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BEFORE THE
STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

In the Matter of Campmarina, the former)
Coal Gas Facility Operated by Wisconsin)
Public Service Corporation and Owned by)
the City of Sheboygan Located in)
Sheboygan, Wisconsin)

TERMINATION AGREEMENT

This Termination Agreement is entered into and made effective as of this 22nd day of May, 2007 (the "Effective Date"), by and between WISCONSIN PUBLIC SERVICE CORPORATION ("WPSC"), the CITY OF SHEBOYGAN (the "City") and the WISCONSIN DEPARTMENT OF NATURAL RESOURCES (the "Department") (collectively, the "Parties").

WHEREAS, the Parties entered into a contract agreement on April 6, 1992 (Contract No. SF-91-04) (the "Contract") regarding Campmarina, the former coal gas facility originally owned and operated by WPSC, located in the City (the "Site");

WHEREAS, WPSC has completed remediation of the upland portion of the Site under the terms of the Contract and in accordance with the remedy set forth in the Record of Decision ("State Issued Upland ROD") issued by the State of Wisconsin on January 11, 2001;

WHEREAS, WPSC transferred the Site to the United States Environmental Protection Agency ("U.S. EPA") under the Superfund Alternatives Program and entered into an Administrative Settlement Agreement and Order on Consent for Remedial Investigations and Feasibility Studies with the U.S. EPA on January 26, 2007; and

WHEREAS, the Department and the City did not object to the transfer of the Site to the Superfund Alternatives Program.

NOW, THEREFORE, in consideration of the foregoing and intending to be legally bound hereby, the Parties agree as follows:

1. Recitals. The recitals above are incorporated herein.
2. Termination. By mutual agreement of WPSC, the City and the Department, the Contract is hereby terminated in its entirety and shall be of no further force or effect, effective as of the Effective Date. On or after the Effective Date, any rights or obligations created under or pursuant to the Contract by or between the Parties shall cease to exist.
3. State Issued Upland ROD. The Parties acknowledge that the State Issued Upland ROD is a decision of the Department. The Parties agree that this Termination Agreement has no effect on the validity of the State Issued Upland ROD, and, absent new data,

the State Issued Upland ROD constitutes the Department's position on the appropriate remedial action for the upland portion of the Site.

4. WPSC's Obligations. Prior to, or simultaneous with, the execution of this Termination Agreement, WPSC shall provide to the Department and the City a copy of the fully executed Administrative Settlement Agreement and Order on Consent for Remedial Investigations and Feasibility Studies (appended hereto as Attachment A) addressing the Site, entered into with the U.S. EPA on January 26, 2007, pursuant to the Superfund Alternatives Program.

IN WITNESS WHEREOF, the Parties have caused this Termination Agreement to be executed by their duly authorized representatives as of the date first written above.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By Mary Lindsey Schaefer
Its Deputy Secretary

CITY OF SHEBOYGAN, WISCONSIN

By [Signature]
Its Mayor

WISCONSIN PUBLIC SERVICE
CORPORATION

By Connie K. Lannigan
Its Director - Environmental Services

ATTACHMENT A

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 5

<p>IN THE MATTER OF: WPSC Campmarina MGP Sheboygan, WI</p> <p>Wisconsin Public Service Corporation, Respondent</p>	<p>ADMINISTRATIVE SETTLEMENT AGREEMENT AND ORDER ON CONSENT FOR REMEDIAL INVESTIGATIONS AND FEASIBILITY STUDIES</p> <p>U.S. EPA Region 5 CERCLA Docket No. V-W- '07 C-862</p> <p>Proceeding Under Sections 104, 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§ 9604, 9607 and 9622.</p>
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TABLE OF CONTENTS

I.	JURISDICTION AND GENERAL PROVISIONS.....	1
II.	PARTIES BOUND	2
III.	STATEMENT OF PURPOSE	2
IV.	DEFINITIONS	2
V.	FINDINGS OF FACT	5
VI.	CONCLUSIONS OF LAW AND DETERMINATIONS.....	7
VII.	SETTLEMENT AGREEMENT AND ORDER	7
VIII.	DESIGNATION OF CONTRACTORS AND PROJECT COORDINATORS.....	8
IX.	WORK TO BE PERFORMED	9
X.	U.S. EPA APPROVAL OF PLANS AND OTHER SUBMISSIONS.....	14
XI.	QUALITY ASSURANCE, SAMPLING AND DATA AVAILABILITY	16
XII.	SITE ACCESS AND INSTITUTIONAL CONTROLS	17
XIII.	COMPLIANCE WITH OTHER LAWS.....	18
XIV.	RETENTION OF RECORDS.....	18
XV.	DISPUTE RESOLUTION	19
XVI.	STIPULATED PENALTIES	20
XVII.	FORCE MAJEURE	22
XVIII.	PAYMENT OF RESPONSE COSTS.....	23
XIX.	COVENANT NOT TO SUE BY U.S. EPA	25
XX.	RESERVATIONS OF RIGHTS BY U.S. EPA.....	25
XXI.	COVENANT NOT TO SUE BY RESPONDENT	26
XXII.	OTHER CLAIMS	28
XXIII.	CONTRIBUTION PROTECTION.....	28
XXIV.	INDEMNIFICATION.....	28
XXV.	INSURANCE.....	29
XXVI.	FINANCIAL ASSURANCE	29
XXVII.	SEVERABILITY/INTEGRATION/APPENDICES	31
XXVIII.	ADMINISTRATIVE RECORD	31
XXIX.	EFFECTIVE DATE AND SUBSEQUENT MODIFICATION.....	31
XXX.	NOTICE OF COMPLETION OF WORK.....	32

APPENDIX A - STATEMENT OF WORK

APPENDIX B - SITE MAPS

APPENDIX C - SITE INFORMATION AND IDENTIFICATION NUMBER

**SETTLEMENT AGREEMENT AND ADMINISTRATIVE ORDER ON CONSENT
FOR A REMEDIAL INVESTIGATION AND FEASIBILITY STUDY
AT THE CAMPMARINA SITE**

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" or "U.S. EPA") and Wisconsin Public Service Corporation ("Respondent"). The Settlement Agreement concerns the preparation and performance of a remedial investigation and feasibility study ("RI/FS") at the Campmarina MGP, Sheboygan, Wisconsin ("Site"), and the reimbursement for interim and future response costs incurred by U.S. EPA in connection with the RI/FS.

2. This Settlement Agreement is issued under the authority vested in the President of the United States by Sections 104, 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§ 9604, 9607 and 9622 ("CERCLA"). This authority was delegated to the Administrator of U.S. EPA on January 23, 1987, by Executive Order 12580, 52 Fed. Reg. 2926 (Jan. 29, 1987), and further delegated to Regional Administrators on May 11, 1994, by U.S. EPA Delegation Nos. 14-14-C and 14-14-D. This authority was further redelegated by the Regional Administrator, U.S. EPA, Region 5 to the Director, Superfund Division, U.S. EPA, Region 5 by U.S. EPA Delegation Nos. 14-14-C and 14-14-D on May 2, 1996.

3. In accordance with Section 104(b)(2) and Section 122(j)(1) of CERCLA, 42 U.S.C. §§ 9604(b)(2) and 9622(j)(1), U.S. EPA notified the Department of the Interior, the National Oceanic and Atmospheric Administration, and the Wisconsin Department of Natural Resources ("WDNR") on February 9, 2006, of negotiations with potentially responsible parties regarding the release of hazardous substances that may have resulted in injury to the natural resources under Federal trusteeship. In accordance with Section 121(f)(1)(F), U.S. EPA notified the State of Wisconsin (the State) on January 30, 2006 of negotiations with potentially responsible parties regarding the implementation of the remedial investigation and feasibility study for the Site.

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

II. PARTIES BOUND

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

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

7. Each undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to execute and legally bind the Respondent to this Settlement Agreement.

III. STATEMENT OF PURPOSE

8. In entering into this Settlement Agreement, the objectives of U.S. EPA and Respondent are: (a) to determine the nature and extent of contamination and any current or potential threat to the public health, welfare, or the environment posed by the release or threatened release of hazardous substances, pollutants or contaminants at the Site and to collect sufficient data for developing and evaluating effective remedial alternatives by conducting a Remedial Investigation ("RI") as more specifically set forth in the Statement of Work ("SOW") attached as Attachment A to this Settlement Agreement; (b) to identify and evaluate remedial alternatives that protect human health and the environment by preventing, eliminating, reducing or controlling any release or threatened release of hazardous substances, pollutants, or contaminants at or from the Site, by conducting a Feasibility Study ("FS") as more specifically set forth in the SOW in Attachment A to this Settlement Agreement; and (c) to recover response and oversight costs incurred by U.S. EPA with respect to this Settlement Agreement, including past response costs.

9. The Work conducted under this Settlement Agreement is subject to approval by U.S. EPA and shall provide all appropriate and necessary information to assess site conditions and evaluate alternatives to the extent necessary to select a remedy that will be consistent with CERCLA and the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300 ("NCP"). Respondent shall conduct all Work under this Settlement Agreement consistent with CERCLA, the NCP and all applicable U.S. EPA guidances, policies, procedures, and all plans approved by U.S. EPA in accordance with Section X of this Agreement.

IV. DEFINITIONS

10. Unless otherwise expressly provided herein, terms used in this Settlement Agreement which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Settlement Agreement or in the appendices attached hereto and incorporated hereunder, the following definitions shall apply:

a. "ARARs" shall mean all applicable local, state, and federal laws and regulations, and all "applicable requirements" or "relevant and appropriate requirements" as defined at 40 C.F.R. § 300.5 and 42 U.S.C. § 9261(d).

b. "BTEX" shall mean the contaminants benzene, toluene, ethylbenzene, and xylene.

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

d. "Contract" shall mean Contract No. SF-91-04, which was entered into by Respondent and the City of Sheboygan on March 24, 1992, and which governed work previously performed by Respondent on the Site.

e. "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.

f. "Effective Date" shall be the effective date of this Settlement Agreement as provided in Section XXIX.

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

h. "Engineering Controls" shall mean constructed containment barriers or systems that control one of the following: downward migration, infiltration or seepage of surface runoff or rain; or natural leaching migration of contaminants through the subsurface over time. Examples include caps, engineered bottom barriers, immobilization processes, and vertical barriers.

i. "Future Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States incurs in reviewing or developing plans, reports, technical memoranda and other items pursuant to this Settlement Agreement, conducting community relations, providing technical assistance grants to community groups (if any), verifying the Work, or otherwise implementing, overseeing, or enforcing this Settlement Agreement, including but not limited to, payroll costs, contractor costs (including fees), travel costs, laboratory costs, ATSDR costs, the costs incurred pursuant to Paragraphs 54 and 56 (costs and attorneys fees and any monies paid to secure access, including the amount of just compensation), and Paragraph 40 (emergency response). Future Response Costs shall also include all Interim Costs.

j. "Institutional controls" shall mean non-engineered instruments, such as administrative and/or legal controls, that help to minimize the potential for human exposure to contamination and/or protect the integrity of a remedy by limiting land and/or resource use. Examples of institutional controls include easements and restrictive covenants, zoning restrictions, special building permit requirements, and well drilling prohibitions.

k. "Interest" shall mean interest at the rate specified for interest on investments of the U.S. 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.

l. "Interim Response Costs" shall mean all costs, including direct and indirect costs, (a) paid by the United States in connection with the Site before the Effective Date, or (b) incurred prior to the Effective Date, but paid after that date.

m. "MGP" shall mean manufactured gas plant.

n. "NCP" or "National Contingency Plan" 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.

o. "PAHs" shall mean polycyclic aromatic hydrocarbons.

p. "Paragraph" shall mean a portion of this Settlement Agreement identified by an Arabic numeral. References to paragraphs in the SOW will be so identified (for example, "SOW paragraph 15").

q. "Parties" shall mean U.S. EPA and Respondent.

r. "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.*

s. "Respondent" shall mean Wisconsin Public Service Corporation.

t. "RI/FS Planning Documents" shall mean the Work Plan/Field Sampling Plan, Quality Assurance Project Plan and Health and Safety Plan and other documents referenced in the SOW (Attachment A).

u. "River Operable Unit" shall mean that portion of the Site not addressed in the Site State Issued Upland ROD, which includes the Sheboygan River and related sediments and flood plain areas of the Site not addressed in the State Issued Upland ROD.

v. "Section" shall mean a portion of this Settlement Agreement identified by a Roman numeral. References to sections in the SOW will be so identified (for example, "SOW Section V").

w. "Settlement Agreement" shall mean this Administrative Settlement Agreement and Order on Consent, the SOW, all appendices attached hereto (listed in Section XXVII) and all documents incorporated by reference into this document including without limitation U.S. EPA-approved submissions. U.S. EPA-approved submissions (other than progress reports) are incorporated into and become a part of the Settlement Agreement upon approval by U.S. EPA. In the event of conflict between this Settlement Agreement and any appendix, this Settlement Agreement shall control.

