

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

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IN THE MATTER OF:
U.S. OIL RECOVERY SUPERFUND SITE
400 NORTH RICHEY AREA
Pasadena, Harris County, Texas

ADMINISTRATIVE SETTLEMENT
AGREEMENT AND ORDER ON
CONSENT FOR REMOVAL ACTION

U.S. EPA Region 6
CERCLA Docket No. 06-11-16

Settling Respondents

Proceeding Under Sections 104, 106(a), 107
and 122 of the Comprehensive
Environmental Response, Compensation,
and Liability Act, as amended, 42 U.S.C. §§
9604, 9607 and 9622.

ADMINISTRATIVE SETTLEMENT AGREEMENT AND ORDER ON CONSENT
FOR REMOVAL ACTION

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 the Settling Respondents listed in Appendix A ("Settling Respondents"). The U.S. Oil Recovery Superfund Site is generally located at 400 North Richey St. and 200 North Richey St., respectively, Pasadena, Harris County, Texas. The Settlement Agreement concerns the performance by Settling Respondents of a removal action for the 400 North Richey Area of the U.S. Oil Recovery Superfund Site, located at 400 North Richey Street, Pasadena, Harris County, Texas (hereinafter referred to as "Site") and the reimbursement for Future Response Costs, as defined herein, incurred by EPA

2. This Settlement Agreement is issued under the authority vested in the President of the United States by Sections 104, 106(a), 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§ 9604, 9607 and 9622 ("CERCLA").

3. The State of Texas, acting by and through the Texas Commission on Environmental Quality ("TCEQ"), repeatedly requested assistance from EPA to stabilize and manage wastes at the Site, after unsuccessfully seeking, in conjunction with Harris County, to have the owner(s)/operator(s) remove the wastes from the Site. Therefore, the State of Texas has notice of this action, and EPA has formally notified the State of Texas (the "State") of this action pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

4. EPA and Settling Respondents recognize that this Settlement Agreement has been negotiated in good faith and that the actions undertaken by Settling Respondents in accordance with this Settlement Agreement do not constitute an admission of any liability. Settling Respondents do not admit, and retain the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Settlement Agreement, the validity of the findings of fact, conclusions of law and determinations in Sections IV and V of this Settlement Agreement. Settling Respondents agree to comply with and be bound by the terms of this Settlement Agreement and further agree that they 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 Settling Respondents and their successors and assigns. Any change in ownership or corporate status of a Settling Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter such Settling Respondent's responsibilities under this Settlement Agreement.

6. Settling Respondents are jointly and severally liable to EPA for carrying out all activities set forth in Appendices D and E required by this Settlement Agreement. In the event of the insolvency or other failure of any one or more Settling Respondents to implement the requirements of this Settlement Agreement, the remaining Settling Respondents shall complete all such requirements.

7. Settling Respondents shall ensure that their contractors, subcontractors, and consultants which are retained to conduct the Work set forth in Appendices D and E to be performed under this Settlement Agreement receive a copy of this Settlement Agreement and comply with this Settlement Agreement. Settling Respondents shall be responsible for any noncompliance in conducting the Work set forth in Appendices D and E required by this Settlement Agreement.

III. DEFINITIONS

8. Unless otherwise expressly provided in this Settlement Agreement, terms used in this Settlement Agreement which are defined in CERCLA or in the regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in the regulations promulgated under CERCLA. 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. "August 25, 2011 AOC" shall mean the Administrative Settlement Agreement and Order on Consent for a Time-Critical Removal Action, CERCLA Docket No. EPA-HQ-SFUND-2011-0653-0012, effective August 25, 2011 and all amendments and addenda thereto.

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

e. "TCEQ" shall mean the Texas Commission on Environmental Quality and any successor departments or agencies of the State with jurisdiction over the alleged contamination at the Site.

f. "Future Response Costs" shall mean all costs, not inconsistent with the NCP, including, but not limited to, direct and indirect costs, that the United States incurs after 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 35 (costs and attorney fees and any monies paid to non-liable parties to secure access, including the amount of just compensation), Paragraph 43 (emergency response), and Paragraph 71 (Work Takeover). Future Response Costs shall not include costs incurred: (1) by the United States for work not covered by the Work Plans (Appendices D and E), (2) by the United States for any Remedial Investigation/Feasibility Study ("RI/FS"), (3) by the United States for any future Remedial Design/Remedial Action ("RD/RA") or any other remedial actions at or in connection with the Site or (4) directly by the State using State-appropriated funds and billed directly by the State, at or in connection with the Site.

g. "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, 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.

h. "May 14, 2015 AOC" shall mean the Administrative Settlement Agreement and Order on Consent for Remedial Investigation/Feasibility Study, CERCLA Docket No. 06-03-15, effective May 14, 2015 and all amendments and addenda thereto which provides that the RI/FS Work Plan shall include a schedule that coordinates the on-site Work so as to avoid any potential interference.

i. "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.

j. "Paragraph" shall mean a portion of this Settlement Agreement identified by an Arabic numeral.

k. "Parties" shall mean EPA and the Settling Respondents.

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

m. "Receiver" shall mean the person who is appointed as the receiver over the Site by order of the 125th State District Court in Harris County, Texas or any subsequent court with jurisdiction over the receivership at the Site. The receiver as of the effective date of the Settlement Agreement is Eva Engelhart who was appointed on May 22, 2012. A copy of the order appointing the receiver is attached as Appendix C.

n. "Removal Action" shall mean the activities conducted pursuant to this Settlement Agreement and the August 25, 2011 AOC.

o. "Settling Respondents" shall mean those Settling Respondents identified in Appendix A, incorporated herein by reference, and any additional Party(ies) who may enter into this Settlement Agreement in the future after its effective date.

p. "Section" shall mean a portion of this Settlement Agreement identified by a Roman numeral.

q. "Settlement Agreement" shall mean this Administrative Settlement Agreement on Consent, and all appendices attached hereto (listed in Section XXXI). In the event of conflict between this Settlement Agreement and any appendix, this Settlement Agreement shall control.

r. "State" shall mean the State of Texas.

s. "Site" shall mean that portion of the U.S. Oil Recovery Superfund Site located at 400 North Richey Street, Pasadena, Harris County, Texas and depicted generally on the map attached as Appendix B.

t. "Waste Material" shall mean (1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (2) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); and (3) "solid waste" under Section 1004(27) of RCRA 42 U.S.C. § 6903(27) or Section 361.003 of the Texas Solid Waste Disposal Act, Tex. Health & Safety Code § 361.003.

u. "Work" shall mean all activities Settling Respondents are required to perform under this Settlement Agreement, except those required by Section XI (Records Retention).

IV. FINDINGS OF FACT

9. The Site property is located at 400 North Richey Street in Pasadena, Harris County, Texas, 77506. The approximately 12.2 acre property was most recently used as a used oil processing and waste treatment facility. The property was abandoned by its owner(s) and is now under the custody and control of the Receiver. An office building, security guard shack, and large warehouse (approximately 25,000 square feet in size) are present on the property. The warehouse includes a laboratory, machine shop, and parts warehouse. A tank farm with

approximately 24 aboveground storage tanks containing industrial wastes is located on the north end of the warehouse. A containment pond is located west of the warehouse. Approximately 225 roll-off boxes and two frac tanks are located on the property. The property is located in a highly industrial area that also includes commercial and residential land use.

10. U.S. Oil Recovery L.P. began operations on the property in approximately June 2003 and U.S. Oil Recovery L.L.P. acquired the property in December 2004. Prior to 2004, multiple businesses operated on the property including chemical manufacturing companies (specializing in fertilizers and/or herbicides/pesticides), a cow hide exporter, leather tanner, and companies with unknown operations including storage of various hard goods.

11. U.S. Oil Recovery L.P. received municipal and industrial Class I and Class II wastewater, characteristically hazardous waste, used oil and oily sludges, and municipal solid waste at the Site. The State, on behalf of the TCEQ, and Harris County obtained an injunction requiring the owner(s)/operator(s) to clean up the Site, with which the owner(s)/operator(s) failed to comply. The owner(s)/operator(s) ceased operations in June of 2010. In July 2010, the State, on behalf of the TCEQ, and Harris County sought and obtained the appointment of a receiver.

12. In July 2010, the TCEQ and Harris County, through the Harris County Public Health and Environmental Services, contacted EPA requesting assistance in stabilizing the Site and managing the large volume of hazardous substances and waste at the Site. On November 8, 2010, the TCEQ requested from EPA additional response assistance. EPA and TCEQ agreed that the TCEQ would take custody and control of the Site records.

13. Hazardous substances present at the property and in waste materials previously handled at the property include volatile organic compounds, semi-volatile organic compounds, pesticides, herbicides, and metals.

14. Emergency response and removal actions were performed by EPA in 2010 and 2011, and included general site stabilization; removal of contaminated wastewater from various holding areas; on-site treatment, disposal or recycling of contaminated wastewater; and stabilization and classification of drums, frac tanks, totes and roll-off boxes.

15. A group of potentially responsible parties ("PRPs") entered into the August 25, 2011 AOC ("US Oil Recovery Site PRP Group") to take over and perform site stabilization activities at the Site and additional removal actions described in EPA-approved work plans. EPA approved the performance of the following tasks pursuant to the August 25, 2011 AOC: (1) bioreactor content removal, decontamination, and demolition; (2) roll-off box content removal and decontamination; (3) drum and tote removal and disposal; and (4) above ground storage tanks liquids removal and disposal. Settling Respondents have implemented and completed the above tasks under EPA oversight and in accordance with the approved work plans.

