's Office (or other appropriate land records office) of the City of St. Louis, Missouri. Within 30 days of the recording of the instrument, Respondent shall provide to EPA a final title insurance policy, or other final evidence of title acceptable to EPA, and a certified copy of the original recorded instrument showing the clerk's recording stamps.

36. As used in this Section, "best efforts" includes the payment of reasonable compensation in consideration of providing access, land/water use restrictions, a covenant, an easement, and/or an agreement to release or subordinate a prior lien or encumbrance. If: a) any access, restriction, covenant, or easement required by this Section is not obtained within 60 days of Respondent's receipt of EPA's approval of the Work Plan; b) any instrument required by Paragraph 35.c. of this Settlement Agreement is not submitted to EPA in draft form within 90 days of Respondent's receipt of EPA's approval of the Work Plan; or c) Respondent is unable to obtain an agreement from the holder of a prior lien or encumbrance to release or subordinate such lien or encumbrance to the instrument within 60 days of Respondent's receipt of EPA's approval of the Work Plan, Respondent shall promptly notify EPA in writing, and shall include in that notification a summary of the steps that it has taken to attempt to comply with Paragraphs 34 or 35 of this Settlement Agreement. EPA may, as it deems appropriate, assist Respondent in obtaining access or land/water use restrictions, or in obtaining the release or subordination of a prior lien or encumbrance. Respondent shall reimburse EPA for all costs and attorney's fees incurred by the United States in obtaining such access, in accordance with Section XV (Payment of Response Costs).

37. If EPA determines that land/water use restrictions in the form of state or local laws, regulations, ordinances or other governmental controls are needed to implement the response actions required by this Settlement Agreement, ensure the integrity and protectiveness thereof, or ensure non-interference therewith, Respondent shall cooperate with EPA's and the state's efforts to secure such governmental controls.

38. Notwithstanding any provision of this Settlement Agreement, EPA and the state retain all of their access authorities and rights, as well as all of their rights to require land/water use restrictions, including enforcement authorities related thereto, under CERCLA and any other applicable statute or regulations. If the Site, or any other property where access is needed to implement this Settlement Agreement, is owned or controlled by the Respondent, Respondent shall, commencing on the Effective Date, provide EPA, and its representatives, including contractors, with access at all reasonable times to the Site, or such other property, for the purpose of conducting any activity related to this Settlement Agreement.

X. ACCESS TO INFORMATION

39. Respondent shall provide to EPA, upon request, copies of all documents and information within its possession or control or that of its contractors or agents relating to activities

at the Site or to the implementation of this Settlement Agreement, 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 related to the Work. Respondent shall also make available to EPA, for purposes of investigation, information gathering, or testimony, its employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

40. Respondent may assert business confidentiality claims covering part or all of the documents or information submitted to EPA under this Settlement Agreement 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). Documents or information 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 documents or information when they are submitted to EPA, or if EPA has notified Respondent that the documents or information 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 documents or information without further notice to Respondent.

41. Respondent may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If the Respondent asserts such a privilege in lieu of providing documents, it shall provide EPA with the following: a) the title of the document, record, or information; b) the date of the document, record, or information; c) the name and title of the author of the document, record, or information; d) the name and title of each addressee and recipient; e) a description of the contents of the document, record, or information; and f) the privilege asserted by Respondent. However, no documents, reports or other information created or generated pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged.

42. No claim of confidentiality shall be made with respect to any data, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at or around the Site.

XI. RECORD RETENTION

43. Until 10 years after Respondent's receipt of EPA's notification pursuant to Section XXIX (Notice of Completion of Work), Respondent shall preserve and retain all non-identical copies of records and documents (including records or 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 or the liability of any person under CERCLA with respect to the Site, regardless of any corporate retention policy to the contrary. Until 10 years after Respondent's receipt of EPA's notification pursuant to Section XXIX (Notice of Completion of Work), Respondent shall also instruct its contractors and agents to preserve all documents, records, and information of whatever kind, nature or description relating to performance of the Work.