- x. "Site" shall mean the WPSC Campmarina MGP Site as described in Paragraph 10.ii below.
- y. "State" shall mean the State of Wisconsin.
- z. "State Issued Upland ROD" shall mean the Record of Decision issued pursuant to the Contract by the State of Wisconsin under Wisconsin Annotated Code Section 292.31(8)(h) on January 11, 2001, for the upland portion of the Site.
 - aa. "Statement of Work" or "SOW" shall mean the Statement of Work for development of RI/FS documents for the Site, as set forth in Appendix A to this Settlement Agreement. The Statement of Work is incorporated into this Settlement Agreement and is an enforceable part of this Settlement Agreement as are any modifications made thereto in accordance with this Settlement Agreement.
 - bb. "TAP" shall mean technical assistance plan.
 - cc. "Upland Operable Unit" shall mean that portion of the Site addressed in the State Issued Upland ROD as shown in Appendix B, Figure 1 to this Settlement Agreement.
 - dd. "VOCs" shall mean volatile organic compounds.
 - ee. "Waste Material" shall mean (i) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (ii) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); and (iii) any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27).
 - ff. "WDNR" shall mean the Wisconsin Department of Natural Resources and any successor departments or agencies of the State.
 - gg. "Work" shall mean all activities Respondent is required to perform under this Settlement Agreement, except those required by Section XIV (Retention of Records).
 - hh. "WPSC" shall mean the Wisconsin Public Service Corporation.
 - ii. "WPSC Campmarina MGP Site" shall mean the former MGP located at 732 North Water Street, in Sheboygan, Wisconsin. The boundaries of the Site shall include the extent of MGP related contamination discovered in and around the former MGP facility, including but not limited to any MGP contamination that may have come to be located in the adjacent Sheboygan River, its floodplains, or sediment.

V. FINDINGS OF FACT

11. MGPs operated to provide gas from coal or oil. MGPs were constructed with similar facilities and generated similar wastes using defined manufacturing processes. The gas manufacturing and purification processes produced by-products and residues that may include tars, sludges, lampblack, light oils, spent oxide wastes, and other hydrocarbon products. These residues may contain PAHs, petroleum hydrocarbons, benzene, cyanide, metals and phenols.

Residues often occur at the same locations at former MGP sites (e.g., near the former gas holders, tar stumps, and lampblack separators). The wastes contain a number of known and suspected carcinogens and other potentially hazardous chemicals.

12. The WPSC Campmarina MGP Site is located at 732 North Water Street in Sheboygan, Wisconsin. The Site is located on the north bank of the Sheboygan River and is about one and one half (1-1/2) acres in size. Currently, the Site is used as a park and marina. There is a river walk located immediately adjacent to the river shoreline.

13. The Site is located in an area that was historically industrial. The gas plant was in operation from 1872 to 1929. Processes included coal carbonization and carbureted water gas. The Respondent is Wisconsin Public Service Corporation, former owner and operator at the Site. The City of Sheboygan currently owns the property.

14. Groundwater depth is from about 5 to 8 feet below the ground surface and flows from the Site toward the river. Contaminants in groundwater include benzene, toluene, ethylbenzene, and xylene (BTEX); naphthalene; total polycyclic aromatic hydrocarbons (PAHs); and cyanide. Routine groundwater monitoring occurs semi-annually.

15. Soils beneath the Upland Operable Unit consist of lacustrine clay and glacial deposits overlain by fill. Residual concentrations of BTEX, PAHs and cyanide remain in soils and groundwater. The constituents found in the river sediments include BTEX, PAHs, cyanide, chromium and lead and may present potential human health and/or potential environmental hazards.

16. Pursuant to the Contract, the upland portion of the Site was remediated in accordance with the State Issued Upland ROD. The remedy set forth in the State Issued Upland ROD was constructed in 2002 and is in the operation, monitoring, and maintenance phase. The remedial action performed under the State Issued Upland ROD consisted of excavation and off-site thermal treatment of 10,500 tons of soil (which was beneficially reused on-site), site grading, material management, disposal of debris, and a containment system. The containment system consists of a vertical sheet pile barrier wall around the perimeter of the site with an engineered geosynthetic cover over the surface. A biosparge system operates within the containment area to enhance natural degradation of contaminants within the containment barrier.

17. An initial assessment of the River Operable Unit was conducted in 1996. The assessment was generally qualitative and evaluated odor, sheen and tar. At that time, an area of about 3.4 acres was identified to contain MGP residuals. Based on limited surface sediment and core sediment samples, total PAHs were as high as 9,294 mg/kg and total BTEX was as high as 990 mg/kg. Water depths in the Sheboygan River adjacent to the Site range from about 3.5 to 9 feet and sediment thickness ranges from 2 to 10 feet.

18. The Site is within the Sheboygan River and Harbor Superfund site (CERCLIS ID WID980996367). A ROD (herein referred to as the "Sheboygan River and Harbor Site ROD") was issued to the Sheboygan River and Harbor Superfund Site in May 2000 and addresses PCB contamination in the Sheboygan River. It does not address the contaminants associated with the WPSC Campmarina MGP Site.

19. The Site has not been proposed to the National Priorities List.

VI. CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the Findings of Fact set forth above, and the Administrative Record in this matter, U.S. EPA has determined that:

20. The Site is a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).
21. The wastes and constituents thereof, including PAHs, found at the Site, as identified in the Findings of Fact above, are "hazardous substances" as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), or constitute "any pollutant or contaminant" that may present an imminent and substantial danger to public health or welfare under Section 104(a)(1) of CERCLA.
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. The Respondent is a "person" as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).
24. The Respondent is a responsible party under Sections 104, 107 and 122 of CERCLA, 42 U.S.C. §§ 9604, 9607 and 9622.
- a. Respondent WPSC is the former "owner" and/or former "operator" of all or part of the WPSC Campmarina MGP Site.
25. The actions required by this Settlement Agreement are necessary to protect the public health, welfare or the environment, are in the public interest, 42 U.S.C. § 9622(a), are consistent with CERCLA and the NCP, 42 U.S.C. §§ 9604(a)(1), 9622(a), and will expedite effective remedial action and minimize litigation, 42 U.S.C. § 9622(a).
26. U.S. EPA has determined that the Respondent is qualified to conduct the RI/FS for the facility within the meaning of Section 104(a) of CERCLA, 42 U.S.C. § 9604(a), and will carry out the Work properly and promptly, in accordance with Sections 104(a) and 122(a) of CERCLA, 42 U.S.C. §§ 9604(a) and 9622(a), if Respondent complies with the terms of this Settlement Agreement.

VII. SETTLEMENT AGREEMENT AND ORDER

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

VIII. DESIGNATION OF CONTRACTORS AND PROJECT COORDINATORS

28. Selection of Contractors, Personnel.

a. All Work performed under this Settlement Agreement shall be under the direction and supervision of qualified personnel. Within 30 days of the Effective Date of this Settlement Agreement, and before the Work outlined below begins, Respondent shall notify U.S. EPA in writing of the names, titles, and qualifications of the personnel, including contractors, subcontractors, consultants and laboratories to be used in carrying out such Work. The qualifications of the persons undertaking the Work for Respondent shall be subject to U.S. EPA's review, for verification that such persons meet minimum technical background and experience requirements. If Respondent fails to demonstrate to U.S. EPA's satisfaction that Respondent is qualified to perform properly and promptly the actions set forth in this Settlement Agreement, U.S. EPA may take over the work required by this Settlement Agreement.

b. If U.S. EPA disapproves in writing of any person(s)' technical qualifications, Respondent shall notify U.S. EPA of the identity and qualifications of the replacement(s) within 30 days of the written notice. If U.S. EPA subsequently disapproves of the replacement(s), U.S. EPA reserves the right to terminate this Settlement Agreement and to conduct a complete RI/FS for the facility, and to seek reimbursement for costs and penalties from Respondent. During the course of the RI/FS, Respondent shall notify U.S. EPA in writing of any changes or additions in the personnel used to carry out such Work, providing their names, titles, and qualifications. U.S. EPA shall have the same right to disapprove changes and additions to personnel as it has hereunder regarding the initial notification.

29. Respondent's Project Coordinator is Brian Bartoszek, who shall be responsible for administration of all actions by Respondent required by this Settlement Agreement. Brian Bartoszek's contact information is:

Brian Bartoszek
Wisconsin Public Service Corporation
Post Office Box 19001
Green Bay, WI 54307-9001
920-433-2643
bbartos@wpsr.com

To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site Work. U.S. EPA retains the right to disapprove of the designated Project Coordinator. If U.S. EPA disapproves of the designated Project Coordinator, Respondent shall retain a different Project Coordinator and shall notify U.S. EPA of that person's name, address, telephone number and qualifications within fifteen (15) days following U.S. EPA's disapproval. Respondent shall have the right to change its Project Coordinator subject to U.S. EPA's right to disapprove. Respondent shall notify U.S. EPA fifteen (15) days before such change is made. The initial notification may be made orally, but shall be promptly followed by a written notification.

30. U.S. EPA has designated Pablo Valentin of the Superfund Division, Region 5 as its Project Coordinator. U.S. EPA will notify Respondent of a change in its designation of the Project Coordinator. Except as otherwise provided in this Settlement Agreement, Respondent shall direct all submissions required by this Settlement Agreement to:

Pablo Valentin, RPM
U.S. EPA, Superfund Division
77 West Jackson, SR-6J
Chicago, Illinois 60604-3590

Respondent is encouraged to make its submissions to U.S. EPA on recycled paper (which includes significant post-consumer waste paper content where possible) and using two-sided copies. Respondent shall make submissions electronically according to U.S. EPA Region 5 specifications. Receipt by Respondent's Project Coordinator of any notice or communication from U.S. EPA relating to this Settlement Agreement shall constitute receipt by Respondent. Documents to be submitted to the Respondent shall be sent to:

Brian Bartoszek
Wisconsin Public Service Corporation
Post Office Box 19001
Green Bay, WI 54307-9001
bbartos@wpsr.com

31. U.S. EPA's Project Coordinator shall have the authority lawfully vested in a Remedial Project Manager ("RPM") and On-Scene Coordinator ("OSC") by the NCP. In addition, U.S. EPA's Project Coordinator shall have the authority consistent with the NCP to halt any Work required by this Settlement Agreement, and to take any necessary response action when s/he determines that conditions at the Site may present an immediate endangerment to public health or welfare or the environment. The absence of the U.S. EPA Project Coordinator from the areas under study pursuant to this Settlement Agreement shall not be cause for the stoppage or delay of Work.

32. U.S. EPA and Respondent shall have the right, subject to Paragraph 29, to change their respective Project Coordinator. Respondent shall notify U.S. EPA fifteen (15) days before such a change is made. The initial notification by either party may be made orally, but shall be promptly followed by a written notice.

33. U.S. EPA shall arrange for a qualified person to assist in its oversight and review of the conduct of the RI/FS, as required by Section 104(a) of CERCLA, 42 U.S.C. § 9604(a). Such person shall have the authority to observe Work and make inquiries in the absence of U.S. EPA, but not to modify the RI/FS planning documents or other work plans.