16. On September 14, 2011, EPA issued a Non-Interference Unilateral Administrative Settlement Agreement ("UAO") to certain parties, including the owner/ operator of the Site property, to prevent any of their on-site activities from interfering with the ongoing site-stabilization effort and additional removal actions.

17. On May 22, 2012, Eva Engelhart was appointed as Receiver for U.S. Oil Recovery, L.P. f/k/a U.S. Oil Recovery LLC, MCC Recycling LLP f/k/a US Oil Recovery #2, LLP, U.S. Oil Recovery L.L.P. (Texas Secretary of State Registration No. 800159885), U.S. Oil Recovery L.L.P. (Texas Secretary of State Registration No. 800458414) by order of the 125th State District Court in Harris County, Texas. Pursuant to this order, all real or personal property of these entities is in the custody and control of the Receiver, including the Site. The Receiver's duties include, but are not limited to negotiating and granting access to the Site, assisting the U.S. Oil Recovery Site PRP Group in connection with the cost-effective remediation of the Site as well as protecting and marketing the Site's assets. The Receiver has current custody and control over the Site, and is identified as a Settling Respondent solely for purposes of access to the Site and the imposition of future institutional controls, if any, for the Site.

18. The Site was listed on the National Priorities List ("NPL") pursuant to CERCLA Section 105, 42 U.S.C. § 9605, on September 18, 2012.

19. A group of potentially responsible parties ("PRPs") entered into the May 14, 2015 AOC which includes not only the US Oil Recovery Site PRP Group, but also a previous owner/operator of the Site. The May 14, 2015 AOC provides that the RI/FS Work Plan shall include a schedule that coordinates the on-site RI/FS Work so as to avoid any potential interference with ongoing removal actions at the Site.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the Findings of Fact set forth above, EPA has determined that:

20. The Site at 400 North Richey Street constitutes a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9),

21. The contamination found at the Site, as identified in the Findings of Fact above, includes "hazardous substances" as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

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

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

24. Settling Respondents are responsible parties under Sections 104, 107 and 122 of CERCLA, 42 U.S.C. §§ 9604, 9607 and 9622. Each Settling Respondent is either a person who arranged for disposal or transport for disposal of hazardous substances at the Site. Each Settling Respondent therefore may be liable under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

25. 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.

VI. SETTLEMENT AGREEMENT AND ORDER

26. Based upon the foregoing Findings of Fact and Conclusions of Law and Determinations, it is hereby Ordered and Agreed that Settling Respondents shall comply with all provisions of this Settlement Agreement, including, but not limited to, all appendices to this Settlement Agreement and all documents incorporated by reference into this Settlement Agreement.

VII. DESIGNATION OF CONTRACTORS, PROJECT COORDINATORS, AND ON-SCENE COORDINATOR

27. Selection of Contractors, Personnel. Settling Respondents shall retain one or more contractors to perform the Work and shall notify EPA of the name(s) and qualifications of such contractor(s) within thirty (30) days of the Effective Date. Respondents shall also notify EPA of the name(s) and qualification(s) of any other contractor(s) or subcontractor(s) retained to perform the Work at least ten (10) days prior to commencement of such Work. EPA retains the right to disapprove of any or all of the contractors and/or subcontractors retained by Settling Respondents. If EPA disapproves of a selected contractor, Settling Respondents shall retain a different contractor and shall notify EPA of that contractor's name and qualifications within fourteen (14) days of EPA's disapproval. The proposed contractor must demonstrate compliance with ANSI/ASQC E4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs," (American National Standard, January 5, 1995, or most recent version), by submitting a copy of the proposed contractor's Quality Management Plan ("QMP"). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)," (EPA/240/B-01/002, March 2001 or subsequently issued guidance) or equivalent documentation as determined by EPA. Subcontractors or contractors may work under the oversight of the primary contractor's QMP and are not required to submit their own individual QMP to EPA.

28. Settling Respondents designate Eric Pastor of Pastor, Behling & Wheeler, LLC as their Project Coordinator who shall be responsible for administration of all actions by Settling Respondents required by this Settlement Agreement. The Project Coordinator's address, telephone number and e-mail are as follows:

Mr. Eric Pastor
Pastor, Behling & Wheeler, LLC
2201 Double Creek Drive, Suite 4004
Round Rock, Texas 78664
(512) 671-3434
eric.pastor@pbwllc.com

The Project Coordinator or his representative shall be present on Site or readily available during Site Work. EPA hereby approves the designated Project Coordinator but retains the right to

disapprove of the designated Project Coordinator in the future. If EPA disapproves of the designated Project Coordinator, Settling Respondents shall retain a different Project Coordinator and shall notify EPA of that person's name, address, telephone number and qualifications within fourteen (14) days following EPA's disapproval. Settling Respondents shall have the right to change their Project Coordinator, subject to EPA's right to disapprove. Settling Respondents shall notify EPA seven (7) days before such a change is made. The initial notification may be made orally, but shall be promptly followed by a written notification. Receipt by Settling Respondents' Project Coordinator of any notice or communication from EPA relating to this Settlement Agreement shall constitute receipt by Settling Respondents. Documents to be submitted to the Settling Respondents shall be sent to Settling Respondents' Project Coordinator at the address shown above.

29. EPA has designated Adam Adams of EPA Region 6 as its On-Scene Coordinator ("OSC"). EPA will notify Settling Respondents of a change of its designated OSC. Except as otherwise provided in this Settlement Agreement, Settling Respondents shall direct all submissions required by this Settlement Agreement to the OSC at the US EPA Region 6, 6SF-RA, 1445 Ross Ave., Dallas, TX 75202 or by electronic mail if so directed by the OSC.

VIII. WORK TO BE PERFORMED

30. Settling Respondents shall perform all actions necessary to implement the Work Plans set forth in Appendices D and E hereby incorporated herein by reference and made a part of this Settlement Agreement. As applicable, these actions shall be performed in accordance with the Health and Safety Plan dated May 2012 and the Quality Assurance Sampling Plan dated May 2012, both of which were approved by EPA on June 6, 2012.

31. Within sixty (60) days after completion of all Work required by this Settlement Agreement, Settling Respondents shall submit for EPA review 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 300.160 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 know violations."

32. Off-Site Shipment of Waste Material. Prior to any off-site shipment of Waste Material pursuant to the Work under this Settlement Agreement from the Site to an out-of-state waste management facility, Settling Respondents shall provide written notification of such shipment of Waste Material to the appropriate state environmental official in the receiving facility's state and to the EPA's Designated OSC. However, this notification requirement shall not apply to any off-site shipments when the total volume of all such shipments will not exceed 10 cubic yards.

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

b. The identity of the receiving facility and state will be determined by Settling Respondents following the award of the contract for the removal action. Settling Respondents shall provide the information required by Subparagraphs 32.a and 32.c as soon as practicable after the award of the contract and before the Waste Material is actually shipped.

c. Before shipping any hazardous substances, pollutants, or contaminants from the Site to an off-site location, Settling Respondents shall obtain the 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. Settling Respondents shall only send hazardous substances, pollutants, or contaminants from the Site to an off-site facility that complies with the requirements of the statutory provision and regulation cited in the preceding sentence.

33. Bi-Monthly Progress Reports. Settling Respondents shall submit to the EPA Bi-Monthly Progress Reports under this Settlement Agreement which shall be due by the 15th day of every other month, beginning with the first complete month after the Effective Date until termination of this Settlement Agreement, unless otherwise directed by the OSC. These progress reports shall (1) describe the actions which have been taken to comply with this Settlement Agreement during the preceding two-month period, (2) include a summary of all quality assured results of sampling and tests and all other quality assured data received by Settling Respondents for the Work during the reporting period, (3) describe Work planned for the next two months, and (4) describe all problems encountered and any anticipated problems, any actual or anticipated delays, and solutions developed and implemented to address any actual or anticipated problems or delays regarding the Work.

IX. SITE ACCESS

34. If the Site, or any property where access is needed to implement this Settlement Agreement, is owned or controlled by any of the Settling Respondents, such Settling Respondent(s) shall, commencing on the Effective Date, provide EPA and all of the non-owner Settling Respondents and their 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.