44. At the conclusion of this document retention period, Respondent shall notify EPA at least 90 days prior to the destruction of any such records or documents, and, upon request by EPA,

Respondent shall deliver any such records or documents to EPA. Respondent may assert that certain documents, records, and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Respondent asserts such a privilege, it shall provide EPA with the following: a) the title of the document, record, or information; b) the date of the document, record, or information; c) the name and title of the author of the document, record, or information; d) the name and title of each addressee and recipient; e) a description of the subject of the document, record, or information; and f) the privilege asserted by Respondent. However, no documents, reports, or other information created or generated pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged.

45. Respondent hereby certifies individually that to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed, or otherwise disposed of any records, documents or other information (other than identical copies) relating to its potential liability regarding the Site since notification of potential liability by EPA or the State or the filing of suit against it regarding the Site and that it has fully complied with any and all EPA requests for information 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.

XII. COMPLIANCE WITH OTHER LAWS

46. Respondent shall perform all actions required pursuant to this Settlement Agreement in accordance with 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 Settlement Agreement shall, to the extent practicable, as determined by EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements (“ARARs”) under federal environmental or state environmental or facility siting laws. Respondent shall identify ARARs in the Work Plan subject to EPA approval.

XIII. EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES

47. 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, Respondent shall immediately take all appropriate action. Respondent shall take these actions in accordance with all applicable provisions of this Settlement Agreement, 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. Respondent shall also immediately notify the Project Coordinator or, in the event of his/her unavailability, to the EPA’s Regional Spill Line at 913-551-0991 of the incident or Site conditions. In the event that Respondent fails to take appropriate response action as required by this Paragraph, and EPA takes such action instead, Respondent shall reimburse EPA all costs of the response action not inconsistent with the NCP pursuant to Section XV (Payment of Response Costs).

48. In addition, in the event of any release of a hazardous substance from the Site, Respondent shall immediately notify the Project Coordinator at 913-551-7548 and the National Response Center at 800-424-8802. Respondent 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.*

XIV. AUTHORITY OF EPA'S PROJECT COORDINATOR

49. EPA's Project Coordinator shall be responsible for overseeing Respondent's implementation of this Settlement Agreement. EPA's Project Coordinator shall have the authority vested in an On-Scene Coordinator by the NCP, including the authority to halt, conduct, or direct any Work required by this Settlement Agreement, or to direct any other removal action undertaken at the Site. Absence of the EPA's Project Coordinator from the Site shall not be cause for stoppage of work unless specifically directed by the EPA's Project Coordinator.

XV. PAYMENT OF RESPONSE COSTS

50. Payment for Past Response Costs.

- a. Within 30 days after the Effective Date, Respondent shall pay to EPA \$77,068 (seventy-seven thousand sixty-eight dollars) for Past Response Costs. Payment shall be made to EPA by wire transfer. Payment shall reference the Respondent's name and address, the Site name, the Site/Spill identifier "O73D", and the EPA docket number for this action. The field tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency". Payment shall be remitted to:

Federal Reserve Bank of New York
ABA 021030004
Account Number 68010727
SWIFT Address FRNYUS33
33 Liberty Street
New York, New York 10045.

- b. At the time of payment, Respondent shall send a copy of the transmittal of payment and a copy of the check to EPA's Project Coordinator. Respondent shall also send notice that such payment has been made by email to acctsreceivable.cinwd@epa.gov, and to:

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

- c. The total amount to be paid by Respondent pursuant to Paragraph 50(a) shall be deposited by EPA in the Union Electric-Campbell Street Substation Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, and may be transferred by EPA to the EPA Hazardous Substance Superfund.