IX. WORK TO BE PERFORMED

34. a. Respondent shall conduct a RI/FS for both the Upland Operable Unit and the River Operable Unit at the Site in accordance with the provisions of this Settlement Agreement, the SOW, CERCLA, the NCP, U.S. EPA guidance related to remedial

investigations and feasibility studies including, but not limited to, the "Interim Final Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA" (OSWER Directive # 9355.3-01), "Guidance for Data Useability in Risk Assessment" (OSWER Directive #9285.7-05), Risk Assessment Guidance for Superfund (RAGS), Volume I - Human Health Evaluation Manual (Part A), Interim Final (EPA-540-1-89-002), OSWER Directive 9285.7-01A, December 1, 1989, and Risk Assessment Guidance for Superfund (RAGS), Volume I - Human Health Evaluation Manual (Part D, Standardized Planning, Reporting, and Review of Superfund Risk Assessments), Interim, (EPA 540-R-97-033), OSWER Directive 9285.7-01D, January 1998, guidance referenced in the SOW, and any RI/FS related guidance subsequently issued by U.S. EPA.

b. In the RI and FS Reports for each of the operable units, Respondent shall, to the extent deemed necessary by U.S. EPA, address the factors required to be taken into account in Section 121 of CERCLA, 42 U.S.C. § 9621, and Section 300.430 of the NCP, 40 C.F.R. § 300.430. To the extent applicable to each operable unit, the RI shall, taking into account the prior work done at the operable unit (in particular, the work conducted under the Contract pursuant to the State Issued Upland ROD), characterize the geology and hydrogeology of the operable unit, determine the nature and extent of hazardous substances, pollutants or contaminants at or from the operable unit and characterize all ecological zones including terrestrial, riparian, wetlands, aquatic/marine, and transitional. Respondent shall prepare, for inclusion with the RI Report for the operable unit, a determination of the nature and extent of the current and potential threat to the public health or welfare or the environment posed by the release or threatened release of any hazardous substances, pollutants, or contaminants at or from the operable unit, including, to the extent deemed necessary by U.S. EPA, a "Baseline Human Health Risk Assessment" and "Baseline Ecological Risk Assessment." The FS Report for the operable unit shall, taking into account the prior work done at the operable unit (in particular, the work conducted under the Contract pursuant to the State Issued Upland ROD) and to the extent deemed necessary by U.S. EPA:

- (1) determine and evaluate (based on treatability testing, where appropriate) alternatives for remedial action that protect human health and the environment by recycling waste or by eliminating, reducing and/or controlling risks posed through each pathway at the operable unit;
- (2) evaluate a range of alternatives including but not limited to those alternatives described in 40 C.F.R. § 300.430(e) and remedial alternatives that utilize permanent solutions and alternative treatment technologies or resource recovery technologies; and
- (3) include a detailed analysis of individual alternatives against each of the nine evaluation criteria in 40 C.F.R. § 300.430(e)(9)(iii) and a comparative analysis that focuses upon the relative performance of each alternative against the nine criteria in 40 C.F.R. § 300.430(e)(9)(iii).

Respondent shall submit to U.S. EPA and the State the requested number of copies of all plans, reports, submittals and other deliverables required under this Settlement Agreement, the SOW and the RI/FS Planning Documents in accordance with the approved schedule for review and

approval pursuant to Section X (U.S. EPA Approval of Plans and Other Submissions). Upon request by U.S. EPA, Respondent shall submit in electronic form all portions of RI and FS Reports, and any report or other deliverable Respondent is required to submit pursuant to provisions of this Settlement Agreement, including the SOW. Upon approval by U.S. EPA, all deliverables under this Settlement Agreement, including the SOW, shall be incorporated into and become enforceable under this Settlement Agreement.

35. Community Involvement Plan and Technical Assistance Plan.

a. U.S. EPA will prepare a Community Involvement Plan(s), in accordance with U.S. EPA guidance and the NCP. As requested by U.S. EPA, Respondent shall provide information supporting U.S. EPA's community relations programs.

b. When requested by U.S. EPA, Respondent also shall provide U.S. EPA with the following deliverable:

Technical Assistance Plan: For the Site, upon request by U.S. EPA and in accordance with the schedule in the SOW, Respondent shall provide U.S. EPA with a Technical Assistance Plan ("TAP") for providing and administering up to \$50,000 of Respondent's funds to be used by a qualified community group to hire independent technical advisers during the Work conducted pursuant to this Settlement Agreement. The TAP shall state that the Respondent will provide and administer any additional amounts needed if U.S. EPA, in its unreviewable discretion, determines that the selected community group has demonstrated such a need prior to U.S. EPA's issuance of the ROD for the Site. Upon its approval or modification by U.S. EPA pursuant to Section X (U.S. EPA Approval of Plans and Other Submissions), the TAP shall be incorporated into and become enforceable under this Settlement Agreement.

36. Modification of Any Plans.

a. If at any time during the RI/FS process, Respondent identifies a need for additional data, Respondent shall submit a memorandum documenting the need for additional data to the U.S. EPA Project Coordinator within thirty (30) days of identification. U.S. EPA in its discretion will determine whether the additional data will be collected by Respondent and whether it will be incorporated into reports and deliverables.

b. In the event of unanticipated or changed circumstances at a Site, Respondent shall notify the U.S. EPA Project Coordinator by telephone within 24 hours of discovery of the unanticipated or changed circumstances. In addition to the authorities in the NCP, in the event that U.S. EPA determines that the immediate threat or the unanticipated or changed circumstances warrant changes in the RI/FS Planning Documents, U.S. EPA shall modify or amend the RI/FS Planning Documents in writing accordingly. Respondent shall perform the RI/FS Planning Documents as modified or amended.

c. U.S. EPA may determine that in addition to tasks defined in the initially approved RI/FS Planning Documents, other additional Work may be necessary to accomplish the

objectives of the RI/FS as set forth in the SOW for the RI/FS. U.S. EPA may require that Respondent perform these response actions in addition to those required by the initially approved RI/FS Planning Documents, including any approved modifications, if it determines that such actions are necessary for a complete RI/FS.

d. Respondent shall confirm its willingness to perform the additional Work in writing to U.S. EPA within fifteen (15) days of receipt of the U.S. EPA request. If Respondent objects to any modification determined by U.S. EPA to be necessary pursuant to this paragraph, Respondent may seek dispute resolution pursuant to Section XV (Dispute Resolution). The SOW and/or RI/FS Planning Documents shall be modified in accordance with the final resolution of the dispute.

e. Respondent shall complete the additional Work according to the standards, specifications, and schedule set forth or approved by U.S. EPA in a written modification to the RI/FS Planning Documents or written work plan supplement. U.S. EPA reserves the right to conduct the Work itself at any point, to seek reimbursement from Respondent, and/or to seek any other appropriate relief.

f. Nothing in this paragraph shall be construed to limit U.S. EPA's authority to require performance of further response actions as otherwise provided in this Settlement Agreement.

37. Off-Site Shipment of Waste Material.

a. Respondent shall, prior to any off-site shipment of Waste Material from the Site to an out-of-state waste management facility, provide written notification of such shipment of Waste Material to the appropriate state environmental official in the receiving facility's state and to U.S. EPA's designated Project Coordinator. However, this notification requirement shall not apply to any off-site shipments when the total volume of all such shipments will not exceed 10 cubic yards.

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

c. The identity of the receiving facility and state will be determined by Respondent following the award of the contract for the remedial investigation and feasibility study. Respondent shall provide the information required by Subparagraph 37.b and 40 as soon as practicable after the award of the contract and before the Waste Material is actually shipped.

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

hazardous substances, pollutants, or contaminants from the Site to an off-site facility that complies with the requirements of the statutory provision and regulation cited in the preceding sentence.

38. Meetings. Respondent shall make presentations at, and participate in, meetings at the request of U.S. EPA during the initiation, conduct, and completion of the RI/FS. In addition to discussion of the technical aspects of the RI/FS, topics will include anticipated problems or new issues. Meetings will be scheduled at U.S. EPA's discretion.

39. Progress Reports. In addition to the deliverables set forth in this Settlement Agreement, Respondent shall provide to U.S. EPA progress reports in accordance with the schedule in the SOW. For the Monthly Progress Reports, at a minimum, with respect to the preceding month, these reports shall (i) describe the actions which have been taken to comply with this Settlement Agreement during that month, (ii) include hard copies and electronic copies (according to U.S. EPA Region 5 specifications) of all results of sampling and tests and all other data received by the Respondent (iii) describe Work planned for the next two months with schedules relating such Work to the overall project schedule for RI/FS completion, and (iv) 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.

40. Emergency Response and Notification of Releases.

a. In the event of any action or occurrence during performance of the Work which causes or threatens a release of Waste Material from the Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Respondent shall immediately take all appropriate action. Respondent shall take these actions in accordance with all applicable provisions of this Settlement Agreement, including, but not limited to, the Health and Safety Plan to prevent, abate or minimize such release or endangerment caused or threatened by the release. Respondent shall also immediately notify the U.S. EPA Project Coordinator or, in the event of his/her unavailability, the On Scene Coordinator (OSC) or the Regional Duty Officer, U.S. EPA Region 5 Emergency Planning and Response Branch at (Tel: (312) 353-2318) of the incident or Site conditions. In the event that Respondent fails to take appropriate response action as required by this paragraph, and U.S. EPA takes such action instead, Respondent shall reimburse U.S. EPA all costs of the response action not inconsistent with the NCP pursuant to Section XVIII (Payment of Response Costs).

b. In addition, in the event of any release of a hazardous substance from the Site, Respondent shall immediately notify the U.S. EPA Project Coordinator, the OSC or Regional Duty Officer at (312) 353-2318 and the National Response Center at (800) 424-8802. Respondent shall submit a written report to U.S. EPA within 7 days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. This reporting requirement is in addition to, and not in lieu of, reporting under Section 103(c) of CERCLA, 42 U.S.C. § 9603(c), and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. §§ 11004, *et seq.*

X. U.S. EPA APPROVAL OF PLANS AND OTHER SUBMISSIONS

41. After review of any plan, report or other item that is required to be submitted for approval pursuant to this Settlement Agreement, including the SOW, U.S. EPA, after a reasonable opportunity for review and comment by the State, shall: (a) approve, in whole or in part, the submission; (b) approve the submission upon specified conditions; (c) modify the submission to cure the deficiencies; (d) disapprove, in whole or in part, the submission, directing that the Respondent modify the submission; or (e) any combination of the above. However, U.S. EPA shall not modify a submission without first providing Respondent at least one notice of deficiency and an opportunity to cure in accordance with the schedule in the SOW, except where to do so would cause serious disruption to the Work or where previous submission(s) have been disapproved due to material defects.

42. In the event of approval, approval upon conditions, or modification by U.S. EPA, pursuant to Subparagraph 41(a), (b), (c) or (e), Respondent shall proceed to take any action required by the plan, report or other item, as approved or modified by U.S. EPA subject only to their right to invoke the Dispute Resolution procedures set forth in Section XV (Dispute Resolution) with respect to the modifications or conditions made by U.S. EPA. Following U.S. EPA approval or modification of a submittal or portion thereof, Respondent shall not thereafter alter or amend such submittal or portion thereof unless directed by U.S. EPA. In the event that U.S. EPA modifies the submission to cure the deficiencies pursuant to Subparagraph 41(c) and the submission had a material defect, U.S. EPA retains the right to seek stipulated penalties, as provided in Section XVI (Stipulated Penalties). U.S. EPA also retains the right to perform its own studies, complete the RI/FS (or any portion of the RI/FS), and seek reimbursement from Respondent for its costs; and/or seek any other appropriate relief.

43. Resubmission of Plans.

a. Upon receipt of a notice of disapproval, Respondent shall, in accordance with the schedule in the SOW or such longer time as specified by U.S. EPA in such notice, correct the deficiencies and resubmit the plan, report, or other item for approval. Any stipulated penalties applicable to the submission, as provided in Section XVI, shall accrue during the thirty-day period or otherwise specified period but shall not be payable unless the resubmission is disapproved or modified due to a material defect as provided in Paragraphs 44 and 45.

b. Notwithstanding the receipt of a notice of disapproval, Respondent shall proceed to take any action required by any non-deficient portion of the submission unless otherwise directed by U.S. EPA. Implementation of any non-deficient portion of a submission shall not relieve Respondent of any liability for stipulated penalties under Section XVI (Stipulated Penalties).

c. Unless otherwise directed by U.S. EPA, Respondent shall not proceed further with any subsequent activities or tasks associated with an operable unit until receiving U.S. EPA approval for the following deliverables: RI/FS Work Plan, Draft Remedial Investigation Report, Treatability Testing Work Plan (if applicable), and Draft Feasibility Study Report (if deemed necessary by U.S. EPA for the operable unit). While awaiting U.S. EPA approval on these deliverables, Respondent shall proceed with all other tasks and activities which

may be conducted independently of these deliverables, in accordance with the schedule set forth in this Settlement Agreement.

d. For all remaining deliverables not enumerated above in Subparagraph 43.c, Respondent shall proceed with all subsequent tasks, activities and deliverables associated with the operable unit without awaiting U.S. EPA approval on the submitted deliverable. U.S. EPA reserves the right to stop Respondent from proceeding further, either temporarily or permanently, on any task, activity or deliverable at any point during the RI/FS process for any of the operable units.

44. If U.S. EPA disapproves a resubmitted plan, report or other item, or portion thereof, U.S. EPA may direct Respondent to correct the deficiencies. U.S. EPA also retains the right to modify or develop the plan, report or other item. Respondent shall implement any such plan, report, or item as corrected, modified or developed by U.S. EPA, subject only to its right to invoke the procedures set forth in Section XV (Dispute Resolution).

45. If upon resubmission, a plan, report, or item is disapproved or modified by U.S. EPA due to a material defect, Respondent shall be deemed to have failed to submit such plan, report, or item timely and adequately unless Respondent invokes the dispute resolution procedures in accordance with Section XV (Dispute Resolution) and U.S. EPA's action is revoked or substantially modified pursuant to a Dispute Resolution decision issued by U.S. EPA or superseded by an agreement reached pursuant to that section. The provisions of Section XV (Dispute Resolution) and Section XVI (Stipulated Penalties) shall govern the implementation of the Work and accrual and payment of any stipulated penalties during Dispute Resolution. If U.S. EPA's disapproval or modification is not otherwise revoked, substantially modified or superseded as a result of a decision or agreement reached pursuant to the Dispute Resolution process set forth in Section XV, stipulated penalties shall accrue for such violation from the date on which the initial submission was originally required, as provided in Section XVI.