35. The Receiver shall provide EPA and all of the Settling Respondents and their representatives, including contractors, with access at all reasonable times to the portions of the Site under Receiver's custody and control for the purpose of conducting any activity related to this Settlement Agreement. Where any action under this Settlement Agreement is to be performed in areas owned by or in possession of someone other than any of Settling Respondents or the Receiver, Settling Respondents shall use their best efforts to obtain all necessary access agreement within forty-five (45) days after identifying the need for such access, or as otherwise specified in writing by the OSC. For purposes of this Paragraph and Paragraph 52 (Force Majeure), "best efforts" means the reasonable efforts that a prudent person would use in similar circumstances as to accomplish the goal in a timely manner. "Best Efforts" include the payment of reasonable sums of money in consideration of access. However, no payment of any sums shall be required if the property owner is also a potentially responsible party at the Site (or that party's successor-in-interest or assignee). "Best Efforts" do not require the Settling Respondents to undertake legislative actions, eminent domain, or other legal proceedings available to the State of Texas to acquire access. Settling Respondents shall immediately notify EPA, if after using their best efforts, they are unable to obtain such agreements. Settling Respondents shall describe in writing their efforts to obtain access. If Settling Respondents cannot obtain access agreements, EPA may either (i) obtain access for Settling Respondents or assist Settling Respondents in gaining access, to the extent necessary to effectuate the response actions described herein, using such means as EPA deems appropriate; (ii) perform those tasks or activities with EPA contractors; or (iii) terminate the Settlement Agreement. Settling Respondents shall reimburse EPA for all costs and attorney's fees incurred by the United States in obtaining such access, in accordance with the procedures in Section XV (Payment of Future Response Costs). If EPA performs those tasks or activities with EPA contractors and does not terminate the Settlement Agreement, Settling Respondents shall perform all other tasks or activities not requiring access to that property, and Settling Respondents shall reimburse EPA for all costs incurred in performing such tasks or activities. Settling Respondents shall integrate the results of any such tasks or activities undertaken by EPA into its plans, reports and other deliverables.

36. Notwithstanding any provision of this Settlement Agreement, EPA and the State retain all of their access authorities and rights, including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

X. ACCESS TO INFORMATION

37. Access to Information.

a. Subject to Subparagraphs b and c., Settling Respondents shall provide to EPA and the State, upon request, copies of all documents and information within their possession or control or that of their contractors or consultants relating to the Work, 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. Settling Respondents shall also make available to EPA and the State, for purposes of

investigation, information gathering, or testimony, their employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

b. Settling Respondents may assert business confidentiality claims covering part or all of the documents or information submitted to EPA or the State 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) or state laws. Documents or information determined to be confidential by EPA or the state will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B or state law. If no claim of confidentiality accompanies documents or information when it is submitted to EPA, or if EPA or the State has notified Settling Respondents 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 or state law, the public may be given access to such documents or information without further notice to Settling Respondents.

c. Settling Respondents may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal or state law. If the Settling Respondents assert such a privilege in lieu of providing documents, they shall provide EPA or the State with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the contents of the document, record, or information; and 6) the privilege asserted by Settling Respondents. 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.

d. 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. RECORDS RETENTION

38. During the pendency of this Settlement Agreement and for a minimum of ten (10) years after EPA's issuance of the written notice of the completion pursuant to Section XXX (Notice of Completion of Work) of this Settlement Agreement, each Settling Respondent or the Settling Respondents' technical or other consultant shall preserve and retain all non-identical copies of documents, records, and other information (including documents, records, or other information 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. By way of example and explanation, each Settling Respondent may maintain, as its sole responsibility, documents relating to any person's liability under CERCLA with respect to the Site, while the Settling Respondents' consultant may maintain, as its sole responsibility, the documents relating in any manner to the performance of the Work with respect to the Site. Settling Respondents or Settling Respondents' consultant may, if EPA approves, retain only electronic copies of records.

39. The TCEQ has custody and control of documents that were maintained at the Site by the Site owner(s)/operator(s). These documents are maintained at a secure location and access to the documents is monitored. These documents are not subject to the provisions of this Section.

40. At the conclusion of this document retention period, Settling Respondents or Settling Respondents' technical or other consultant shall notify EPA and the State at least ninety (90) days prior to the destruction of any such documents, records or other information, and, upon request by EPA or the State, Settling Respondents shall deliver any such documents, records, or other information to EPA or the State. Settling Respondents may assert that certain documents, records, and other information are privileged under the attorney-client privilege, attorney work product doctrine or any other privilege recognized by federal or state law. If Settling Respondents assert such a privilege, they shall provide EPA or the State with the following: 1) the title of the document, record, or other information; 2) the date of the document, record, or other information; 3) the name and title of the author of the document, record, or other information; 4) the name and title of each addressee and recipient; 5) a description of the subject of the document, record, or other information; and 6) the privilege or doctrine asserted by Settling Respondents. However, no documents, records or other information specifically created or generated to comply with the requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged.

41. Each Settling 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 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 regarding the Site.

XII. COMPLIANCE WITH OTHER LAWS

42. Settling Respondents 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. No local, state, or federal permit shall be required for any portion of any action conducted entirely on-site, including studies, if the action is selected and carried out in compliance with Section 121 of CERCLA, 42 U.S.C. § 9621. Where any portion of the Work is to be conducted off-site and requires a federal or state permit or approval, Settling Respondents shall submit timely and complete applications and take all other actions necessary to obtain and to comply with all such permits or approvals.

XIII. EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES

43. 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, Settling Respondents shall immediately take all appropriate action. Settling Respondents 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. Settling Respondents shall also immediately notify the OSC, Adam Adams at (214) 665-2779, or, in the event of his unavailability, the Regional Duty Officer at (866) 372-7745 of the incident or Site conditions. In the event that Settling Respondents fail to take appropriate response action as required by this Paragraph, and EPA takes such action instead, Settling Respondents shall reimburse EPA all costs of the response action not inconsistent with the NCP pursuant to Section XV (Payment of Future Response Costs).

44. In addition, in the event of any release of a hazardous substance from the Site, which pursuant to Section 103(a) of CERCLA, 42 U.S.C. § 9603(a) requires reporting to the National Response Center, Settling Respondents shall immediately notify the OSC and the National Response Center at (800) 424-8802. Settling Respondents shall submit a written report to EPA within seven (7) days after each such 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 ON-SCENE COORDINATOR

45. The OSC shall be responsible for overseeing Settling Respondents' implementation of this Settlement Agreement. The OSC shall have the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any Work required by this Settlement Agreement, or to direct any other removal action undertaken at the Site. Absence of the OSC from the Site shall not be cause for stoppage or work unless specifically directed by the OSC.

XV. PAYMENT OF FUTURE RESPONSE COSTS

46. Payments of Future Response Costs.

a. Settling Respondents shall pay EPA all Future Response Costs for the removal actions performed under this Settlement Agreement not inconsistent with the NCP. EPA has estimated that the amount of Future Response Costs that will be expended at this Site under this Settlement Agreement will be \$50,000. Based on this estimate, within thirty (30) days after the Effective Date, Settling Respondents shall pay EPA \$50,000 for Future Response Costs ("Prepayment"). Settling Respondents shall make all payments required by this Paragraph to EPA by Fedwire Electronic Funds Transfer ("EFT") to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency" and be accompanied by appropriate transmittal communication identifying the name and address of the party(ies) making payment and EPA Site/Spill ID number A6MX and the EPA docket number for this action.

b. At the time of payment, Settling Respondents shall send notice that payment has been made to:

Chief, Enforcement Assessment Section (6SF-TE)
US EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

And to the EPA Cincinnati Finance Office by e-mail at CINWD_AcctsReceivable@epa.gov, or by mail to:

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

c. If the Prepayment is depleted, EPA will send Settling Respondents a bill for the Future Response Costs incurred for the Site under this Settlement Agreement requiring payment. Such bills will be submitted at least on a semi-annual basis, but no sooner than every six months, and will include an unreconciled Standard Cost Accounting Report (SCORPIOS report) which contains a summary itemization of EPA's and its contractors' Future Response Costs, including costs incurred from the Prepayment for 400 North Richey, including direct and indirect costs incurred by EPA and its contractors incurred under this Settlement Agreement. Settling Respondents shall make all payments within sixty (60) days after Settling Respondents' receipt of such bill requiring payment, except as otherwise provided in Paragraph 48, and in accordance with the procedures described in Subparagraphs 46.a & b., including without limitation the procedure for providing notice of the remittance.

d. In recognition that there are other and may be future AOCs for the Site with different potentially responsible parties, the total amount to be paid by Settling Respondents pursuant to Subparagraph 46.a. (Prepayment) and Subparagraph 46.c. (billed amounts) shall be deposited by EPA in the U.S. Oil Recovery Superfund Site Special Account within the EPA Hazardous Substances Superfund, (ii) with a separate site charging code for Future Response Cost charges unique to this Settlement Agreement, and (iii) retained and used by EPA to conduct or finance response actions at or in connection with the removal actions within the Site.

e. After EPA issues the Notice of Completion of Work pursuant to Paragraph 98 and a final accounting of the Special Account, including crediting Settling Respondents for any amounts received under Paragraphs 46.a (Prepayment) or 46.c (billed amounts), EPA will apply any unused amount as a result of payments from 46.a (Prepayment) to any other unreimbursed response costs or response actions associated with the removal actions remaining at the Site and if there are no more such removal actions at the Site, EPA shall refund the amount to the Settling Respondents. In addition, together with the refund, EPA will send Respondents an unreconciled SCORPIOS report, which includes a summary itemization of EPA and its contractors' Future Response Costs including costs incurred from the Prepayment, direct and indirect costs incurred under this Settlement Agreement. If the final accounting of the Special Account shows a credit for any amounts received under Paragraph 45.c (periodic bill), EPA may apply any unused amount as a result of payment from 45.c (periodic bill) to any other unreimbursed response costs or response actions remaining at the Site or may transfer such unused amount to the EPA Hazardous Substances Superfund. Any decision by EPA to apply unused amounts to unreimbursed response costs or response actions remaining at the Site (from amounts paid under 45.c periodic bill) shall not be subject to challenge by Settling Respondents pursuant to dispute resolution provisions of this Settlement Agreement or in any other forum.