51. Payments for Future Response Costs.

- a. Respondent shall pay EPA all Future Response Costs not inconsistent with the NCP. On a periodic basis, EPA will send Respondent a bill requiring payment that includes an itemized cost summary, which includes direct and indirect costs incurred by EPA and its contractors. Respondent shall make all payments within 30 days of receipt of each bill requiring payment, except as otherwise provided in Paragraph 53 of this Settlement Agreement.
- b. Respondent shall make all payments required by this Paragraph by wire transfer in accordance with the procedures described in Paragraph 50(a) above.
- c. At the time of payment, Respondent shall send a copy of the transmittal of payment and a copy of the check to EPA's Project Coordinator. Respondent shall also send shall send notice that payment has been made to by email to acctsreceivable.cinwd@epa.gov, and to:

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

- d. The total amount to be paid by Respondent pursuant to Paragraph 51(a) shall be deposited by EPA in the Union Electric-Campbell Street Substation Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, and may be transferred by EPA to the EPA Hazardous Substance Superfund.

52. In the event that the payment for Past Response Costs is not made within 30 days of the Effective Date, or the payments for Future Response Costs are not made within 30 days of Respondent's receipt of a bill, Respondent shall pay Interest on the unpaid balance. The Interest on Past Response Costs shall begin to accrue on the Effective Date and shall continue to accrue until the date of payment." The Interest on Future Response Costs shall begin to accrue on the date of the bill 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 Respondent's failure to make timely payments under this Section, including but not limited to, payment of stipulated penalties pursuant to Section XVIII.

53. Respondent may contest payment of any Future Response Costs billed under Paragraph 51 if it determines that EPA has made a mathematical error, or if it believes EPA incurred excess costs as a direct result of an EPA action that was inconsistent with the NCP. Such objection shall be made in writing within 30 days of receipt of the bill and must be sent to the Project Coordinator. Any such objection shall specifically identify the contested Future Response Costs and the basis for objection. In the event of an objection, Respondent shall within the 30-day period pay all uncontested Future Response Costs to EPA in the manner described in Paragraph 51. Simultaneously, Respondent shall establish an interest-bearing escrow account in a federally-insured bank duly chartered in the State of Missouri and remit to that escrow account funds equivalent to the amount of the contested Future Response Costs. Respondent shall send to the EPA Project Coordinator a copy of the transmittal letter and check paying the uncontested Future Response Costs, and a copy of the correspondence that establishes and funds the escrow account, including but not limited to, information containing the identity of the bank and bank account under which the escrow account is established as well as a bank statement showing the initial balance of the escrow account. Simultaneously with establishment of the escrow account, Respondent shall initiate the Dispute Resolution procedures in Section XVI (Dispute Resolution). If EPA prevails in the dispute, within 5 days of the resolution of the dispute, Respondent shall pay the sums due (with accrued interest) to EPA in the manner described in Paragraph 51. If Respondent prevails concerning any aspect of the contested costs, Respondent shall pay that portion of the costs (plus associated accrued interest) for which it did not prevail to EPA in the manner described in Paragraph 51. Respondent shall be disbursed any balance of the escrow account. The dispute resolution procedures set forth in this Paragraph in conjunction with the procedures set forth in Section XVI (Dispute Resolution) shall be the exclusive mechanisms for resolving disputes regarding Respondent's obligation to reimburse EPA for its Future Response Costs.

XVI. DISPUTE RESOLUTION

54. Unless otherwise expressly provided for in this Settlement Agreement, the dispute resolution procedures of this Section shall be the exclusive mechanism for resolving disputes arising under this Settlement Agreement. The Parties shall attempt to resolve any disagreements concerning this Settlement Agreement expeditiously and informally.

55. If Respondent objects to any EPA action taken pursuant to this Settlement Agreement, including billings for Future Response Costs, it shall notify EPA in writing of its objection(s) within 14 days of such action, unless the objection(s) has/have been resolved informally. EPA and Respondent shall have 30 days from EPA's receipt of Respondent's written objection(s) to resolve the dispute through formal negotiations (the "Negotiation Period"). The Negotiation Period may be extended at the sole discretion of EPA.

56. An administrative record of any dispute under this Section will be maintained by EPA. The record shall include the written notification of such dispute, statements of position, if any, and EPA's response thereto.