46. In the event that U.S. EPA takes over some of the tasks, but not the preparation of the RI Report or the FS Report for either of the operable units, Respondent shall incorporate and integrate information supplied by U.S. EPA into the final reports for the operable unit(s).

47. All plans, reports, and other items submitted to U.S. EPA under this Settlement Agreement shall, upon approval or modification by U.S. EPA, be incorporated into and enforceable under this Settlement Agreement. In the event U.S. EPA approves or modifies a portion of a plan, report, or other item submitted to U.S. EPA under this Settlement Agreement, the approved or modified portion shall be incorporated into and enforceable under this Settlement Agreement.

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

XI. QUALITY ASSURANCE, SAMPLING AND DATA AVAILABILITY

49. Quality Assurance. Respondent shall assure that Work performed, samples taken and analyses conducted conform to the requirements of the SOW, the approved QAPP, the approved Work Plan and guidance identified therein. Respondent will assure that field personnel used by Respondent are properly trained in the use of field equipment and in chain of custody procedures. Respondent shall only use laboratories which have a documented quality system that complies with "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B-01/002, March 2001) or equivalent documentation as determined by U.S. EPA.

50. Sampling.

a. All results of sampling, tests, modeling or other data (including raw data) generated by Respondent, or on Respondent's behalf, during the period that this Settlement Agreement is effective, shall be submitted to U.S. EPA (in paper and electronic form according to U.S. EPA Region 5 specifications) in the next monthly progress report as described in Paragraph 39 of this Settlement Agreement. U.S. EPA will make available to Respondent validated data generated by U.S. EPA unless it is exempt from disclosure by any federal or state law or regulation.

b. Respondent shall verbally notify U.S. EPA, at least fifteen (15) days prior to conducting significant field events as described in the SOW and RI/FS Work Plan/Field Sampling Plan applicable to the operable unit. At U.S. EPA's verbal or written request, or the request of U.S. EPA's oversight assistant, Respondent shall allow split or duplicate samples to be taken by U.S. EPA (and its authorized representatives) of any samples collected by Respondent in implementing this Settlement Agreement. All split samples of Respondent shall be analyzed by the methods identified in the QAPP.

51. Data Availability.

a. At all reasonable times, U.S. EPA and its authorized representatives shall have the authority to enter and freely move about all property at the Site and off-site areas where Work, if any, is being performed, for the purposes of inspecting conditions, activities, the results of activities, records, operating logs, and contracts related to the Site or Respondent and its contractor pursuant to this Settlement Agreement; reviewing the progress of Respondent in carrying out the terms of this Settlement Agreement; conducting tests as U.S. EPA or its authorized representatives deem necessary; using a camera, sound recording device or other documentary type equipment; and verifying the data submitted to U.S. EPA by Respondent. Respondent shall allow these persons to inspect and copy all records, files, photographs, documents, sampling and monitoring data, and other writings related to Work undertaken in carrying out this Settlement Agreement. Nothing herein shall be interpreted as limiting or affecting U.S. EPA's right of entry or inspection authority under federal law. All persons accessing the Site under this paragraph shall comply with all approved Health and Safety Plans.

b. Respondent may assert business confidentiality claims covering part or all of the documents or information submitted to U.S. EPA and 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). Documents or information determined to be confidential by U.S. EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies documents or information when it is submitted to U.S. EPA and the State, or if U.S. EPA has notified Respondent that the documents or information are not confidential under the standards of Section 104(ē)(7) of CERCLA or 40 C.F.R. Part 2, Subpart B, the public may be given access to such documents or information without further notice to Respondent. Respondent agrees not to assert confidentiality claims with respect to any data related to Site conditions, sampling, or monitoring. Respondent shall segregate and clearly identify all documents or information submitted under this Settlement Agreement for which Respondent asserts business confidentiality claims.

c. Respondent may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Respondent asserts such a privilege in lieu of providing documents, Respondent shall provide U.S. EPA 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; (6) the privilege asserted by Respondent.

d. Respondent agrees not to assert confidentiality or privilege claims with respect to any data related to Site conditions, sampling, or monitoring. Respondent shall segregate and clearly identify all documents or information submitted under this Settlement Agreement for which Respondent asserts business confidentiality claims or privileges.

52. In entering into this Settlement Agreement, Respondent waives any objections to any data gathered, generated, or evaluated by U.S. EPA, the State or Respondent in the performance or oversight of the Work that has been verified according to the quality assurance/quality control (QA/QC) procedures required by the Settlement Agreement or any U.S. EPA-approved Work Plans or Sampling and Analysis Plans. If Respondent objects to any other data relating to the RI/FS, Respondent shall submit to U.S. EPA a report that specifically identifies and explains its objections, describes the acceptable uses of the data, if any, and identifies any limitations to the use of the data. The report must be submitted to U.S. EPA within 15 days of the monthly progress report containing the data.

XII. SITE ACCESS AND INSTITUTIONAL CONTROLS

53. If the Site, or any other property where access is needed to implement this Settlement Agreement, is owned or controlled by the Respondent, the Respondent shall, commencing on the Effective Date, provide U.S. EPA and its representatives, including contractors, with access at all reasonable times to the Site, or such other property, for the purpose of conducting any activity related to this Settlement Agreement.

54. Where any action under this Settlement Agreement is to be performed in areas owned by or in possession of someone other than the Respondent, the Respondent shall use its best efforts to obtain all necessary access agreements within thirty (30) days after the Effective Date, or as otherwise specified in writing by the U.S. EPA Project Coordinator. Respondent

shall immediately notify U.S. EPA if, after using its best efforts, it is unable to obtain such agreements. For purposes of this paragraph, "best efforts" includes the payment of reasonable sums of money in consideration of access. Respondent shall describe in writing their efforts to obtain access. U.S. EPA may then assist Respondent in gaining access, to the extent necessary to effectuate the response actions described herein, using such means as U.S. EPA deems appropriate. Respondent shall reimburse U.S. EPA for all costs and attorney's fees incurred by the United States in obtaining such access, in accordance with the procedures in Section XVIII (Payment of Response Costs).

55. Notwithstanding any provision of this Settlement Agreement, U.S. EPA retains all of its access authorities and rights, including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

56. If Respondent cannot obtain access agreements, U.S. EPA may obtain access for Respondent, perform those tasks or activities with U.S. EPA contractors, or terminate the Settlement Agreement. In the event that U.S. EPA performs those tasks or activities with U.S. EPA contractors and does not terminate the Settlement Agreement, Respondent shall perform all other activities not requiring access to that property, and shall reimburse U.S. EPA for all costs incurred in performing such activities. Respondent shall integrate the results of any such tasks undertaken by U.S. EPA into its reports and deliverables.

XIII. COMPLIANCE WITH OTHER LAWS

57. Respondent shall comply with all applicable local, state and federal laws and regulations when performing the RI/FS. 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, Respondent shall submit timely and complete applications and take all other actions necessary to obtain and to comply with all such permits or approvals. This Settlement Agreement is not, and shall not be construed to be, a permit issued pursuant to any federal or state statute or regulation.

XIV. RETENTION OF RECORDS

58. As to each operable unit, during the pendency of this Settlement Agreement and for a minimum of ten (10) years after commencement of construction of any remedial action or the issuance of the ROD for the specific operable unit, whichever is later, the Respondent shall preserve and retain all non-identical copies of records and documents (including records or documents in electronic form) now in its possession or control or which come into its possession or control that relate in any manner to the performance of the Work or the liability of any person under CERCLA with respect to the Site, regardless of any corporate retention policy to the contrary. Until 10 years after commencement of construction of any remedial action for an operable unit, Respondent shall also instruct its contractors and agents to preserve all documents, records, and information of whatever kind, nature or description relating to performance of the Work at that operable unit.

59. At the conclusion of these document retention periods, Respondent shall notify U.S. EPA at least ninety (90) days prior to the destruction of any such records or documents, and, upon request by U.S. EPA, Respondent shall deliver any such records or documents to U.S. EPA. Respondent may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Respondent asserts such a privilege, it shall provide U.S. EPA with the following: (i) the title of the document, record, or information; (ii) the date of the document, record, or information; (iii) the name and title of the author of the document, record, or information; (iv) the name and title of each addressee and recipient; (v) a description of the subject of the document, record, or information; and (vi) the privilege asserted by Respondent. However, no documents, reports or other information created or generated pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged.

60. The Respondent hereby certifies 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 at the Site since notification of potential liability by U.S. EPA or the filing of suit against it regarding the Site and that it has fully complied with any and all U.S. 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.

XV. DISPUTE RESOLUTION

61. 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.

62. If the Respondent objects to any U.S. EPA action taken pursuant to this Settlement Agreement, including billings for Future Response Costs, it shall notify U.S. EPA in writing of its objection(s) within fifteen (15) days of such action, unless the objection(s) has/have been resolved informally. U.S. EPA and Respondent shall have thirty (30) days from U.S. EPA's receipt of Respondent's written objection(s) to resolve the dispute (the "Negotiation Period"). The Negotiation Period may be extended at the sole discretion of U.S. EPA. Such extension may be granted verbally but must be confirmed in writing to be effective.

63. 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, an U.S. EPA management official at the Superfund Branch Chief level or higher will issue a written decision. U.S. EPA's decision shall be incorporated into and become an enforceable part of this Settlement Agreement. Respondent's obligations under this Settlement Agreement shall not be tolled by submission of any objection for dispute resolution under this section. Following resolution of the dispute, as provided by this section, Respondent shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with U.S. EPA's decision, whichever occurs. Respondent shall proceed in accordance with U.S. EPA's final decision regarding the matter in dispute, regardless of whether

Respondent agrees with the decision. If Respondent does not agree to perform or does not actually perform the Work in accordance with U.S. EPA's final decision, U.S. EPA reserves the right in its sole discretion to conduct the Work itself, to seek reimbursement from Respondent, to seek enforcement of the decision, to seek stipulated penalties, and/or to seek any other appropriate relief.

XVI. STIPULATED PENALTIES

64. The Respondent shall be liable to U.S. EPA for stipulated penalties in the amounts set forth in Paragraphs 65, 66 and 67 for failure to comply with any of the requirements of this Settlement Agreement specified below unless excused under Section XVII (Force Majeure). "Compliance" by the Respondent shall include completion of the Work under this Settlement Agreement or any activities contemplated under any of the RI/FS Planning Documents, work plans or other plan approved under this Settlement Agreement identified below in accordance with all applicable requirements of law, this Settlement Agreement, the SOW, and any plans or other documents approved by U.S. EPA pursuant to this Settlement Agreement and within the specified time schedules established by and approved under this Settlement Agreement.

65. Stipulated Penalty Amounts - Work. The following stipulated penalties shall accrue per day for any noncompliance with required Work, including the following: failure to meet due dates for payments of Future Response Costs; failure to establishing escrow accounts in the event of disputes; and/or, failure to timely or adequately implement work as prescribed in the SOW and any approved RI/FS Planning Documents and Schedules.

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$ 1,000	1 st through 14 th day
\$ 2,000	15 th through 30 th day
\$ 4,000	31 st day and beyond

66. Stipulated Penalty Amounts - RI/FS Planning Documents, Reports and Technical Memoranda. The following stipulated penalties shall accrue per violation per day for failure to submit timely or adequate plans, reports, technical memoranda or other written documents required by Section III: Tasks 1 through 7 of the SOW in accordance with the schedule in Exhibit A of the SOW:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$ 1,000	1 st through 14 th day
\$ 2,000	15 th through 30 th day
\$ 5,000	31 st day and beyond

67. Respondent shall be liable for stipulated penalties in the amount of \$500 per day for the first week or part thereof and \$2,500 per day for each week or part thereof thereafter for failure to meet any other obligation under this Settlement Agreement including the SOW.

68. 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: (i) with respect to a deficient submission under Section X (U.S. EPA Approval of Plans and Other Submissions), during the period, if any, beginning on the 31st day after U.S. EPA's receipt of such submission until the date that U.S. EPA notifies Respondent of any deficiency; and (ii) with respect to a decision by the U.S. EPA Management Official at the Superfund Branch Chief level or higher, under Paragraph 61 of Section XV (Dispute Resolution), during the period, if any, beginning on the 31st day after the Negotiation Period begins until the date that the U.S. EPA management official issues a final decision regarding such dispute. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement Agreement.