47. Except as set forth in Paragraph 48, if Settling Respondents do not pay Future Response Costs within sixty (60) days of Settling Respondents' receipt of a bill, Settling Respondents shall pay Interest on the unpaid balance of Future Response Costs. The Interest on unpaid Future Response Costs shall begin to accrue on the date of the bill and shall continue to accrue until the date of payment. If EPA receives a partial payment, Interest shall accrue on any unpaid balance. 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 Settling Respondents' failure to make timely payments under this Section, including but not limited to payments of stipulated penalties pursuant to Section XVIII. Settling Respondents shall make all payments required by this Paragraph in the manner described in Paragraph 46.

48. Settling Respondents may contest payment of any Future Response Costs billed under Paragraph 46 or the application of the Prepayment made under Paragraph 46.a., if they determine that EPA has made a mathematical error, or included a cost item that is not within the definition of Future Response Costs or if they believe EPA incurred excess costs as a direct result of an EPA action that was inconsistent with a provision or provisions of the NCP. Such objection shall be made in writing within forty-five (45) days of receipt of the bill or refund and accompanying reports specified in Subparagraphs 46.c. and 46.e. and must be sent to the OSC. Any such objection shall specifically identify the contested Future Response Costs and the basis for objection. In the event of an objection, Settling Respondents shall within sixty (60) days of Settling Respondents' receipt of the bill from EPA (1) pay all uncontested Future Response Costs to EPA in the manner described in Paragraph 46 and (2) establish an interest-bearing escrow account in a federally-insured bank duly chartered in the State of Texas and remit to that escrow account funds equivalent to the amount of the contested Future Response Costs. Settling Respondents shall send to the OSC a copy of the statement and documentation evidencing payment of 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. The Settling Respondents' written objection to payment or application of the Prepayment made within forty-five (45) days of receipt of EPA's bill shall initiate the Dispute Resolution procedures in Section XVI (Dispute Resolution). If EPA prevails in the dispute, within fourteen (14) days of the resolution of the dispute, Settling Respondents shall pay the sums due (with accrued interest from the escrow account) to EPA in the manner described in Paragraph 46 or in the application of the Prepayment, Respondents shall receive nothing. If Settling Respondents prevail concerning any aspect of the contested costs, Settling Respondents shall pay that portion of the costs (plus associated accrued interest from the escrow account) for which they did not prevail to EPA in the manner described in Paragraph 46. Settling Respondents shall be disbursed any balance of the escrow account. If Respondents prevail with respect to the application of a portion of the Prepayment, Respondents shall receive a refund of that portion. 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 Settling Respondents' obligation to reimburse EPA for its Future Response Costs.

XVI. DISPUTE RESOLUTION

49. 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.

50. If Settling Respondents object to any EPA action taken pursuant to this Settlement Agreement, including billings for Future Response Costs, they shall notify EPA in writing of their objection(s) within thirty (30) days (except as provided in Paragraph 48 where Settling Respondents have within forty-five (45) days of receipt of EPA's bill for Future Response Costs to notify EPA of their objections to payment) of such action, unless the objection(s) has/have been resolved informally. EPA and Settling Respondents shall have sixty (60) days from EPA's receipt of Settling Respondents' written objection(s) to resolve the dispute (the "Negotiation Period"). The Negotiation Period may be extended at the sole discretion of EPA. Such extension shall not be unreasonably denied and may be granted orally but must be confirmed in writing.

51. Any agreement reached by the Parties pursuant to this Section shall be in writing and shall, upon signature by the 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 Parties shall be afforded the opportunity within fifteen (15) days after the end of the Negotiation Period to present their respective positions in writing and through oral presentation to the EPA Region 6 Superfund Division Director who will issue a written decision. EPA's decision shall be incorporated into and become an enforceable part of this Settlement Agreement. Settling Respondents' obligations under this Settlement Agreement shall not be tolled by submission of any objection for dispute resolution under this Section unless otherwise agreed to by EPA, and such agreement shall not be unreasonably withheld. Following resolution of the dispute, as provided by this Section, Settling Respondents shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with EPA's decision, whichever occurs, and regardless of whether Settling Respondents agree with the decision. In the

event that the Settling Respondents prevail on the issue in dispute, no stipulated penalties accruing for the disputed issue shall be assessed.

XVII. FORCE MAJEURE

52. Settling Respondents agree 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, *force majeure* is defined as any event arising from causes beyond the control of Settling Respondents or of any entity controlled by Settling Respondents, including but not limited to their contractors and subcontractors, which delays or prevents performance of any obligation under this Settlement Agreement despite Settling Respondents' best efforts to fulfill the obligation. *Force majeure* does not include financial inability to complete the Work or increased cost of performance.

53. 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, Settling Respondents shall notify EPA orally within 48 hours of when Settling Respondents first knew that the event might cause a delay. Within fourteen (14) days thereafter, Settling Respondents 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; Settling Respondents' rationale for attributing such delay to a *force majeure* event if they intend to assert such a claim; and a statement as to whether, in the opinion of Settling Respondents, 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 Settling Respondents 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.

54. 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, and no stipulated penalties will be assessed for the delay to the extent performance of those obligations is affected by the *force majeure* event. 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 Settling Respondents in writing of its decision. If EPA agrees that the delay is attributable to a *force majeure* event, EPA will notify Settling Respondents in writing of the length of the extension, if any, for performance of the obligations affected by the *force majeure* event.

XVIII. STIPULATED PENALTIES

55. Settling Respondents shall be liable to EPA for stipulated penalties in the amounts set forth in Paragraphs 56 and 57 for failure to comply with any of the requirements of this Settlement Agreement specified below in regard to the Work set forth in Appendices D and E,

unless excused under Section XVII (Force Majeure). "Compliance" by Settling Respondents shall include completion of the Work set forth in Appendices D and E, 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.

56. Settling Respondents' Stipulated Penalty Amounts - Work.

a. The following stipulated penalties shall accrue per violation per day for any noncompliance identified in Paragraph 56(b):

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$ 500	1 st through 14 th day
\$ 750	15 th through 30 th day
\$ 1000	31 st day and beyond

b. Compliance Milestones

(1) Commencement of work pursuant to the schedules in the Work Plans provided in Appendices D and E of this Settlement Agreement.

(2) Completion of work pursuant to the schedules in the Work Plans provided in Appendices D and E of this Settlement Agreement.

57. Settling Respondents' Stipulated Penalty Amounts – Reports.

The following stipulated penalties shall accrue per violation per day for failure to submit reports or other written documents pursuant to Paragraphs 31 - 33 in accordance with the schedule in this Settlement Agreement:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$ 500	1 st through 14 th day
\$ 750	15 th through 30 th day
\$ 1000	31 st day and beyond

58. Stipulated Penalty Amounts – Payment of Costs.

59. The following stipulated penalties shall accrue per violation per day for failure to pay Future Response Costs in accordance with the schedule in this Settlement Agreement: After the 30th day payment is not timely received, a penalty of \$250 per day will be assessed.

60. In the event that EPA assumes performance of a portion or all of the Work pursuant to Paragraph 71 of Section XX (Reservation of Rights by EPA) and EPA's decision to assume performance is upheld in dispute resolution, Settling Respondents shall be liable for a stipulated penalty in the amount of \$250,000.

61. 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: (1) with respect to a deficient submission under Section VIII (Work to be Performed), until sixteen (16) days following receipt of notice of the deficiency by Settling Respondents (2) with respect to a decision by EPA Region Superfund Division Director designated in Paragraph 51 of Section XVI (Dispute Resolution), during the Negotiation Period until the date that the Superfund Division Director issues a final decision regarding such dispute; and (3) with respect to commencement or completion of the Plans as described in Paragraphs 56.b. above, if the failure to commence or complete the Work under the Plans is due to any action or inaction by EPA that delays such commencement or completion.

62. Following EPA's determination that Settling Respondents have failed to comply with a requirement of this Settlement Agreement, EPA shall give Settling Respondents written notification of the same and describe the noncompliance. EPA may send Settling Respondents a written demand for the payment of the penalties. However, penalties shall accrue as provided in the preceding Paragraph only in the event that EPA has provided Settling Respondents written notification of noncompliance.

63. All penalties accruing under this Section shall be due and payable to EPA within thirty (30) days of Settling Respondents' receipt from EPA of a demand for payment of the penalties, unless Settling Respondents invoke the dispute resolution procedures in accordance with Section XVI (Dispute Resolution). All payments to EPA under this Section shall be paid by Electronic Funds Transfer ("EFT") in accordance with the instructions in Paragraph 46. A statement accompanying the EFT payment shall indicate that the payment is for stipulated penalties, and shall reference the EPA Region and Site/Spill ID Number A6MX, the EPA Docket Number 06-11-16, and the name and address of the party(ies) making payment. Settling Respondents shall send notice that payment has been made to EPA as provided in Paragraph 46.b., and to Mr. Lance Nixon, U.S. EPA Region 6, 6SF-TE, 1445 Ross Avenue, Dallas, TX 75202.

64. The payment of penalties shall not alter in any way Settling Respondents' obligation to complete performance of the Work.

65. Penalties shall continue to accrue as provided in Paragraphs 61 and 62 during any dispute resolution period, but need not be paid until thirty (30) days after the dispute is resolved by agreement or by receipt of EPA's decision.