57. Any agreement reached by the parties pursuant to this Section shall be in writing and shall, upon signature by both parties, be incorporated into and become an enforceable part of this Settlement Agreement. If the Parties are unable to reach an agreement within the Negotiation Period, the Director of EPA, Region VII's Superfund Division will issue a written decision on the dispute to Respondent. EPA's decision shall be incorporated into and become an enforceable part of this Settlement Agreement. Respondent's obligations under this Settlement Agreement shall not be tolled by submission of any objection for dispute resolution under this Section. Following resolution of the dispute, as provided by this Section, Respondent shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with EPA's decision, whichever occurs.

XVII. FORCE MAJEURE

58. Respondent agrees to perform all requirements of this Settlement Agreement within the time limits established under this Settlement Agreement, unless the performance is delayed by a *force majeure*. For purposes of this Settlement Agreement, a *force majeure* is defined as any event arising from causes beyond the control of Respondent, or of any entity controlled by Respondent, including but not limited to its contractors and subcontractors, which delays or prevents performance of any obligation under this Settlement Agreement despite Respondent's best efforts to fulfill the obligation. *Force majeure* does not include financial inability to complete the Work, or increased cost of performance.

59. If any event occurs or has occurred that may delay the performance of any obligation under this Settlement Agreement, whether or not caused by a *force majeure* event, Respondent shall notify EPA orally within 48 hours of when Respondent first knew that the event might cause a delay. Within 7 days thereafter, Respondent shall provide to EPA in writing an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Respondent's rationale for attributing such delay to a *force majeure* event if it intend to assert such a claim; and a statement as to whether, in the opinion of Respondent, such event may cause or contribute to an endangerment to public health, welfare or the environment. Failure to comply with the above requirements shall preclude Respondent from asserting any claim of *force majeure* for that event for the period of time of such failure to comply and for any additional delay caused by such failure.

60. If EPA agrees that the delay or anticipated delay is attributable to a *force majeure* event, the time for performance of the obligations under this Settlement Agreement that are affected by the *force majeure* event will be extended by EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the *force majeure* event shall not, of itself, extend the time for performance of any other

obligation. If EPA does not agree that the delay or anticipated delay has been or will be caused by a *force majeure* event, EPA will notify Respondent in writing of its decision. If EPA agrees that the delay is attributable to a *force majeure* event, EPA will notify Respondent in writing of the length of the extension, if any, for performance of the obligations affected by the *force majeure* event.

XVIII. STIPULATED PENALTIES

61. Respondent shall be liable to EPA for stipulated penalties in the amounts set forth in Paragraphs 62 and 63 for failure to comply with the requirements of this Settlement Agreement specified below, unless excused under Section XVII (*Force Majeure*). "Compliance" by Respondent shall include completion of the activities under this Settlement Agreement or any work plan or other plan approved under this Settlement Agreement identified below in accordance with all applicable requirements of law, this Settlement Agreement, and any plans or other documents approved by EPA pursuant to this Settlement Agreement and within the specified time schedules established by and approved under this Settlement Agreement.

62. Stipulated Penalty Amounts - Work. The following stipulated penalties shall accrue per violation per day for failure to perform any Work, including the payment of Past Response Costs and Future Response Costs, required hereunder in a timely or adequate manner, or for failure to submit to EPA any submittal required by this Settlement Agreement (except the progress reports called for in Paragraph 31(a) hereof) in a timely or adequate manner:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$ 1,000	1st through 7th day
\$ 2,000	8th through 30th day
\$ 5,000	31st day and beyond

63. Stipulated Penalty Amounts - Reports. The following stipulated penalties shall accrue per violation per day for failure to submit to EPA the progress reports required pursuant to Paragraph 31(a) hereof, in a timely or adequate manner:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$ 500	1st through 7th day
\$ 1,000	8th through 30th day
\$ 2,500	31st day and beyond

64. In the event that EPA assumes performance of a portion or all of the Work pursuant to Paragraph 74 of Section XX, Respondent shall be liable for a stipulated penalty in the amount of \$650,000.

65. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs, and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. However, stipulated penalties shall not accrue:

a) with respect to a deficient submission under Section VIII (Work to be Performed), during the

period, if any, beginning on the 31st day after EPA's receipt of such submission until the date that EPA notifies Respondent of any deficiency; and b) with respect to a decision by the Director of EPA, Region VII's Superfund Division, under Paragraph 57 of Section XVI (Dispute Resolution), during the period, if any, beginning on the 21st day after the Negotiation Period begins until the date that the EPA management official issues a final decision regarding such dispute. Nothing in this Settlement Agreement shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement Agreement.

66. Following EPA's determination that Respondent has failed to comply with a requirement of this Settlement Agreement, EPA may give Respondent written notification of the failure and describe the noncompliance. EPA may send Respondent a written demand for payment of the penalties. However, penalties shall accrue as provided in the preceding Paragraph regardless of whether EPA has notified Respondent of a violation.

67. All penalties accruing under this Section shall be due and payable to EPA within 30 days of Respondent's receipt from EPA of a demand for payment of the penalties, unless Respondent invokes the dispute resolution procedures under Section XVI (Dispute Resolution). Respondent shall make all payments required by this Paragraph by wire transfer in accordance with the procedures described in Paragraph 50(a) above and shall be accompanied by a statement referencing Respondent's name and address, the Site name, the Site/Spill identifier "O73D", and the EPA docket number for this action.

68. The payment of penalties shall not alter in any way Respondent's obligation to complete performance of the Work required under this Settlement Agreement.

69. Penalties shall continue to accrue during any dispute resolution period, but need not be paid until 15 days after the dispute is resolved by agreement or by receipt of EPA's decision.

70. If Respondent fails to pay stipulated penalties when due, EPA may institute proceedings to collect the penalties, as well as Interest. Respondent shall pay Interest on the unpaid balance, which shall begin to accrue on the date of demand made pursuant to Paragraph 67. Nothing in this Settlement Agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this Settlement Agreement or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to Sections 106(b) and 122(l) of CERCLA, 42 U.S.C. §§ 9606(b) and 9622(l), and punitive damages pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Provided, however, that EPA shall not seek civil penalties pursuant to Section 106(b) or 122(l) of CERCLA or punitive damages pursuant to Section 107(c)(3) of CERCLA for any violation for which a stipulated penalty is provided in this Section, except in the case of a willful violation of this Settlement Agreement or in the event that EPA assumes performance of a portion or all of the Work pursuant to Section XX, Paragraph 74. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Settlement Agreement.

XIX. COVENANT NOT TO SUE BY EPA

71. In consideration of the actions that will be performed and the payments that will be made by Respondent under the terms of this Settlement Agreement, and except as otherwise specifically provided in this Settlement Agreement, EPA covenants not to sue or to take administrative action against Respondent pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), for the Work, Past Response Costs, and Future Response Costs. This covenant not to sue shall take effect upon receipt by EPA of the Past Response Costs due under Section XV of this Settlement Agreement and any Interest or Stipulated Penalties due for failure to pay Past Response Costs as required by Sections XV and XVIII of this Settlement Agreement. This covenant not to sue is conditioned upon the complete and satisfactory performance by Respondent of its obligations under this Settlement Agreement, including, but not limited to, payment of Future Response Costs pursuant to Section XV. This covenant not to sue extends only to Respondent and does not extend to any other person.

XX. RESERVATIONS OF RIGHTS BY EPA

72. Except as specifically provided in this Settlement Agreement, nothing in this Settlement Agreement 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 in this Settlement Agreement shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Settlement Agreement, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Respondent in the future to perform additional activities pursuant to CERCLA or any other applicable law.