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

70. All penalties accruing under this Section shall be due and payable to U.S. EPA within 30 days of Respondent's receipt from U.S. EPA of a demand for payment of the penalties, unless Respondent invokes the dispute resolution procedures in accordance with Section XV (Dispute Resolution). All payments to U.S. EPA under this Section shall be paid by certified or cashier's check(s) made payable to "EPA Hazardous Substances Superfund," shall be mailed to U.S. EPA-Region V, Superfund Receivable, P.O. Box 371531, Pittsburgh, PA 15251-7531, shall indicate that the payment is for stipulated penalties, and shall reference the Site name, U.S. EPA Region and Site/Spill ID Number (see Appendix C), the title of this Settlement Agreement (including U.S. EPA Docket Number V-W-07-C-862), and the name and address of the party making payment. Copies of check(s) paid pursuant to this Section, and any accompanying transmittal letter(s) shall be sent to:

Richard Nagle
Site Attorney
Office of Regional Counsel
Mail Code C-14J
77 West Jackson
Chicago, IL 60604-3590

Pablo Valentin
Remedial Project Manager
Superfund Division
Mail Code SR-6J
77 West Jackson
Chicago, IL 60604-3590

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

72. Penalties shall continue to accrue as provided in Paragraph 68 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 U.S. EPA's decision.

73. If Respondent fails to pay stipulated penalties when due, U.S. EPA may institute proceedings to collect the penalties, as well as Interest. Respondent shall pay Interest on the unpaid balance, which shall begin to accrue on the date of demand made pursuant to Paragraph 70.

74. Nothing in this Settlement Agreement shall be construed as prohibiting, altering, or in any way limiting the ability of U.S. EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this Settlement Agreement or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to 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 U.S. 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 U.S. EPA assumes performance of a portion or all of the Work pursuant to Section XX (Reservation of Rights by U.S. EPA), Paragraph 84. Notwithstanding any other provision of this section, U.S. EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Settlement Agreement.

XVII. FORCE MAJEURE

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

76. If any event occurs or has occurred that may delay the performance of any obligation under this Settlement Agreement, whether or not caused by a *force majeure* event, Respondent shall notify U.S. EPA orally within 48 hours of when Respondent first knew that the event might cause a delay. Within five (5) business days thereafter, Respondent shall provide to U.S. EPA in writing an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Respondent's rationale for attributing such delay to a *force majeure* event if it intends to assert such a claim; and a statement as to whether, in the opinion of the Respondent, such event may cause or contribute to an endangerment to public health, welfare or the environment. Failure to comply with the above requirements shall preclude Respondent from asserting any claim of *force majeure* for that event for the period of time of such failure to comply and for any additional delay caused by such failure.

77. If U.S. 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 U.S. EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the *force majeure* event shall not, of itself, extend the time for performance of any other obligation. If U.S. EPA does not agree that the delay or anticipated delay has been or will be caused by a *force majeure* event, U.S. EPA will notify Respondent in writing of its decision. If U.S. EPA agrees that the delay is attributable to a *force majeure* event, U.S. EPA will notify Respondent in writing of the length of the extension, if any, for performance of the obligations affected by the *force majeure* event.

XVIII. PAYMENT OF RESPONSE COSTS

78. Payments for Future Response Costs.

a. Respondent shall pay U.S. EPA all Future Response Costs not inconsistent with the NCP. On a periodic basis, U.S. EPA will send Respondent a bill for the Site requiring payment that includes Region 5's Itemized Cost Summary, which includes direct and indirect costs incurred by U.S. EPA and its contractors. Respondent shall make all payments within 30 days of receipt of each bill requiring payment, except as otherwise provided in Paragraph 80 of this Settlement Agreement, according to the following procedures.

(i) If the payment amount demanded in the bill is for \$10,000 or greater, payment shall be made to U.S. EPA by Electronics Funds Transfer ("EFT") in accordance with current EFT procedures to be provided to Respondent by U.S. EPA Region 5. Payment shall be accompanied by a statement identifying the name and address of the party(ies) making payment, the Site name, U.S. EPA Region 5, the Site/Spill ID Number (See Appendix C), and the account number.

(ii) If the amount demanded in the bill is less than \$10,000, the Settling Respondent may in lieu of the EFT procedures in Subparagraph 78.a.(i) make all payments required by this paragraph by a certified or cashier's check or checks made payable to "EPA Hazardous Substance Superfund," referencing the name and address of the party making the payment, and the EPA Site/Spill ID Number (See Appendix C). Respondent shall send the check(s) to:

Region V Superfund Receivable
U.S. Environmental Protection Agency
P.O. Box 371531
Pittsburgh, PA 15251-7531

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

Richard Nagle
Site Attorney
Office of Regional Counsel
Mail Code C-14J
77 West Jackson
Chicago, IL 60604-3590

Pablo Valentin
Remedial Project Manager
Superfund Division
Mail Code SR-6J
77 West Jackson
Chicago, IL 60604-3590

c. The total amount to be paid for the Site by Respondent pursuant to Subparagraph 78.a. shall be deposited in the Site-specific Special Account within the U.S. EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by U.S. EPA to the U.S. EPA Hazardous Substance Superfund.

79. If Respondent does not pay Future Response Costs within thirty (30) days of Respondent's receipt of a bill, Respondent shall pay Interest on the unpaid balance. 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 U.S. 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 Respondent's failure to make timely payments under this section, including but not limited to, payments of stipulated penalties pursuant to Section XVI. Respondent shall make all payments required by this paragraph in the manner described in Paragraph 78.

80. Respondent may contest payment of any Future Response Costs under Paragraph 78 if it determines that U.S. EPA has made an accounting error or if it believes U.S. EPA incurred excess costs as a direct result of an U.S. EPA action that was inconsistent with the NCP. Such objection shall be made in writing within thirty (30) days of receipt of the bill and must be sent to the U.S. EPA Project Coordinator. Any such objection shall specifically identify the contested Future Response Costs and the basis for objection. In the event of an objection, Respondent shall within the 30 day period pay all uncontested Future Response Costs to U.S. EPA in the manner described in Paragraph 78. Simultaneously, Respondent shall establish an interest-bearing escrow account in a federally-insured bank duly chartered in the State of Wisconsin and remit to that escrow account funds equivalent to the amount of the contested Future Response Costs. Respondent shall send to the U.S. EPA Project Coordinator a copy of the transmittal letter and check paying the uncontested Future Response Costs, and a copy of the correspondence that establishes and funds the escrow account, including, but not limited to, information containing the identity of the bank and bank account under which the escrow account is established as well as a bank statement showing the initial balance of the escrow account. Simultaneously with establishment of the escrow account, Respondent shall initiate the Dispute Resolution procedures in Section XV (Dispute Resolution). If U.S. EPA prevails in the dispute, within five (5) days of the resolution of the dispute, Respondent shall pay the sums due (with accrued interest) to U.S. EPA in the manner described in Paragraph 78. If Respondent prevails concerning any aspect of the contested costs, Respondent shall pay that portion of the costs (plus associated accrued interest) for which it does not prevail to U.S. EPA in the manner

described in Paragraph 78. Respondent shall be disbursed any balance of the escrow account. The dispute resolution procedures set forth in this paragraph in conjunction with the procedures set forth in Section XV (Dispute Resolution) shall be the exclusive mechanisms for resolving disputes regarding Respondent's obligation to reimburse U.S. EPA for its Future Response Costs.

XIX. COVENANT NOT TO SUE BY U.S. EPA

81. In consideration of the actions that will be performed and the payments that will be made by Respondent under the terms of this Settlement Agreement, and except as otherwise specifically provided in this Settlement Agreement, U.S. EPA covenants not to sue or to take administrative action against Respondent pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), for performance of 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 Respondent of all obligations under this Settlement Agreement, including, but not limited to, payment of Future Response Costs pursuant to Section XVIII. This covenant not to sue extends only to Respondent and does not extend to any other person.

XX. RESERVATIONS OF RIGHTS BY U.S. EPA

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

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

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

- f. liability arising from the past, present, or future disposal, release or threat of release of Waste Materials outside of the Site;
- g. liability for costs incurred or to be incurred by the Agency for Toxic Substances and Disease Registry related to the Site; and
- h. liability for costs incurred if U.S. EPA assumes the performance of the Work pursuant to Paragraph 84.

84. Work Takeover. In the event U.S. EPA determines that Respondent has ceased implementation of any portion of the Work, is deficient or late in its performance of the Work, or is implementing the Work in a manner which may cause an endangerment to human health or the environment, U.S. EPA may assume the performance of all or any portion of the Work as U.S. EPA determines necessary. Respondent may invoke the procedures set forth in Section XV (Dispute Resolution) to dispute U.S. EPA's determination that takeover of the Work is warranted under this paragraph. Notwithstanding any other provision of this Settlement Agreement, U.S. EPA retains all authority and reserves all rights to take any and all response actions authorized by law.

XXI. COVENANT NOT TO SUE BY RESPONDENT

85. Respondent covenants not to sue and agrees not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Work, Interim and 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 Wisconsin 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.

86. Except as provided in Paragraph 89 (Waiver of Claims), these covenants not to sue shall not apply in the event the United States brings a cause of action or issues an Settlement Agreement pursuant to the reservations set forth in Paragraphs 83b., c., and e. – g., but only to the extent that Respondent's claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

87. 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).

88. Agreement Not to Challenge Listing. Respondent agrees not to seek judicial review of a decision to list the Site on the NPL at any time after the Effective Date of this Settlement Agreement based on a claim that changed Site conditions that resulted from the performance of the Work in any way affected the basis for listing the Site.

89. Waiver Against De Micromis Parties. Respondent agrees not to assert any claims and to waive all claims or causes of action that it may have for all matters relating to the Site, including for contribution, against any person where the person's liability to Respondent with respect to the Site is based solely on having arranged for disposal or treatment, or for transport for disposal or treatment, of hazardous substances at the Site, or having accepted for transport for disposal or treatment of hazardous substances at the Site, if all or part of the disposal, treatment, or transport occurred before April 1, 2001, and the total amount of material containing hazardous substances contributed by such person to the Site was less than 110 gallons of liquid materials or 200 pounds of solid materials.

90. The waiver in Paragraph 89 shall not apply with respect to any defense, claim, or cause of action that the Respondent may have against any person meeting the above criteria if such person asserts a claim or cause of action relating to the Site against Respondent. This waiver also shall not apply to any claim or cause of action against any person meeting the above criteria if U.S. EPA determines:

- a. that such person has failed to comply with any U.S. EPA requests for information or administrative subpoenas issued pursuant to Section 104(e) or 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) or 9622(e), or Section 3007 of the Solid Waste Disposal Act (also known as the Resource Conservation and Recovery Act or "RCRA"), 42 U.S.C. § 6972, or has impeded or is impeding, through action or inaction, the performance of a response action or natural resource restoration with respect to the Site, or has been convicted of a criminal violation for the conduct to which this waiver would apply and that conviction has not been vitiated on appeal or otherwise; or
- b. that the materials containing hazardous substances contributed to the Site by such person have contributed significantly, or could contribute significantly, either individually or in the aggregate, to the cost of response action or natural resource restoration at the Site.

91. Natural Resource Damages. For the purposes of Section 113(g)(1) of CERCLA, the parties agree that, upon issuance of this Settlement Agreement, remedial action under CERCLA shall be deemed to be scheduled and an action for damages (as defined in 42 U.S.C. § 9601(6)) must be commenced with respect to an operable unit within three years after the completion of the remedial action applicable to the operable unit or the issuance of the ROD for the operable unit (if no remedial action for the operable unit is required).

XXII. OTHER CLAIMS

92. By issuance of this Settlement Agreement, the United States and U.S. EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondent.

93. Except as expressly provided in Section XXI, Paragraph 89 (Non-Exempt De Micromis Waivers) and Section XIX (Covenant Not to Sue by U.S. EPA), nothing in this Settlement Agreement constitutes a satisfaction of or release from any claim or cause of action against Respondent or any person not a party to this Settlement Agreement, for any liability such person may have under CERCLA, other statutes, or common law, including but not limited to any claims of the United States for costs, damages and interest under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607.

94. No action or decision by U.S. EPA pursuant to this Settlement Agreement shall give rise to any right to judicial review.

XXIII. CONTRIBUTION PROTECTION

95. The Parties agree that the Respondent is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), for "matters addressed" in this Settlement Agreement. The "matters addressed" in this Settlement Agreement are the Work and Future Response Costs. Nothing in this Settlement Agreement precludes the United States or Respondent from asserting any claims, causes of action, or demands against any person not parties to this Settlement Agreement for indemnification, contribution, or cost recovery.

XXIV. INDEMNIFICATION

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

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

98. Respondent waives all claims against the United States for damages or reimbursement or for set-off of any payments made or to be made to the United States, arising from or on account of any contract, agreement, or arrangement between the Respondent and any person for performance of Work on or relating to the Site. In addition, Respondent shall indemnify and hold harmless the United States with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between the Respondent and any person for performance of Work on or relating to the Site.