66. If Settling Respondents fail to pay stipulated penalties when due, EPA may institute proceedings to collect the penalties, as well as Interest. Settling Respondents shall pay Interest on the unpaid balance, which shall begin to accrue on the date of demand made pursuant to Paragraph 62.

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 Settling Respondents' violation of this Settlement Agreement or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to Section 122(l) of CERCLA, 42 U.S.C. § 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 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 herein, except in the case of 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 (Reservation of Rights by EPA), Paragraph 71. 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 OR TAKE ADMINISTRATIVE ACTION BY EPA

68. In consideration of the actions that will be performed and the payments that will be made by Settling Respondents under the terms of this Settlement Agreement, and except as otherwise specifically provided in this Settlement Agreement, the EPA covenants not to sue or to take administrative action against Settling Respondents pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), for the Work and for recovery of Future Response Costs. This covenant not to sue shall take effect upon the Effective Date and is conditioned upon the complete and satisfactory performance by Settling Respondents of all 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 Settling Respondents and their successors and assigns and does not extend to any other person.

XX. RESERVATION OF RIGHTS BY EPA

69. 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 herein 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 Settling Respondents in the future to perform additional activities pursuant to CERCLA or any other applicable law.

70. 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 Settling Respondents with respect to all other matters, including, but not limited claims based on a failure by Settling Respondents to meet a requirement of this Settlement Agreement;

a. liability for costs not included within the definition of Future Response Costs;

- b. liability for performance of response action other than the Work;
- c. criminal liability;
- d. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- e. liability arising from the past, present, or future disposal, release or threat of release of Waste Materials outside of the Site; and
- f. liability for costs incurred or to be incurred by the Agency for Toxic Substances and Disease Registry related to the Site, except to the extent reimbursed under this Settlement Agreement.

71. Work Takeover. In the event EPA determines that Settling Respondents have ceased implementation of any portion of the Work, are seriously or repeatedly deficient or late in their performance of the Work, or are 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. Settling Respondents 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 EPA in performing the Work pursuant to this Paragraph shall be considered Future Response Costs that Settling Respondents shall pay pursuant to Section XV (Payment of Future 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.

72. In the event EPA assumes the performance of all or any portion of the Work, EPA shall notify Settling Respondents in writing. Such takeover notification shall identify that all or a specifically designated portion of the Work shall be assumed by EPA. Stipulated penalties for violations of the Settlement Agreement directly relating to the Work assumed by EPA shall continue to accrue only until the earlier of (1) the date upon which EPA, or another party pursuant to an agreement with or ordered by EPA, commences performance of that Work or (2) if EPA Work Takeover is not delayed by actions of the Settling Respondents, including but not limited to invocation of dispute resolution pursuant to Section XVI to prevent takeover, thirty (30) days from the Settling Respondents' receipt of the takeover notice.

XXI. COVENANT NOT TO SUE BY SETTLING RESPONDENTS

73. Except as provided in Paragraphs 74 through 78 Settling Respondents covenant not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Work, 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 the Work or arising out of the response actions for which the Future Response Costs have or will be incurred, including any claim under the United States Constitution, the Texas 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 or payment of Future Response Costs unless the United States or department or agency of the United States is identified as a "Potentially Responsible Party" at the Site.

74. 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 70(a)-(b), and (d) - (f), but only to the extent that Settling Respondents' claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

75. Nothing in this Settlement 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. RESERVATION OF RIGHTS BY SETTLING RESPONDENTS

76. The covenants not to sue set forth in Section XXI above do not pertain to any matters other than those expressly identified therein. Settling Respondents expressly reserve, jointly and severally, and this Settlement Agreement is without prejudice to, all rights, claims and causes of action with respect to all other matters including, but not limited to:

a. claims brought by Settling Respondents pursuant to an agreement(s) among Settling Respondents and relating to the allocation and payment of costs of all "matters addressed" in the Settlement Agreement as that term is defined in Paragraph 83, or required to satisfy other obligations hereunder.

b. claims against the United States, subject to the provisions of Chapter 171 of Title 28 of the United States Code, and brought pursuant to any statute and for which the waiver of sovereign immunity is found in a statute for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the United States, as that term is defined in 28 U.S.C. § 2671, while acting within the scope of his or her office or employment under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. However, the foregoing shall not include any claim based on EPA's selection of response actions, or the oversight or approval of Respondents' plans, reports, other deliverables or activities.

77. Subject to the United States' sovereign immunity and any other defenses it may have, this Settlement Agreement shall not have any effect on and Settling Respondents expressly reserve any claims or causes of action that Settling Respondents may have pursuant to Section 113 of CERCLA or other state or federal claims against the United States or any of its agencies

or departments based upon its (or their) status as a liable or potentially liable party pursuant to Section 107(a) of CERCLA, 42 U.S.C. 9607(a) relating to the Work, Future Response Costs, or this Settlement Agreement. This paragraph shall not be construed as a waiver of sovereign immunity nor shall it be construed as an acknowledgment or concession by the United States that Settling Respondents have any claim under state or federal law other than a claim under Section 113 of CERCLA.

78. Notwithstanding anything in this Settlement Agreement to the contrary, including the contribution protection provided in Paragraph 83, each Settling Respondent expressly reserves any right it may have to seek recovery pursuant to Section 113 of CERCLA, 42 U.S.C. § 9613, or any other provision of federal or state law including the Texas Solid Waste Disposal Act, from any person not a party to this Settlement Agreement. This paragraph shall not be construed as a waiver of sovereign immunity nor shall it be construed as an acknowledgment or concession by the United States that Settling Respondents have any claim under state or federal law other than a claim under Section 113 of CERCLA.

XXIII. OTHER CLAIMS

79. 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 Settling Respondents.

80. Except as expressly provided in Section XIX (Covenant Not to Sue or Take Administrative Action by EPA), nothing in this Settlement Agreement constitutes a satisfaction of or release from any claim or cause of action against Settling Respondents 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.

81. 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).

82. Settling Respondents have the right to challenge through the Dispute Resolution Procedure in Section XVI herein, any EPA cost or action which Settling Respondents allege is inconsistent with CERCLA or the NPC.

XXIV. CONTRIBUTION PROTECTION

83. a. The Parties agree that this Settlement Agreement constitutes an administrative settlement pursuant to which each Settling Respondent has, as of the Effective Date, resolved its liability to the United States within the meaning of Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), and that subject to Settling Respondents' Reservation of Rights in Paragraphs 76 through 77, 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), or as may be otherwise

provided by law, for the “matters addressed” in this Settlement Agreement. The “matters addressed” in this Settlement Agreement are the Work, and Future Response Costs.

b. The Parties further agree that this Settlement Agreement constitutes an administrative settlement pursuant to which each Settling Respondent has as of the Effective Date, resolved its liability to the United States within the meaning of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B).

c. The contribution protection provided by this Section XXIV (Contribution Protection) does not preclude (1) EPA from enforcing the terms of this Settlement Agreement, subject to Paragraph 68, against any Settling Respondent that does not perform the obligations under this Settlement Agreement; (2) an action by any of the Settling Respondents under breach of contract or any other common law remedy, against any Settling Respondent that does not perform the obligations under this Settlement Agreement and pay its share of the costs of such obligations in accordance with the agreement(s) among the Settling Respondents and (3) an action by any of the Settling Respondents to pursue any right Settling Respondents may have under Section 113 of CERCLA, 42 U.S.C. § 9613, or any other provision of federal or state law including the Texas Solid Waste Disposal Act, against any person not a party to this Settlement Agreement. This paragraph shall not be construed as a waiver of sovereign immunity nor shall it be construed as an acknowledgment or concession by the United States that Settling Respondents have any claim under state or federal law other than a claim under Section 113 of CERCLA.

XXV. INDEMNIFICATION

84. Settling Respondents 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 Settling Respondents, their officers, directors, employees, agents, contractors, or subcontractors, in carrying out actions pursuant to this Settlement Agreement. In addition, Settling Respondents agree to pay the United States all costs incurred by the United States, including but not limited to attorney 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 Settling Respondents, their officers, directors, employees, agents, contractors, subcontractors and any persons acting on their 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 Settling Respondents in carrying out activities pursuant to this Settlement Agreement. Neither Settling Respondents nor any such contractor shall be considered an agent of the United States.

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

86. Settling Respondents waive 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 any one or more of Settling Respondents and any person for performance of Work on or relating to the Site. In

addition, Settling Respondents 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 any one or more of Settling Respondents and any person for performance of Work on or relating to the Site.

XXVI. INSURANCE

87. At least seven (7) days prior to commencing any on-Site Work, Settling Respondents or their contractors or primary subcontractors that are actually conducting the on-Site Work shall secure, and shall maintain for the duration of their on-Site Work, comprehensive general liability insurance of \$1,000,000 per occurrence (\$2,000,000 aggregate) and automobile insurance with limits of \$1,000,000, combined single limit, naming EPA as an additional insured. Within the same period, Settling Respondents shall provide EPA with certificates of such insurance. Upon EPA's request, Settling Respondents shall submit such certificates of insurance for each such contractor or primary subcontractor each year on the anniversary of the Effective Date if the same contractor or primary subcontractor is still conducting on-Site Work. In addition, for the duration of the on-Site Work, Settling Respondents shall ensure that their contractors or primary subcontractors who are actually the on-Site Work satisfy all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the on-Site Work on behalf of Settling Respondents in furtherance of this Settlement Agreement. If Settling Respondents demonstrate by evidence satisfactory to EPA that any contractor or primary 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 Settling Respondents need provide only that portion of the insurance described above which is not maintained by such contractor or primary subcontractor.