73. The covenant not to sue set forth in Section XIX above does not pertain to any matters other than those expressly identified therein. EPA reserves, and this Settlement Agreement is without prejudice to, all rights against Respondent with respect to all other matters, including but not limited to:

- a. claims based on a failure by Respondent to meet a requirement of this Settlement Agreement;
- b. liability for costs not included within the definitions of Past Response Costs or Future Response Costs;
- c. liability for performance of response action other than the Work;
- d. criminal liability;
- e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;

- f. liability arising from the past, present, or future disposal, release or threat of release of Waste Materials outside of the Site; and
- g. liability for costs incurred or to be incurred by the Agency for Toxic Substances and Disease Registry related to the Site.

74. Work Takeover. In the event EPA determines that Respondent has ceased implementation of any portion of the Work, is seriously or repeatedly deficient, or late in its performance of the Work, or is implementing the Work in a manner which may cause an endangerment to human health or the environment, EPA may assume the performance of all or any portion of the Work as EPA determines necessary. Respondent may invoke the procedures set forth in Section XVI (Dispute Resolution) to dispute EPA's determination that takeover of the Work is warranted under this Paragraph. Costs incurred by the United States in performing the Work pursuant to this Paragraph shall be considered Future Response Costs that Respondent shall pay pursuant to Section XV (Payment of Response Costs). Notwithstanding any other provision of this Settlement Agreement, EPA retains all authority and reserves all rights to take any and all response actions authorized by law.

XXI. COVENANT NOT TO SUE BY RESPONDENT

75. Respondent covenants not to sue and agrees not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Work, Past Response Costs, Future Response Costs, or this Settlement Agreement, including but not limited to:

- a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund established by 26 U.S.C. § 9507, based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;
- b. any claim arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, the Missouri Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; or
- c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the Work, Past Response Costs, or Future Response Costs.

76. These covenants not to sue shall not apply in the event the United States brings a cause of action or issues an order pursuant to the reservations set forth in Paragraphs 73 (b), (c), and (e) - (g), but only to the extent that Respondent's claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

77. Nothing in this Agreement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

XXII. OTHER CLAIMS

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

79. Except as expressly provided in Section XIX (Covenant Not to Sue by EPA), nothing in this Settlement Agreement constitutes a satisfaction of or release from any claim or cause of action against Respondent or any person not a party to this Settlement Agreement, 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 for costs, damages and interest under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607.

80. No action or decision by EPA pursuant to this Settlement Agreement 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).

XXIII. CONTRIBUTION

81.

- a. The Parties agree that this Settlement Agreement constitutes an administrative settlement for purposes of Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), and that Respondent is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), for “matters addressed” in this Settlement Agreement. The “matters addressed” in this Settlement Agreement are the Work, Past Response Costs, and Future Response Costs.
- b. The Parties agree that this Settlement Agreement constitutes an administrative settlement for purposes of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B), pursuant to which Respondent has, as of the Effective Date, resolved its liability to the United States for the Work, Past Response Costs, and Future Response Costs.

XXIV. INDEMNIFICATION

82. Respondent shall indemnify, save and hold harmless the United States, its officials, agents, contractors, subcontractors, employees, and representatives from any and all claims or

causes of action arising from, or on account of, negligent or other wrongful acts or omissions of Respondent, its officers, directors, employees, agents, contractors, or subcontractors, in carrying out actions pursuant to this Settlement Agreement. In addition, Respondent agrees to pay the United States all costs incurred by the United States, including but not limited to, attorneys fees and other expenses of litigation and settlement, arising from or on account of claims made against the United States based on negligent or other wrongful acts or omissions of Respondent, its officers, directors, employees, agents, contractors, subcontractors, and any persons acting on its behalf or under their control, in carrying out activities pursuant to this Settlement Agreement. The United States shall not be held out as a party to any contract entered into by or on behalf of Respondent in carrying out activities pursuant to this Settlement Agreement. Neither Respondent nor any such contractor shall be considered an agent of the United States.

83. The United States shall give Respondent notice of any claim for which the United States plans to seek indemnification pursuant to this Section and shall consult with Respondent prior to settling such claim.