XXV. INSURANCE

99. At least thirty (30) days prior to commencing any On-Site Work under this Settlement Agreement, Respondent shall secure, and shall maintain for the duration of this Settlement Agreement, comprehensive general liability insurance and automobile insurance with limits of \$2 million dollars, combined single limit, naming the United States as an additional insured. Within the same period, Respondent shall provide U.S. EPA with certificates of such insurance and a copy of each insurance policy. Respondent shall submit such certificates and copies of policies each year on the anniversary of the Effective Date. In addition, for the duration of the Settlement Agreement, Respondent shall satisfy, or shall ensure that its contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of Respondent in furtherance of this Settlement Agreement. If Respondent demonstrates by evidence satisfactory to U.S. EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering some or all of the same risks but in an equal or lesser amount, then Respondent need provide only that portion of the insurance described above which is not maintained by such contractor or subcontractor.

XXVI. FINANCIAL ASSURANCE

100. Within 30 days of the Effective Date, Respondent shall establish and maintain financial security for the benefit of U.S. EPA in the amount of one million dollars (\$1,000,000) in one or more of the following forms to secure the full and final completion of Work by Respondent:

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

- e. a corporate guarantee to perform the Work provided by one or more parent corporations or subsidiaries of Respondent, or by one or more unrelated corporations that have a substantial business relationship with the Respondent; including a demonstration that any such company satisfied the financial test requirements of 40 C.F.R. § 264.143(f);
- f. a corporate guarantee to perform the Work by the Respondent, including a demonstration that the Respondent satisfies the requirements of 40 C.F.R. § 143(f); and/or
- g. any other financial mechanism acceptable to and approved by U.S. EPA.

101. Any and all financial assurance instruments provided pursuant to this section shall be in form and substance satisfactory to U.S. EPA, determined in U.S. EPA's sole discretion. In the event that U.S. EPA determines at any time that the financial assurances provided pursuant to this section (including, without limitation, the instrument(s) evidencing such assurances) are inadequate, Respondent shall, within thirty (30) days of receipt of notice of U.S. EPA's determination, obtain and present to U.S. EPA for approval one of the other forms of financial assurance listed in Paragraph 100, above. In addition, if at any time U.S. EPA notifies Respondent that the anticipated cost of completing the Work has increased, then, within 30 days of such notification, Respondent shall obtain and present to U.S. EPA for approval a revised form of financial assurance (otherwise acceptable under this section) that reflects such cost increase. The financial assurance instruments should be sent to the U.S. EPA Region 5 Financial Management Officer, with a copy to U.S. EPA's project coordinator. Respondent's inability to demonstrate financial ability to complete the Work shall in no way excuse performance of any activities required under this Settlement Agreement.

102. If Respondent seeks to ensure completion of the Work through a guarantee pursuant to Subparagraph 100.e. or 100.f. of this Settlement Agreement, Respondent shall (i) demonstrate to U.S. EPA's satisfaction that the guarantor satisfies the requirements of 40 C.F.R. § 264.143(f); and (ii) resubmit sworn statements conveying the information required by 40 C.F.R. § 264.143(f) annually, on the anniversary of the Effective Date, to U.S. EPA. For the purposes of this Settlement Agreement, wherever 40 C.F.R. § 264.143(f) references "sum of current closure and post-closure costs estimates and the current plugging and abandonment costs estimates," the current cost estimate of \$ 1,000,000 for the Work at the Site shall be used in relevant financial test calculations.

103. If, after the Effective Date, Respondent can show that the estimated cost to complete the remaining Work had diminished below the amount set forth in Paragraph 100 of this section, Respondent may, on any anniversary date of the Effective Date, or at any other time agreed to by the Parties, reduce the amount of the financial security provided under this section to the estimated cost of the remaining Work to be performed. Respondent shall submit a proposal for such reduction to U.S. EPA, in accordance with the requirements of this section, and may reduce the amount of the security after receiving written approval from U.S. EPA. In the event of a dispute, Respondent may seek dispute resolution pursuant to Section XV (Dispute Resolution) and may reduce the amount of security in accordance with U.S. EPA's written decision resolving the dispute.

104. Respondent may change the form of financial assurance provided under this section at any time, upon notice to and prior written approval by U.S. EPA, provided that U.S. EPA determines that the new form of assurance meets the requirements of this section. In the event of a dispute, Respondent may change the form of the financial assurance only in accordance with the written decision resolving the dispute.

XXVII. SEVERABILITY/INTEGRATION/APPENDICES

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

106. This Settlement Agreement, including its appendices, and any deliverables, technical memoranda, specifications, schedules, documents, plans, reports (other than progress reports), etc. that will be developed pursuant to this Settlement Agreement and become incorporated into and enforceable under this Settlement Agreement 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 SOW
- "Appendix B" contains maps of the Site
- "Appendix C" contains identification numbers and information for the Site

XXVIII. ADMINISTRATIVE RECORD

107. U.S. EPA will determine the contents of the administrative record file for the Site for selection of the remedial action. Respondent shall submit to U.S. EPA documents developed during the course of each operable unit's RI/FS upon which selection of the response action may be based. Upon request of U.S. EPA, Respondent shall provide copies of plans, task memoranda for further action, quality assurance memoranda and audits, raw data, field notes, laboratory analytical reports and other reports. Upon request of U.S. EPA, Respondent shall additionally submit any previous studies conducted under state, local or other federal authorities relating to selection of the response action, and all communications between Respondent and state, local or other federal authorities concerning selection of the response action. At U.S. EPA's discretion, Respondent shall establish a community information repository at or near any or each Site, to house one copy of the administrative record.

XXIX. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

108. This Settlement Agreement shall be effective the day the Settlement Agreement is signed by U.S. EPA's Director of the Superfund Division or his/her delegatee.

109. This Settlement Agreement may be amended by mutual agreement of U.S. EPA and Respondent. Amendments shall be in writing and shall be effective when signed by U.S. EPA. U.S. EPA Project Coordinators do not have the authority to sign amendments to the Settlement Agreement.

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

XXX. NOTICE OF COMPLETION OF WORK

111. When U.S. EPA determines that all Work has been fully performed for an operable unit (to the extent applicable) at the Site covered by 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, U.S. EPA will provide written notice to Respondent. If U.S. EPA determines that any such Work for an operable unit has not been completed in accordance with this Settlement Agreement, U.S. EPA will notify Respondent, provide a list of the deficiencies, and require that the Respondent modify the applicable RI/FS Planning Documents or other work plan if appropriate in order to correct such deficiencies. Respondent shall implement the modified and approved RI/FS Planning Documents or other approved work plan and shall submit the required deliverable(s) in accordance with the U.S. EPA notice. Failure by Respondent to implement the approved modified RI/FS Planning Documents or other work plan shall be a violation of this Settlement Agreement.

112. When U.S. EPA determines that all Work has been fully performed for an operable unit (to the extent applicable) at the Site covered by 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, U.S. EPA will provide written notice to Respondent.

The Undersigned Party enters into this Administrative Settlement Agreement and Order on Consent in the matter of the WPS Campmarina MGP Site.

Agreed this 22 day of December, 2006.

For Respondent WISCONSIN PUBLIC SERVICE CORPORATION

Signature:



Name:

Connie Lawniczak

Title:

Director of Environmental Services

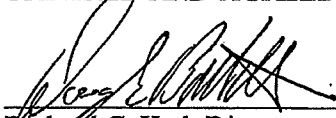
Address:

Post Office Box 19001
Green Bay, WI 54307-9001

The Undersigned Party enters into this Administrative Settlement Agreement and Order on Consent in the matter of the WPSC Campmarina MGP Site.

It is so ORDERED AND AGREED this 26th day of JANUARY, 2007.

BY:


for

Richard C. Karl, Director
Superfund Division
U.S. Environmental Protection Agency
Region 5

DATE:

1/26/07

EFFECTIVE DATE:

1/26/07

ATTACHMENT 1
STATEMENT OF WORK

**STATEMENT OF WORK
FOR A REMEDIAL INVESTIGATION AND FEASIBILITY STUDY
AT THE WISCONSIN PUBLIC SERVICE CAMPMARINA
MANUFACTURED GAS PLANT SITE, SHEBOYGAN, WISCONSIN**

I. BACKGROUND

1. The Wisconsin Public Service Corporation ("WPSC") Campmarina Manufactured Gas Plant ("MGP") Site is located at 732 North Water Street in Sheboygan, Wisconsin. Currently, the Site is used as a park and marina. There is a river walk located immediately adjacent to the river shoreline.
2. The Campmarina MGP Site consists of two operable units. The on-land portion of the Site is referred to as the Upland Operable Unit, is about 1.5 acres in size, and includes the former MGP facility areas up to the vertical barrier wall, adjacent to the Sheboygan River. The river portion of the Site is referred to as the River Operable Unit and includes that portion of the Site not addressed in the Site State Issued Upland ROD, including MGP related contamination that may have come to be located in the adjacent Sheboygan River, its floodplains, or sediment. Figure 1 of Appendix B of the AOC depicts the location of the operable units.
3. MGPs operated to provide gas from coal or oil. MGPs were constructed with similar facilities and generated similar wastes using defined manufacturing processes. The gas manufacturing and purification processes produced by-products and residues that may include tars, sludges, lampblack, light oils, spent oxide wastes, and other hydrocarbon products. These residues may contain PAHs, petroleum hydrocarbons, benzene, cyanide, metals and phenols. Residues often occur at the same locations at former MGP sites (e.g., near the former gas holders, tar stumps, and lampblack separators). The wastes contain a number of known and suspected carcinogens and other potentially hazardous chemicals.
4. The Site is located in an area that was historically industrial. The gas plant was in operation from 1872 to 1929. Processes included coal carbonization and carbureted water gas. The Respondent is Wisconsin Public Service Corporation former owner and operator at the Site. The City of Sheboygan currently owns the property.
5. Groundwater depth is from about 5 to 8 feet below the ground surface and flows toward the river. Contaminants in groundwater include: benzene, toluene, ethylbenzene, and xylene (BTEX); naphthalene; total polycyclic aromatic hydrocarbons ("PAHs"); and cyanide. Routine groundwater monitoring occurs semi-annually.
6. Soils beneath the Upland Operable Unit consist of lacustrine and glacial deposits overlain by fill. Residual concentrations of BTEX, PAHs, and cyanide remain in the soils and groundwater. The constituents found in the River Operable Unit

include: BTEX; PAHs;; chromium and lead and may present potential human health and/or potential environmental hazards.

7. The Respondent performed substantial work in the Upland Operable Unit. Pursuant to Contract No. SF-91-04 ("Contract") the Upland Operable Unit was remediated in accordance with a Record of Decision ("ROD") issued by the State of Wisconsin on January 11, 2001 (herein referred to as the "State Issued Upland ROD"). The remedy set forth in the State Issued Upland ROD was constructed and is in the operation, monitoring, and maintenance phase.
 - a. The remedial action consisted of excavation and off-site thermal treatment of 10,500 tons (which was beneficially reused on-site), site grading, material management, disposal of debris, and a containment system. The containment system consists of a vertical sheet pile barrier wall around the perimeter of the Site with an engineered geosynthetic cover over the surface. A biosparge system operates within the containment area to enhance natural degradation of contaminants within the containment barrier. The remedial action was designed to address potential effects on human health and the environment.
 - b. The Respondent submits annual groundwater monitoring reports.
8. An initial assessment of the River Operable Unit was conducted in 1996. The assessment was generally qualitative and evaluated odor, sheen and tar. At that time an area of about 3.4 acres was identified to contain MGP residuals. Based on limited surface sediment and core sediment samples, total PAHs were as high as 9,294 mg/kg and total BTEX was as high as 990 mg/kg. Water depths in the Sheboygan River adjacent to the Site range from about 3.5 to 9 feet and sediment thickness ranges from 2 to 10 feet.
9. The Site is collocated adjacent to the Sheboygan River and Harbor Superfund Site (CERCLIS ID: WID980996367). A ROD (herein referred to as the "Sheboygan River and Harbor Site ROD") was issued on the Sheboygan River and Harbor Superfund Site in May 2000 and addresses PCB-contamination in the Sheboygan River. It does not address the contaminants associated with the WPSC Campmarina Site.
10. The Site has not been proposed to the National Priorities List.
11. WPSC has entered into a Settlement Agreement (Docket No. V-W-06-C-847) with U.S. EPA on May 5, 2006 to perform RI/FS activities at six of WPSC's former MGP sites. The six sites are addressed as part of a "multi-site" approach ("Multi-site") in an effort to streamline the process using a consistent approach. Multi-site RI/FS documents present the general approach and concepts to be implemented and are then tailored to develop site-specific work plans. The Multi-Site Approach, to the extent applicable, will serve as the basis for the SOW.