XXVII. FINANCIAL ASSURANCE

88. At least fifteen (15) days prior to commencing any on-site Work, Settling Respondents, collectively and not individually, shall demonstrate that one or more of the Settling Respondents possess sufficient assets in the amount of \$2,000,000. Settling Respondents may reduce the amount of financial assurance demonstrated to complete the Work as the Work is performed and approved by EPA. Settling Respondents may make the demonstration in one or more of the following forms:

- a. a surety bond unconditionally guaranteeing payment and/or performance to complete 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 equaling the estimated cost to complete the removal action;
- 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 to complete the removal action;

e. a corporate guarantee to complete the Work provided by one or more parent corporations or subsidiaries of Settling Respondents, or by one or more unrelated corporations that have a substantial business relationship with at least one of the Settling Respondents; including a demonstration that any such company satisfies the financial test requirements of 40 C.F.R. Part 264.143(f);

f. a corporate guarantee to complete the Work by one or more of Settling Respondents, including a demonstration that any such Settling Respondent satisfies the requirements of 40 C.F.R. Part 264.143(f); or

g. a demonstration based upon publically available financial information (such as a form 10k) that one or more of the Settling Respondents have sufficient assets to complete the removal action based upon Settling Respondents' estimated costs to complete the removal action.

89. 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, Settling Respondents shall, within thirty (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 88, above. In addition, if at any time EPA notifies Settling Respondents that the anticipated cost of completing the Work has increased beyond the Settling Respondents' estimated costs, then, within thirty (30) days of such notification, Settling Respondents shall obtain and present to EPA for approval a revised form of financial assurance (otherwise acceptable under this Section) that reflects such cost increase. Settling Respondents' inability to demonstrate financial ability to complete the Work shall in no way excuse performance of any activities required under this Settlement Agreement.

90. If Settling Respondents seek to ensure completion of the Work through a guarantee pursuant to Subparagraph 88.e. or 88.f. of this Settlement Agreement, Settling Respondents shall (i) demonstrate to EPA's satisfaction that the guarantor satisfies the requirements of 40 C.F.R. Part 264.143(f); and (ii) resubmit sworn statements conveying the information required by 40 C.F.R. Part 264.143(f) annually, on the anniversary of the Effective Date, 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," Settling Respondents' estimated costs to complete the removal action at the Site shall be used in relevant financial test calculations.

91. If, after the Effective Date, Settling Respondents can show that the estimated cost to complete the removal action has diminished, Settling Respondents may, on any anniversary date of the Effective Date, or at any other time agreed to by the Parties, reduce the amount of the financial security provided under this Section to the estimated cost of the Work to be performed. Settling Respondents shall submit a proposal for such reduction to EPA, in accordance with the requirements of this Section, and may reduce the amount of the security after receiving written approval from EPA. In the event of a dispute, Settling Respondents may seek dispute resolution

pursuant to Section XVI (Dispute Resolution). Settling Respondents may reduce the amount of security in accordance with EPA's written decision resolving the dispute.

92. Settling Respondents 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, Settling Respondents may change the form of the financial assurance only in accordance with the written decision resolving the dispute, based on Settling Respondents' estimated cost of the Work to be performed.

93. Settling Respondents' obligation to demonstrate financial assurance under this Settlement Agreement shall terminate upon EPA's issuance of the written notice of the completion pursuant to Section XXX (Notice of Completion of Work).

XXVIII. SUBSEQUENT MODIFICATION

94. The OSC may make modifications to any plan or schedule in writing or by oral direction. Oral modification shall be memorialized promptly. Any oral modification will be effective when memorialized in writing by EPA promptly, but, in the case of exigent circumstances, it shall be effective on the date of the OSC's oral direction. Any other requirements of this Settlement Agreement may be modified by mutual agreement of EPA and Settling Respondents. Amendments shall be in writing and shall be effective when signed by EPA. OSCs do not have the authority to sign amendments to the Settlement Agreement.

95. If Settling Respondents seek permission to deviate from any approved work plan or schedule, Settling Respondents' Project Coordinator shall submit a written request to EPA for approval outlining the proposed modification and its basis. Settling Respondents may not proceed with the requested deviation until receiving oral or written approval from the OSC pursuant to Paragraph 94. Any agreed modification of the Work will modify the deadlines in the Work accordingly and thus, no stipulated penalties may be assessed according to the existing deadlines.

96. No informal advice, guidance, suggestion, or comment by the OSC or other EPA representatives regarding reports, plans, specifications, schedules, or any other writing submitted by Settling Respondents shall relieve Settling Respondents of their 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.

XXIX. ADDITIONAL REMOVAL ACTIONS

97. If EPA determines that additional removal actions not included in an approved plan are necessary to protect public health, welfare, or the environment pursuant to the Work, EPA will notify Settling Respondents of that determination. Unless otherwise stated by EPA, within sixty (60) days of receipt of notice from EPA that additional removal actions are necessary to protect public health, welfare, or the environment pursuant to the Work, Settling Respondents shall submit for approval by EPA a Work Plan for the additional removal actions. Upon EPA's approval of the plan, Settling Respondents shall implement the plan for additional

removal actions in accordance with the provisions and schedule contained therein. This Section does not alter or diminish the OSC's authority to make oral modifications to any plan or schedule pursuant to Section XXVIII (Modifications).

XXX. NOTICE OF COMPLETION OF WORK

98. 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 but not limited to, payment of Future Response Costs and record retention, EPA will provide written notice to Settling Respondents. If EPA determines that any such Work has not been completed in accordance with this Settlement Agreement, EPA will notify Settling Respondents, provide a list of the deficiencies, and require that Settling Respondents modify the Work Plan(s) if appropriate in order to correct such deficiencies. Settling Respondents shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the EPA notice. Failure by Settling Respondents to implement the approved modified Work Plan shall be a violation of this Settlement Agreement.

XXXI. INTEGRATION/APPENDICES

99. This Settlement Agreement and its appendices 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. The following appendices are attached to and incorporated into this Settlement Agreement:

"Appendix A" is the list of Settling Respondents (subject to change pursuant to Paragraph I.4.).

Appendix B" is the map of the Site.

"Appendix C" is a copy of the order appointing the Receiver.

"Appendix D" is the Aboveground Storage Tank Sludge Removal Action Work Plan

"Appendix E" is the Former Process Equipment Residual Waste Removal Action Work Plan

XXXII. NOTICE OF SETTLEMENT AGREEMENT

100. This Agreement will be published as notice on EPA's website within sixty (60) days of its Effective Date.

XXXIII. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

101. This Settlement Agreement shall be effective on the day it is signed by the Superfund Division Director.

102. The undersigned representative(s) of Settling Respondents whose names are signed and embodied in the Settling Respondent Signature Page certify(ies) that it (they) is (are) fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party(ies) it (they) represent(s) to this document.

RECEIVER SIGNATURE PAGE

USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

Agreed this _____ day of _____, 2016.

For Receiver _____

By: Eva Engelhart

Title: Receiver for U.S. Oil Recovery, L.P. f/k/a U.S.
Oil Recovery LLC, MCC Recycling LLP f/k/a US
Oil Recovery #2, LLP, U.S. Oil Recovery L.L.P.
(Texas Secretary of State Registration No.
800159885), U.S. Oil Recovery L.L.P. (Texas
Secretary of State Registration No. 800458414)

SETTLING RESPONDENT SIGNATURE PAGE

USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent _____

By: _____

Title: _____

It is so ORDERED AND AGREED this 14 day of July, 2016.

BY: Sam Phillips, Acting DATE: 7/14/16
Director, Superfund Division
Region 6
U.S. Environmental Protection Agency

RECEIVER SIGNATURE PAGE

USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

Agreed this 12th day of July, 2016.

For Receiver _____

By: Eva Engelhart

Title: Receiver for U.S. Oil Recovery, L.P. f/k/a U.S.
Oil Recovery LLC, MCC Recycling LLP f/k/a US
Oil Recovery #2, LLP, U.S. Oil Recovery L.L.P.
(Texas Secretary of State Registration No.
800159885), U.S. Oil Recovery L.L.P. (Texas
Secretary of State Registration No. 800458414)


It is so ORDERED AND AGREED this _____ day of _____, 2016.

BY: _____ DATE: _____
Director, Superfund Division
Region 6
U.S. Environmental Protection Agency

SETTLING RESPONDENT SIGNATURE PAGE

USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent Air Products and Chemicals, Inc.
Air Products LLC, as successor in interest to Air Products, L.P.