84. Respondent waives all claims against the United States for damages or reimbursement or for set-off of any payments made or to be made to the United States, arising from or on account of any contract, agreement, or arrangement between Respondent and any person for performance of Work on or relating to the Site, including, but not limited to, claims on account of construction delays. In addition, Respondent shall indemnify and hold harmless the United States with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between Respondent and any person for performance of Work on or relating to the Site, including, but not limited to, claims on account of construction delays.

XXV. INSURANCE

85. At least 7 days prior to commencing any on-Site work under this Settlement Agreement, Respondent shall secure, and shall maintain for the duration of this Settlement Agreement, comprehensive general liability insurance and automobile insurance with limits of 3 million dollars, combined single limit, naming EPA as an additional insured. Within the same time period, Respondent shall provide EPA with certificates of such insurance and a copy of each insurance policy. Respondent shall submit such certificates and copies of policies each year on the anniversary of the Effective Date. In addition, for the duration of the Settlement Agreement, Respondent shall satisfy, or shall ensure that its contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of Respondent in furtherance of this Settlement Agreement. If Respondent demonstrates 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 Respondent need provide only that portion of the insurance described above which is not maintained by such contractor or subcontractor.

XXVI. FINANCIAL ASSURANCE

86. Within 30 days of the Effective Date, Respondent shall establish and maintain financial security for the benefit of EPA in the amount of \$650,000 in one or more of the following forms, in order to secure the full and final completion of Work by Respondent:

- 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;
- e. a written guarantee to pay for or perform the Work provided by one or more parent companies of Respondent, or by one or more unrelated companies that have a substantial business relationship with at least one of Respondent; including a demonstration that any such guarantor company satisfies the financial test requirements of 40 C.F.R. Part 264.143(f); and/or
- f. a demonstration of sufficient financial resources to pay for the Work made by one or more of Respondent, which shall consist of a demonstration that any such Respondent satisfies the requirements of 40 C.F.R. Part 264.143(f).

87. Any and all financial assurance 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 financial assurances provided pursuant to this Section (including, without limitation, the instrument(s) evidencing such assurances) are inadequate, Respondent 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 financial assurance listed in Paragraph 86, above. In addition, if at any time EPA notifies Respondent that the anticipated cost of completing the Work has increased, then, within 30 days of such notification, Respondent shall obtain and present to EPA for approval a revised form of financial assurance (otherwise acceptable under this Section) that reflects such cost increase. Respondent's inability to demonstrate financial ability to complete the Work shall in no way excuse performance of any activities required under this Settlement Agreement.

88. If Respondent seeks to ensure completion of the Work through a guarantee pursuant to Subparagraph 86(e) or 86(f) of this Settlement Agreement, Respondent shall: a) demonstrate to EPA's satisfaction that the guarantor satisfies the requirements of 40 C.F.R. Part 264.143(f); and b) resubmit sworn statements conveying the information required by 40 C.F.R. Part 264.143(f) annually, on the anniversary of the Effective Date or such other date as agreed by EPA, to EPA. For the purposes of this Settlement Agreement, wherever 40 C.F.R. Part 264.143(f) references "sum of

current closure and post-closure costs estimates and the current plugging and abandonment costs estimates,” the dollar amount to be used in the relevant financial test calculations shall be the current cost estimate of \$650,000 for the Work at the Site plus any other RCRA, CERCLA, TSCA, or other federal environmental obligations financially assured by the relevant Respondent or guarantor to EPA by means of passing a financial test.

89. If, after the Effective Date, Respondent can show that the estimated cost to complete the remaining Work has diminished below the amount set forth in Paragraph 86 of this Section, Respondent 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. Respondent 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. In the event of a dispute, Respondent may seek dispute resolution pursuant to Section XVI (Dispute Resolution). Respondent may reduce the amount of security in accordance with EPA’s written decision resolving the dispute.

90. Respondent may change the form of financial assurance 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. In the event of a dispute, Respondent may change the form of the financial assurance only in accordance with the written decision resolving the dispute.