II. PURPOSE

1. This Statement of Work ("SOW") sets forth the requirements for conducting a supplemental Remedial Investigation and Feasibility Study ("RI/FS") in the River Operable Unit and the Upland Operable Unit of the Site.
2. This SOW defines the necessary steps to complete RI/FS elements in the River Operable Unit and the Upland Operable Unit pursuant to Superfund, utilizing existing Site data to the greatest extent practicable. The data shall be utilized qualitatively or quantitatively, depending upon the particular data's level of quality assurance/quality control levels (e.g., as referenced against U.S. EPA's requirements as defined in *Guidance for Data Useability in Risk Assessment (Part A) Final* (PB92-963356, April 1992).
3. It is expected that the River Operable Unit and the Upland Operable Unit RI/FS can be expedited and streamlined because of the pre-existing data, in-depth knowledge already established by the Respondent, work done under the State Issued Upland ROD and Contract, information available from work performed for the Sheboygan River and Harbor-Superfund Site, and planning documents submitted and Agency decisions made under the Multi-site AOC/SOW (CERCLA Docket V-W-06-C-847). The Respondent shall utilize, to the extent practicable, previously existing documents to help expedite the work.
4. The Upland Operable Unit RI Report shall present the nature and extent of hazardous substances, pollutants or contaminants at or from the Upland Operable Unit which were addressed in the State issued Upland Operable ROD and will identify areas and/or media that may warrant further evaluation for use in a FS.
5. The River Operable Unit RI Report shall assess the risk these hazardous substances, pollutants or contaminants present to human health and the environment. The River Operable Unit RI Report shall provide sufficient data, where necessary, to develop and evaluate effective remedial alternatives. The River Operable Unit FS Report shall evaluate alternatives for addressing the impact to human health and the environment from hazardous substances, pollutants or contaminants.
6. The River Operable Unit and the Upland Operable Unit RI/FS shall comply with requirements and guidance for RI/FS studies and reports, the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), as amended, and the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") (40 C.F.R. Part 300) as amended. At a minimum, the Respondent shall prepare and complete the RI and FS Reports consistent with the *Guidance for Conducting Remedial Investigations and Feasibility Studies Under CERCLA* (EPA/540/G-89/004, October 1988) ("RI/FS Guidance"), and any other guidance that the U.S. EPA uses in conducting or submitting deliverables for a RI/FS, as well as any additional requirements in the AOC. The RI/FS Guidance describes the report format and the required report content. Exhibit A sets forth a partial list of guidance used by U.S. EPA for a RI/FS.

7. The Respondent shall furnish all personnel, materials, and services necessary for, or incidental to, performing the River Operable Unit and Upland Operable Unit RI/FS River Operable Unit, except as otherwise specified herein.
8. As specified in CERCLA Section 104(a)(1), as amended by SARA, U.S. EPA will provide oversight of the Respondent's activities throughout the RI/FS, including all field sampling activities. The Respondent shall support U.S. EPA's initiation and conduct of activities related to the implementation of oversight activities.
9. At the completion of the River Operable Unit RI/FS and the Upland Operable Unit RI/FS, U.S. EPA, in consultation with WDNR, will be responsible for the selection of a Site remedy and will document this selection in a River Operable Unit ROD and U.S. EPA issued Upland Operable Unit ROD. The remedial action selected by U.S. EPA will meet the cleanup standards specified in CERCLA Section 121. That is, the selected remedial action will be protective of human health and the environment, will be in compliance with, or include a waiver of, applicable or relevant and appropriate requirements of other laws, will be cost-effective, will use permanent solutions and alternative treatment technologies or resource recovery technologies to the maximum extent practicable, and will address the statutory preference for treatment as a principal element. The final River Operable Unit and Upland Operable Unit RI/FS Reports, along with the administrative record, form the basis for the selection of the Site remedies and will provide the information necessary to support the development of the River Operable Unit and Upland Operable Unit RODs.

III. DOCUMENT REVIEW

1. The Respondent shall submit all documents or deliverables required as part of this SOW to the U.S. EPA, with a copy(ies) to the Wisconsin Department of Natural Resources ("WDNR"), for review and approval in accordance with Section X of the AOC.
2. To support document development and review, the parties will use a series of meetings and calls. During scoping of the tasks and/or when preparing a draft document for submittal, the Respondent shall meet or confer with U.S. EPA, with an opportunity for WDNR to participate, to discuss all project planning decisions, special concerns, and/or preliminary findings. After receipt of a draft document for review and approval in accordance with Section X of the AOC, U.S. EPA, at its sole discretion, may meet or confer with Respondent to give preliminary Agency feedback on the document.
3. If U.S. EPA requires revisions, U.S. EPA shall follow the process set forth in Paragraph 41 of the AOC.
4. Electronic Data Management and Analysis Network ("EDMAN") is a new data management system being used by the Superfund Division of U.S. EPA Region 5 that will allow the Respondent to submit Superfund data electronically. All data

collected after the Effective Date of the AOC shall be submitted on a 3.5" diskette, a ZIP™ or ZIP™-compatible disk, or a CD. As specified elsewhere in this SOW, regularly required hard copies of all reports and data summaries will also be sent to the attention of the U.S. EPA RPM and WDNR Project Manager. However, in addition, the electronic data must also be submitted on the 3.5" diskette, a ZIP™ or ZIP™-compatible disk, or a CD to the following address, with a cover letter:

EDMAN Data Coordinator
United States Environmental Protection Agency-Region V (S-6J)
77 West Jackson Boulevard
Chicago, IL 60604

The cover letter should include:

- Site name, data collection dates, and contact person;
- Explanations about any errors detected and about any revisions to data submitted previously; and
- Any proposed additions to the list of valid values.

The U.S. EPA RPM and WDNR Project Manager should also receive a copy of the cover letter.

All of the electronic data requirements are specified at:
<http://www.epa.gov/region5/superfund/edman>

The Respondent can download the Superfund Electronic Data Deliverable Specification Manual from that website.

IV. SCOPE

Respondent shall complete the following tasks, as appropriate, as part of this RI/FS for the River Operable Unit and/or the Upland Operable Unit:

Task 1: Project Scoping and River Operable Unit RI/FS Planning Documents(see A, B, and C as follows);

Task 2: Community Relations Support, as requested;

Task 3: Site Characterization (the Remedial Investigation);

Task 4: Remedial Investigation Report (including human health and ecological risk assessment, as appropriate);

Task 5: Development and Screening of Alternatives for the River Operable Unit (Technical Memorandum);

Task 6: Treatability Studies, if appropriate for the River Operable Unit;

Task 7: Detailed Analysis of Alternatives (FS Report) for the River Operable Unit and FS Report for the Upland Operable Unit; and

Task 8: Progress Reports

Details regarding the aforementioned eight (8) tasks are specified as follows:

TASK 1: PROJECT SCOPING AND RI/FS PLANNING DOCUMENTS

(A) Background Document Review:

1. Ongoing Work. Ongoing work includes monitoring and operation and maintenance of existing systems that were installed in accordance with the State Issued Upland ROD. The Respondent shall continue any such ongoing work and submit modifications, as appropriate, to U.S. EPA for approval. Analytical data will be included in progress reports as described in Task 8.
2. U.S. EPA's Sheboygan River and Harbor Superfund Site file documents will be reviewed for applicability to the project scoping and River Operable Unit RI/FS planning tasks for this Site.
3. The State Issued Upland ROD and documents relating to the implementation of the State Issued Upland ROD will be summarized for applicability to the project scoping and RI/FS planning tasks.
4. Existing Site documents. Before planning the River Operable Unit RI/FS activities, the Respondent will provide U.S. EPA all existing Site data (Upland and River Operable Units). Existing Site data includes presently available data relating to the varieties and quantities of hazardous substances, pollutants and contaminants at the Site and the results of previous sampling activities. Examples of existing information about the Site include:
 - a. Phase I Environmental Investigation of Manufactured Gas Plant Site, Sheboygan, Wisconsin, Simon Hydro-Search, June 30, 1992
 - b. Phase II Work Plan - Environmental Investigation Manufactured Gas Plant Site, Sheboygan, Wisconsin, Simon Hydro-Search, November 11, 1992
 - c. Sediment Sampling Work Plan - Former Manufactured Gas Plant Site, Sheboygan II, Wisconsin, Natural Resource Technology, Inc., June 27, 1994
 - d. Phase II Environmental Investigations Sheboygan I and II Former Manufactured Gas Plant Sites, Wisconsin Public Service Corporation letter to WDNR, April 25, 1995

- e. Sediment Sampling Work Plan Former Manufactured Gas Plant Site, Sheboygan, Wisconsin, Natural Resource Technology, Inc., August 31, 1995
- f. Phase II Environmental Investigation Report, Former Manufactured Gas Plant Site, North Water Street, Sheboygan, Wisconsin, Natural Resource Technology, Inc., June 28, 1996
- g. Sediment Investigation Report Former Manufactured Gas Plant Site, Sheboygan, Wisconsin, November 10, 1998
- h. Feasibility Study Work Plan Campmarina, Former Coal Gas Facility, Wisconsin Public Service Corporation, Sheboygan, Wisconsin, December 4, 1998
- i. Feasibility Study Campmarina, Former Coal Gas Facility, Wisconsin Public Service Corporation, Sheboygan, Wisconsin, May 7, 1999
- j. Feasibility Study for the Campmarina-Former Coal Gas Facility, Sheboygan, Wisconsin, Approval Letter, Wisconsin Department of Natural Resources, October 25, 1999
- k. Remedial Work Plan Phase I, Excavation and Grading Campmarina and Center Avenue Right-of-Way, Former Coal Gas Facility, Sheboygan, Wisconsin, Natural Resource Technology, Inc., February 2, 2000
- l. Pilot Test Work Plan, Campmarina and the Center Avenue Right-of-Way, Sheboygan, Wisconsin, Natural Resource Technology, Inc., March 30, 2000
- m. Phase II Remedial Work Plan, Campmarina and Center Avenue Right-of-Way, Former Coal Gas Facility, Sheboygan, Wisconsin, Natural Resource Technology, Inc., April 17, 2000
- n. Phase I and Phase 2 Remedial Work Plan Approval, Campmarina and Center Avenue Right of Way, Sheboygan, Wisconsin, Wisconsin Department of Natural Resources, July 12, 2000
- o. Phase I and II Remedy Documentation Report, Campmarina Former Coal Gas Facility, Sheboygan, Wisconsin, Natural Resource Technology, Inc., February 28, 2003
- p. 2003 Annual Operation Maintenance, and Monitoring Report Former Wisconsin Public Service Corporation Manufactured Gas Plant Site, Campmarina and Center Avenue Right-of-Way, Sheboygan, Wisconsin, Natural Resource Technology, Inc., December 31, 2003
- q. 2004 Annual Operation Maintenance, and Monitoring Report Former Wisconsin Public Service Corporation Manufactured Gas Plant Site, Campmarina and Center Avenue Right-of-Way, Sheboygan, Wisconsin, Natural Resource Technology, Inc., December 22, 2004

- r. 2005 Annual Operation Maintenance, and Monitoring Report Former Wisconsin Public Service Corporation Manufactured Gas Plant Site, Campmarina and Center Avenue Right-of-Way, Sheboygan, Wisconsin, Natural Resource Technology, Inc., November 28, 2005.

(B) Technical Letter Reports:

1. Within ninety (90) days of entering the AOC, the Respondent shall submit an Upland Operable Unit Technical Letter Report and a River Operable Unit Technical Letter Report to U.S. EPA with a copy to WDNR. These Technical Letter Reports are not subject to "approval" by U.S. EPA and WDNR. Instead, they will serve as the basis for technical discussions at the Technical Scoping Meeting described in (C), below.
2. The Technical Letter Reports will contain a concise description of field data collection tasks, conceptual site models, and other tasks necessary for completion of the River Operable Unit RI/FSs at this Site. The Upland Operable Unit Technical Letter Report will include site history, descriptions and analysis of previously collected data, implemented remedial actions, and on-going groundwater monitoring results. The River Operable Unit Technical Letter Report will include a description of previously performed tasks and will describe what additional work is necessary to sufficiently protect public health, welfare or the environment. The goal of the Technical Letter Reports, is to:
 - a. Summarize the technical information and analyses from the Sheboygan River and Harbor Site work as it relates to the River Operable Unit RI/FS activities at the Site.
 - b. Provide a factual summary of the existing historical data and each data set's usage (e.g., qualitative or quantitative) in completing the River Operable Unit RI/FS; and
 - c. Identifying/addressing data gaps in the River Operable Unit and the Upland Operable Unit, if applicable.