By: 
Todd Solodar

Title: Senior EH&S Counsel

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent AKZO NOBEL FUNCTIONAL CHEMICALS LLC

By: [Signature]

(as successor to
AKZO NOBEL POLYMER CHEMICALS LLC

Title: ASSISTANT SECRETARY

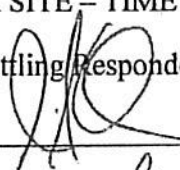
By: [Signature]

Title: Corporate Secretary

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USOR SITE - TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent Allied Petrochemical, LLC

By:  J.A. Kessel

Title: President

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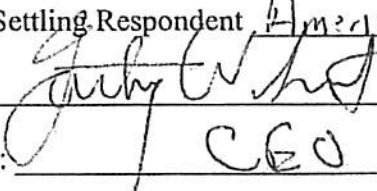
For Settling Respondent American Acryl IP

By: Massey, Jr. Sto

Title: General Manager

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For Settling Respondent American Spring Wire Corp
By:  (Timothy W. Salhorst)
Title: CEO

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For Settling Respondent American Valve & Hydrant Mfg Company

By: Jimmy Egan

Title: Plant Safety & Environmental Coordinator

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For Settling Respondent Andrews Transport LP

By: Bill Andrews

Title: Chairman & CEO

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For Settling Respondent ASHLAND INC.

By: R. Keiler

Title: Chief Counsel Environmental
Litigation

- For itself and as
indemnitor of
Continental Airlines,
General Dynamics,
Aerojet, Croen Cork,
Schlumberger,
Clearwater International
LLC.

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USOR SITE - TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent BAKER PETROLITE LLC; BAKER HUGHES OILFIELD
By: *DAC Kufreball* OPERATIONS, INC.; and on behalf
of VALKURIE COMMISSION SERVICES
Title: DIRECTOR OF ENVIRONMENTAL AFFAIRS

at
July 2016

11 July 2016

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent BASF Corporation

By: *Sandra Minsky Breuninger*

Title: Associate General Counsel Environmental

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For Settling Respondent B. Lentech Corporation

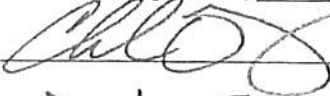
By: George A. Hahn

Title: President/Owner

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For Settling Respondent BNSF Railway

By:  _____

Title: Director Environmental Remediation

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USOR SITE - TIME CRITICAL REMOVAL ACTION AOC

BP Products North America In.

For Settling Respondent BP Amoco Chemical Company, for and on behalf of

BP Solvay Polyethylene

By: Cynthia D. Kos

Title: Liability Business Manager

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USOR SITE - TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent CENTERPOINT ENERGY HOUSTON ELECTRIC, U

By: Richard Bye

Title: DIRECTOR, ENVIRONMENTAL SERVICES

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For Settling Respondent Channel Shipyard INC.

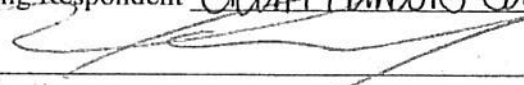
By: Alan Bonds

Title: Vice President

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent Clean Harbors San Leon, Inc. (formerly Duratherm, Inc.)

By: 

Title: Assistant Secretary

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For Settling Respondent Crown Cork + Seal

By: Michael A. Fite

Title: VP- EHS

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For Settling Respondent Dana Container, Inc.

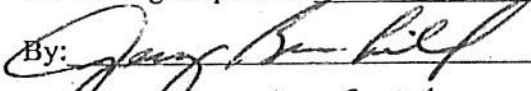
By: 

Title: President

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent DCP Midstream, LP (PRP description below)

By: 
Title: SR VP Risk

PRP: DCP Midstream, LP (on behalf of DCP Southeast Texas Plants LLC
f/k/a Raywood Gas Plant LLC, for waste attributed to the
Raywood Gas Plant)

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For Settling Respondent DOHCO PRODUCTS TEXAS INC

By: ~~_____~~ SOUHA AZAR

Title: Corporate Secretary

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For Settling Respondent The Dow Chemical Company*

By: Mary J. Arams

Title: Global Director, Environmental Remediation and Restoration

*The Dow Chemical Company is signing with respect to Calpine Corp.'s Freeport Energy Center located at 2301 N. Brazosport Blvd B-5600 Block, Freeport, TX 77541. The Dow Chemical Company is signing with respect to Johann Haltermann Ltd.'s facilities located at 16717 Jacintoport Boulevard and at 1201 Sheldon Road in Houston, TX.

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For Settling Respondent Ecolab Inc.

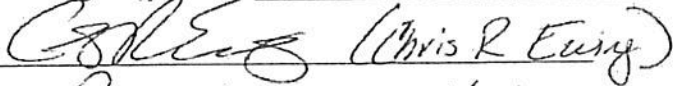
By: Peter H. Tester Peter H. Tester

Title: Senior Corporate Counsel

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent Effective Environmental, Inc.

By:  (Chris R Ewing)

Title: President 6/20/2016

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For Settling Respondent Enable Pipeline Services, LLC (formerly CenterPoint Energy Pipeline Services LLC)

By: *Mark Ahrens*

Title: *Executive Vice President & General Counsel*

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For Settling Respondent ENSOURCE CORPORATION

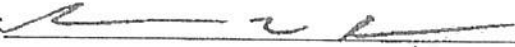
By: Jerry M. Salk

Title: Vice President

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent Enterprise Products Operating LLC

By: 

Title: Graham Bacon, Executive Vice President

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For Settling Respondent ETHYL CORPORATION

By: John W. Strat

Title: PRESIDENT

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USOR SITE - TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent Evonik O.I Additives USA, Inc. (FIKla Evonik
Rob Max USA, Inc.)

By: 

Title: Senior Corporate Counsel
& Chief Compliance Officer

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For Settling Respondent EXPLOREA PIPELINE Co

By: 

Title: DIRECTOR ENGINEERING HSS+E

Approved
C.C.C.

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For Settling Respondent FMC Technologies, Inc.

By: _____

A handwritten signature in black ink, appearing to read "Dianne B. Ralston", written over a horizontal line.

Title: Dianne B. Ralston, Senior Vice President, General Counsel and Secretary

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent Fort Bend Regional Landfill, L.P

By: 

Title: June 13, 2016

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For Settling Respondent Garner Environmental Services, Inc.

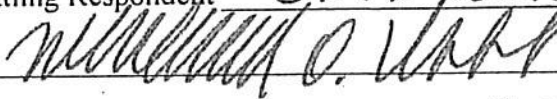
By: , Lyndal D. Garner

Title: President

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For Settling Respondent GATX CORPORATION

By: 

Title: ASSISTANT GENERAL COUNSEL

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For Settling Respondent *Del S. Dameron*

By: Del S. Dameron

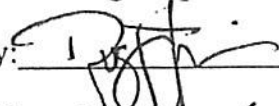
Title: Vice President & General Counsel

General Dynamics – Ordnance and Tactical Systems, Inc. (indemnified by Ashland)

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For Settling Respondent GENERAL ELECTRIC COMPANY

By:  _____

Title: Executive Counsel, Environmental Remediation

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For Settling Respondent Groendyke Transport

By: Jan Pritchard

Title: Claims & Risk Specialist

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For Settling Respondent Hexion Inc. (Formerly Momentive Specialty Chemicals, Inc.)

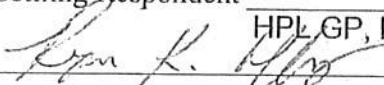
By: Kam ElLosh

Title: Executive Vice President, EHS

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For Settling Respondent Houston Pipe Line Company, LP

By:  HPL GP, LLC, its general partner

Title: EVP - Operations

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For Settling Respondent Hydrocarbon Resource Recovery, LLC

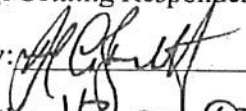
By: Scott Rein

Title: Member

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For Settling Respondent See below.

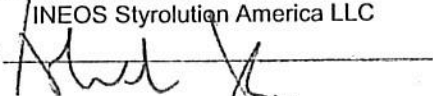
By:  DANA L. BENNETT

Title: VP OF OPERATIONS

<p>Settling Respondent: Ineos Polyethylene NA & Related Parties Ineos Polyethylene NA Innovene Polyethylene N.A. Innovene Polymers Inc.</p>
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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent INEOS Styrolution America LLC


By: _____

Title: _____
Alexander W. Glück
President, Americas
INEOS Styrolution America LLC

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent INEOS Styrolution America LLC

By: Kenneth M. Hale

Title: Senior Legal Counsel - Americas

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent InkJet, Inc.

By:  _____

Title: EHSS & Quality Assurance Manager

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For Settling Respondent St. John LLC

By: [Signature]

Title: Director

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For Settling Respondent Kern-Liebes Texas Inc.

By:  Hannes Sturm

Title: President / CEO

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For Settling Respondent KMCO, KMTEX, South Coast Terminals

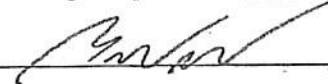
By: 

Title: Jeff McFerrin, Authorized signatory

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For Settling Respondent LBC Houston L.P.

By: 

Title: Vice President Finance

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For Settling Respondent LEEDO MANUFACTURING Co. LP.

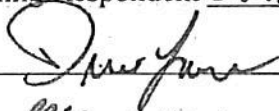
By: 

Title: ENVIRONMENTAL HEALTH AND SAFETY MANAGER

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent LIGHT HOUSE ENVIRONMENTAL SERVICES, INC

By: 

Title: PRESIDENT

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent Lone Star NGL Mont Belvieu LP, by:
Lone Star NGL Mont Belvieu GP LLC, its general partner

By: Valerie R. White


Title: Senior Vice President



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USOR SITE -- TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent LOUISIANA-PACIFIC CORP.