XXVII. MODIFICATIONS

91. The Project Coordinator may make modifications to any plan or schedule in writing or by oral direction. Any oral modification will be memorialized in writing by EPA promptly, but shall have as its effective date the date of the Project Coordinator’s oral direction. Any other requirements of this Settlement Agreement may be modified in writing by mutual agreement of the parties.

92. If Respondent seeks permission to deviate from any approved work plan or schedule, Respondent’s Project Coordinator shall submit a written request to EPA for approval outlining the proposed modification and its basis. Respondent may not proceed with the requested deviation until receiving oral or written approval from the EPA Project Coordinator pursuant to Paragraph 91.

93. No informal advice, guidance, suggestion, or comment by the EPA Project Coordinator or other EPA representatives regarding reports, plans, specifications, schedules, or any other writing submitted by Respondent shall relieve Respondent of its obligation to obtain any formal approval required by this Settlement Agreement, or to comply with all requirements of this Settlement Agreement, unless it is formally modified.

XXVIII. ADDITIONAL REMOVAL ACTION

94. 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 Respondent of that

determination. Unless otherwise stated by EPA, within 30 days of receipt of notice from EPA that additional removal actions are necessary to protect public health, welfare, or the environment, Respondent shall submit for approval by EPA a Work Plan for the additional removal actions. The plan shall conform to the applicable requirements of Section VIII (Work to Be Performed) of this Settlement Agreement. Upon EPA's approval of the plan pursuant to Section VIII, Respondent 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 EPA Project Coordinator's authority to make oral modifications to any plan or schedule pursuant to Section XXVII (Modifications).

XXIX. NOTICE OF COMPLETION OF WORK

95. When EPA determines, after EPA's review of the Final Report, that all Work has been fully performed in accordance with this Settlement Agreement, with the exception of any continuing obligations required by this Settlement Agreement, including post-removal Site controls, payment of Future Response Costs, or record retention, EPA will provide written notice to Respondent. If EPA determines that any such Work has not been completed in accordance with this Settlement Agreement, EPA will notify Respondent, provide a list of the deficiencies, and require that Respondent modify the Work Plan if appropriate in order to correct such deficiencies. Respondent shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the EPA notice. Failure by Respondent to implement the approved modified Work Plan shall be a violation of this Settlement Agreement.

XXX. SEVERABILITY/INTEGRATION

96. If a court issues an order that invalidates any provision of this Settlement Agreement or finds that Respondent has sufficient cause not to comply with one or more provisions of this Settlement Agreement, Respondent shall maintain bound to comply with all provisions of this settlement agreement not invalidated or determined to be subject to a sufficient cause defense by the court's order.


97. This Settlement Agreement and attachments constitute the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Settlement Agreement.

XXXI. EFFECTIVE DATE

98. This Settlement Agreement shall be effective upon signature of the Director of EPA, Region VII's Superfund Division.

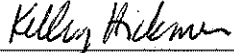
FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY

9/25, 2007



CECILIA TAPIA
Director, Superfund Division
U.S. Environmental Protection Agency, Region VII
901 North 5th Street
Kansas City, Kansas 66101

September 24, 2007



KELLEY HICKMAN
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region VII
901 North 5th Street
Kansas City, Kansas 66101

The undersigned representative of Respondent certifies that he/she is fully authorized to enter into this Settlement Agreement and to bind Respondent to this Settlement Agreement.

Sept. 20, 2007

Signature: Michael P. Menne
Name (print): MICHAEL L. MENNE
Title: VICE PRESIDENT - ENVIRONMENTAL SERVICES

IN THE MATTER OF Campbell Substation, Union Electric Company, Respondent
Docket No. CERCLA-07-2007-0018

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Administrative Settlement Agreement and Order on Consent for Removal Action was sent this day in the following manner to the addressees:


Copy hand delivered to
Attorney for Complainant:

Kelley Hickman
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Susan Knowles, Esq.
Ameren Corporation
1901 Chouteau Avenue
P.O. Box 66149, Mail Code 1310
St. Louis, Missouri 63166-6149

Dated: 9/20/07


Kathy Robinson
Hearing Clerk, Region 7