By: 

Title: ASSOCIATE GENERAL COUNSEL

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent The Lubrizol Corporation

By: Frederic HENRY

Title: Vice - President Operations Europe

on behalf of Mike VAUGHN

Corporate Vice President Operations

June 10, 2016

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent Maxxellon Terminals Holdings, L.P.

By: [Signature]

Title: Sr. V.P.



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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent Marathon Petroleum Company LP

By: David L. Whitehart

Title: _____

David L. Whitehart
Vice President
Environment, Safety & Corp. Affairs



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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent Miller Transporters, Inc.

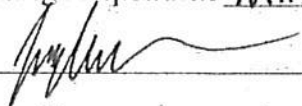
By: J. C. Malone

Title: VP Human Resources & Insurance

SETTLING RESPONDENT SIGNATURE PAGE

USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent Mitsubishi Caterpillar Forklift America Inc.

By:  _____

Title: Jay Gusler, Vice President

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USOR SITE - TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent Norson Services LLC

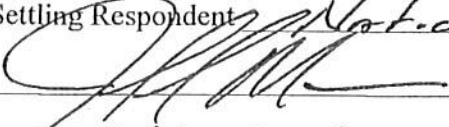
By: Michael Connelly

Title: Attorney

Authorized to sign by Norson

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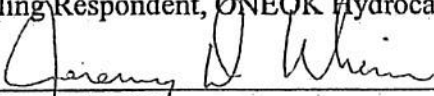
USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent National Oilwell Varco L.P.
By: 
Title: Global HSE Officer.

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent, ONEOK Hydrocarbon Southwest, L.L.C.

By: 
Jeremy D. Wiese

Title: Vice President, ES&H and Asset Integrity

JB

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent O'Rourke Dist. Co. Inc.

By: 

Title: President

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent Pilaf Industries of Texas

By: Matthew J Reary

Title: EHS Manager

SETTLING RESPONDENT SIGNATURE PAGE

USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent PLT3 LIABILITIES HOLDINGS, LP F/K/A OXID, LP

By: 

Title: VICE PRESIDENT + GENERAL COUNSEL

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent Powell Industries, Inc.; Powell Electrical Systems, Inc.; and

Powell Electrical Manufacturing Company

By: *Alan R. Anderson*

Title: *EVP*

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent Quala Systems, Inc.

for itself and as the indemnitor for Qualawash Holdersin, LLC

By: Bonni F. Kaufman

Title: IT's Counsel

Bonni F. Kaufman
Holland & Knight, LLP
800 17th Street, NW
Suite 1100
Washington, DC 20006

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent Safety Kleen Systems, Inc.

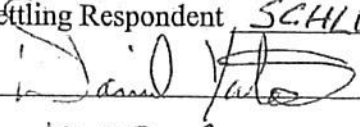
By: [Signature]

Title: Assistant Secretary

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent SCHLUMBERGER TECHNOLOGY CORPORATION

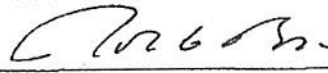
By: 

Title: VICE PRESIDENT

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent: Schneider National Bulk Carriers, Inc.

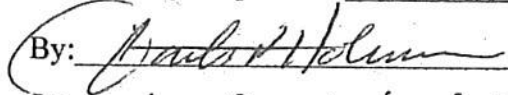
By: 

Title: President

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent Southwest Shipyard, L.A.

By: 

Title: Vice President of Env. Affairs

6/10/2016

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent

By:

DANIEL CARR STOLT-NIELSEN USA INC.

Title:

Assistant General Counsel

SETTLING RESPONDENT SIGNATURE PAGE

USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent SUN COAST RESOURCES, INC.


By: 

Title: Corp Secretary

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent THE SUN PRODUCTS CORPORATION

By:  Tew

Title: Vice President & Deputy General Counsel

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent Superior Packaging Distribution, L.P.

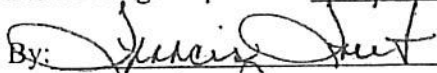
By: Catharine N. Crabtree

Title: Vice President

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USOR SITE - TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent Targa Midstream Services LLC (f/k/a Dynegy Midstream Services, L.P.) and Targa Downstream LLC

By: 

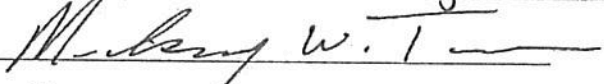
Title: SR. VICE PRESIDENT OPERATIONS

TH

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC.

For Settling Respondent Texas Barge + Boat, Inc.

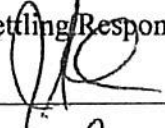
By: 

Title: President

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USOR SITE - TIME CRITICAL REMOVAL ACTION AOC

For Settling/Respondent Texas Oil and Lathering, Inc

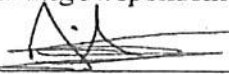
By:  J.A. Kessel

Title: President

SETTLING RESPONDENT SIGNATURE PAGE

USOR SITE - TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent TEXAS TILE MANUFACTURING LLC

By:  COUHA AZAR

Title: Corporate Secretary

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USOR SITE - TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent Texas United Pipe, Inc.

By: Barry Jan King Barry Jan King

Title: President

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent EX MARK CHEMICALS, INC

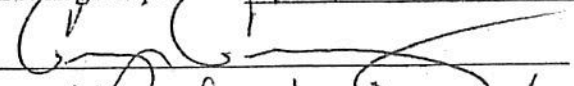
By: David J. Miller

Title: PRESIDENT

SETTLING RESPONDENT SIGNATURE PAGE

USOR SITE - TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent T. P. R. I. on behalf of Cray Valley U.S.A., LLC

By: 

Title: Manufacturing Manager

6-20-16

SETTLING RESPONDENT SIGNATURE PAGE

USOR SITE - TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent TCC Group (Barnes Texas Petrochemicals Corporation)

By: 

Title: Associate General Counsel

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent Trimac Transportation Inc. (FKA Trimac Transportation South Inc.)

By: Craig Bourgeois



Title: VICE PRESIDENT

Date: June 14, 2016

SETTLING RESPONDENT SIGNATURE PAGE

USOR SITE - TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent 77 Brook Channel, Mark 185, Inc
TS Bank Services, Mark 237, LLC

By: [Signature] Mark S. Joseph

Title: PRESIDENT

SETTLING RESPONDENT SIGNATURE PAGE

USOR SITE - TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent United Airlines, Inc. as indemnified by Ashland, Inc.

By: Steve S. Faw

Title: Assistant General Counsel

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USOR SITE - TIME CRITICAL REMOVAL ACTION AOC

United States Steel Corporation and its subsidiaries, U. S. Steel
For Settling Respondent Tubular Products, Inc. and U. S. Steel Oilwell Services, LLC,
on behalf of Delta Tubular Processing and Delta Tubular
International

By: Andrew G. Thiros
Andrew G. Thiros

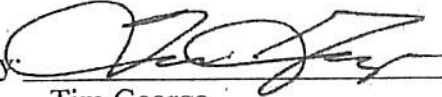
Title: Counsel-Environmental

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

Signed this 21st day of June, 2016.

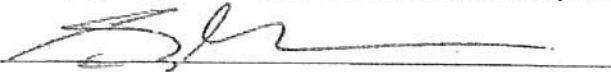
For Settling Respondents Valero Refining –Texas, L.P. by its general partner Valero Tejas Company LLC; Valero Terminaling and Distribution Company; Valero Marketing and Supply Company.

smt By: 
Tim George
Title: VP Environmental Liability

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent Vopak Logistics Services USA Inc. on its own behalf and
on behalf of Vopak Terminal Galena Park Inc.

By: 

Title: _____

Scott B. Grossman
General Counsel & Corp. Secretary

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent WALBAR INC.

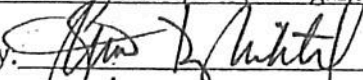
By:  _____

Title: PRESIDENT, WALBAR INC.

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

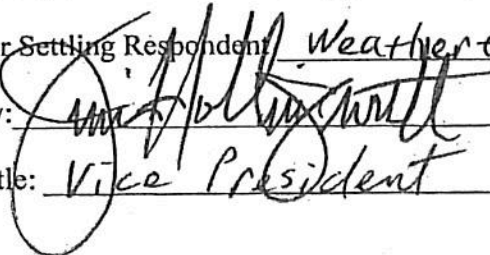
For Settling Respondent: Waste Management of Texas, Inc., on behalf of itself, USA Waste of Texas Landfill, Inc., Cougar Landfill, Inc. and S&J Landfill Limited Partnership

By: 

Title: Area Director

SETTLING RESPONDENT SIGNATURE PAGE

USOR SITE - TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent: Weatherford U.S. L.P. as Predecessor in
By:  Interest of PChem
Title: Vice President DKM

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USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent WEST TEXAS DRUM CO. LTD II

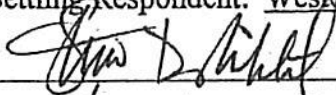
By: Charles R. Ridge

Title: PRESIDENT

SETTLING RESPONDENT SIGNATURE PAGE

USOR SITE – TIME CRITICAL REMOVAL ACTION AOC

For Settling Respondent: Western Waste of Texas, LLC.

By: 

Title: Area Director