(C) Technical Scoping Meeting:

1. The Respondent's Technical Letter Reports will serve as the basis for the Technical Scoping Meeting.
2. U.S. EPA, WDNR, and the Respondent will attempt to hold the Technical Scoping Meeting within seven (7) to fourteen (14) business days of U.S. EPA's receipt of the Respondent's Technical Letter Reports.
3. The meeting will focus on the future use of the various sets of historical data based on its QA/QC; types of field data collection to be performed in the River Operable Unit and if appropriate, the Upland Operable Unit to address the identified data gaps; the data gaps themselves, and the conceptual site models.

4. U.S. EPA will provide the Respondent with a meeting summary subsequent to the Technical Scoping Meeting.

(D) Prepare and Submit RI/FS Planning Documents (Work Plan/Field Sampling Plan/Quality Assurance Project Plan):

1. General Requirements for the Site:

- When scoping the specific aspects of the project, the Respondent shall meet with U.S. EPA to discuss all significant project planning decisions and special concerns associated with the Site, if necessary.
- When scoping the specific aspects of the project, the Respondent shall incorporate any U.S. EPA approved Multi-site RI/FS documents (developed under CERCLA Docket V-W-06-C-847, such as conceptual site model, risk assessment framework, field sampling plan, quality assurance project plan), as appropriate.
- When scoping the specific aspects of the project, technical information and analyses used to support the Sheboygan River and Harbor Site ROD will be considered. If applicable, the Respondent shall identify and discuss with U.S. EPA the need to update such technical information.
- The RI/FS Work Plan shall include a detailed description of the tasks the Respondent shall perform, the information needed for each task, a detailed description of the information the Respondent shall produce during and at the conclusion of each task, and a description of the work products that the Respondent shall submit to U.S. EPA and WDNR. This includes the deliverables set forth in this SOW; a schedule for each of the required activities consistent with the RI/FS Guidance and other relevant guidance; and a project management plan including a data management plan (e.g., requirements for project management systems and software, minimum data requirements, data format and backup data management), monthly reports to U.S. EPA and WDNR, and meetings and presentations to U.S. EPA and WDNR at the conclusion of each major phase of the RI/FS. The Respondent shall refer to Appendix B of the RI/FS Guidance for a description of the required contents of the RI/FS Work Plan.

2. Upland Operable Unit Requirements

- a. Within sixty (60) days of receipt of the Technical Scoping Meeting summary, Respondent will submit a Draft Upland Operable Unit RI/FS Work Plan based upon the Upland Operable Unit Technical Letter Report and the agreements reached during the Technical Scoping Meeting. The RI/FS Work Plan will be submitted to U.S. EPA, with a copy to WDNR, for review by the agencies, and approval by U.S. EPA, pursuant to Section III, Document Review.

- b. The objective of the Upland Operable Unit RI/FS Work Plan is to present an Upland Operable Unit RI/FS strategy and general management plan taking into account data gaps identified by the U.S. EPA during its review of Upland Unit Technical Letter Report and prior upland work conducted under the State Issued Upland ROD.
- c. As directed by U.S. EPA following its review of the Upland Operable Unit Technical Report, the Respondent shall develop an RI/FS Work Plan for the Upland Operable Unit which may, at U.S. EPA's direction, include:
- A brief summary of the Site location, description, physiography, hydrology, geology, demographics, ecological, cultural and natural resource features, Site history, description of previous investigations and responses conducted at the Site by local, state, federal, or private parties, and Site data evaluations and project planning completed during the scoping process.
 - The Site background section shall discuss Upland Operable Unit areas of waste handling and disposal activities, the locations of existing groundwater monitoring wells, groundwater extraction wells, and previous surface water, sediment, soil, groundwater, and air sampling locations as well as remedial actions performed.
 - Work tasks, as determined by U.S. EPA to be applicable to the Upland Operable Unit, which may include those tasks identified in Section (D)3.c. of the SOW.
 - Annual groundwater monitoring plan to assess the performance of the existing remedial action.

3. River Operable Unit Requirements

River Operable Unit

- a. Within ninety (90) days of receipt of the Technical Scoping Meeting summary, Respondent will submit a Draft River Operable Unit RI/FS Work Plan, based upon it's the River Operable Unit Technical Letter Report and the agreements made during the Technical Scoping Meeting. This River Operable Unit Work Plan will include: the River Operable Unit RI/FS Work Plan with a project specific schedule, incorporating the Multi-Site Field Sampling Plan, and the Multi-Site Quality Assurance Project Plan. These documents will be submitted to U.S. EPA, with a copy to WDNR, for review by the agencies, and approval by U.S. EPA, pursuant to Section III, Document Review.
- d. The objective of the River Operable Unit RI/FS Planning Documents is to develop a River Operable Unit RI/FS strategy and general management plan taking into account the prior upland work conducted under the State Issued Upland ROD and, to the extent applicable, Sheboygan River and Harbor Site

ROD that accomplishes the following:

- A remedial investigation that determines the nature and extent of the release or threatened release of hazardous substances, pollutants, or contaminants at and from the River Operable Unit. In performing this investigation, the Respondent shall gather sufficient data, samples, and other information to fully characterize the nature and extent of the contamination in the River Operable Unit, to support the human health and ecological risk assessments, and to provide sufficient data for the identification and evaluation of remedial alternatives for the River Operable Unit.
 - A feasibility study that identifies and evaluates alternatives for the appropriate extent of remedial action necessary to prevent and/or mitigate the migration or the release or threatened release of hazardous substances, pollutants, or contaminants at and from the River Operable Unit.
 - The River Operable Unit RI/FS Planning Documents shall include the preliminary objectives for the remedial action at the Site; preliminary potential state and federal ARARs (chemical-specific, location-specific and action-specific consistent, as appropriate, with the ARARs determined to be applicable under the State Issued Upland ROD and the Sheboygan River and Harbor Site ROD); a description of the River Operable Unit management strategy developed by the Respondent and U.S. EPA during scoping; a preliminary identification of remedial alternatives; and data needs for fully characterizing the nature and extent of the contamination in the River Operable Unit, evaluating risks and developing and evaluating remedial alternatives. The River Operable Unit RI/FS Planning Documents shall reflect coordination with treatability study requirements, if any. The River Operable Unit RI/FS Planning Documents shall also include a process for and manner of refining and/or identifying additional Federal and State ARARs, and for preparing the human health and ecological risk assessments and the feasibility study.
- e. The Respondent shall develop the River Operable Unit RI/FS Work Plan as described in "Guidance for Conducting Remedial Investigations and Feasibility Studies Under CERCLA," October, 1988 and shall include:
- i. Site Background
 - A brief summary of the Site location, description, physiography, hydrology, geology, demographics, ecological, cultural and natural resource features, Site history, description of previous investigations and responses conducted at the Site by local, state, federal, or private parties, and Site data evaluations and project planning completed during the scoping process.

- The Site background section shall discuss Upland Operable Unit areas of waste handling and disposal activities, the locations of existing groundwater monitoring wells, groundwater extraction wells, and previous surface water, sediment, soil, groundwater, and air sampling locations relevant to the River Operable Unit. The River Operable Unit RI/FS Work Plan/Field Sampling Plan shall include a summary description of relevant available data and identify areas where hazardous substances, pollutants or contaminants were detected and the detected levels. This includes the data in previous reports. The River Operable Unit RI/FS Work Plan/Field Sampling Plan shall include tables displaying the minimum and maximum levels of detected hazardous substances, pollutants or contaminants in Site areas and media.
- ii. Work Plan/Field Sampling Plan
- The River Operable Unit Work Plan portion of the RI/FS Planning Documents shall be prepared to ensure that sample collection and analytical activities are conducted in accordance with technically acceptable protocols and that the data meet the Site-specific Data Quality Objectives as established in the Work Plan and referencing the Multi-Site Quality Assurance Project Plan ("QAPP") and FSP. All sampling and analyses performed shall conform to U.S. EPA direction, approval, and guidance regarding sampling, quality assurance/quality control ("QA/QC"), data validation, and chain of custody procedures. The Respondent shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with U.S. EPA guidance.
 - Upon request by U.S. EPA, the Respondent shall have such a laboratory analyze samples submitted by U.S. EPA for quality assurance monitoring. The Respondent shall provide U.S. EPA with the QA/QC procedures followed by all sampling teams and laboratories performing data collection and/or analysis. The Respondent shall also ensure the provision of analytical tracking information consistent with OSWER Directive No. 9240.0-2B, *Extending the Tracking of Analytical Services to PRP-Lead Superfund Sites*.
 - Upon request by U.S. EPA, the Respondent shall allow U.S. EPA or its authorized representatives to take split and/or duplicate samples of any samples collected by the Respondent or their contractors or agents. The Respondent shall notify U.S. EPA not less than fifteen (15) business days in advance of any sample collection activity. U.S. EPA shall have the right to take additional samples that it deems necessary.

iii. Data Gap Description/Data Acquisition

As part of the River Operable Unit FSP, the Respondent shall continue its analysis of existing data, which was initiated pursuant to Task 1. The Respondent shall identify those areas of the River Operable Unit that require further data and/or evaluation in order to define the extent of hazardous substances, pollutants or contaminants. This Section of the River Operable Unit FSP shall include a description of the number, types, and locations of samples to be collected. The River Operable Unit FSP shall include an environmental program to accomplish the following:

- Site Reconnaissance

The Respondent shall conduct site surveys, as appropriate, which may include, but not be limited to: property, boundary, utility rights-of-way, and topographic to assist in map preparation; land surveys; topographic mapping; and field screening.

- Geological Investigations (Sediments)

The Respondent shall conduct geological investigations to determine the extent of hazardous substances, pollutants or contaminants in sediments in the River Operable Unit.

- Hydrogeological Investigations (Surface Water)

The Respondent shall conduct hydrogeological investigations to determine the nature and extent of contamination of surface water from the River Operable Unit. The hydrogeological investigation may include, but not be limited to: collection of surface water; and surface water elevation measurements, as appropriate.

- Waste Investigation

All on-site solid waste, including hazardous waste, will likely be either investigation-derived waste or impacted media (e.g., contaminated soil, sediment, groundwater, and surface water). Therefore, it is expected that the waste investigation will only need to include characterization of the affected media within the River Operable Unit.

The Respondents shall characterize and dispose of investigation-derived wastes in accordance with local, state, and federal regulations (see the Fact Sheet, *Guide to Management of Investigation-Derived Wastes*, 9345.3-03FS (January 1992)).

- **Geophysical Investigation**

The Respondent may conduct geophysical investigations, as appropriate, to delineate, thicknesses and volume of non-native river sediment; the elevations of the underlying native sediment and the extent of debris. A geophysical investigation may include, as appropriate sediment thickness poling and coring.

- **Ecological Investigation**

The Respondent shall conduct ecological investigations to assess the impact to aquatic ecosystems from the disposal, release and/or migration of hazardous substances, pollutants or contaminants in the River Operable Unit which may include, as appropriate: wetland and habitat delineation; wildlife observations; community characterization; identification of endangered species; biota sampling; and population studies.

- **Treatability Studies**

If the Respondent or U.S. EPA identifies remedial actions that involve treatment, the Respondent shall include treatability studies as outlined in Task 6 of this SOW unless the Respondent satisfactorily demonstrates to U.S. EPA that such studies are not needed. When treatability studies are needed, the Respondent shall plan initial treatability testing activities (such as research and study design) to occur concurrently with Site characterization activities.

iv. **Quality Assurance Project Plan ("QAPP")**

- The Respondent shall reference the Multi-Site QAPP and include site-specific information within the River Operable Unit RI/FS Work Plan including sample analysis and data handling for samples collected during the River Operable Unit RI, based on the Administrative Order on Consent and guidance provided by U.S. EPA.
- The Respondent shall prepare the QAPP in accordance with "U.S. EPA Requirements of Quality Assurance Project Plans (QA/R-5)" (EPA/240/B-01/003, March 2001) "EPA Guidance for Quality Assurance Project Plans (QA/G-5)" (EPA/600/R-98/018, February 1998), EPA Region 5 instructions on the preparation of a Superfund Division Quality Assurance Project Plan, Revision 0, June 2000, and Guidance for the Data Quality Objectives Process (EPA QA/G-4, August 2000).
- The Respondent shall demonstrate, in advance to U.S. EPA's satisfaction, that each laboratory it may use is qualified to conduct

the proposed work. This includes use of methods and analytical protocols for the chemicals of concern in the media sampled within detection and quantification limits consistent with both QA/QC procedures and data quality objectives ("DQO") approved in the QAPP for the Site by U.S. EPA. The laboratory must have and follow an approved QA program. If a laboratory not in the Contract Laboratory Program ("CLP") is selected, methods consistent with CLP methods that would be used at this Site for the purposes proposed and QA/QC procedures approved by U.S. EPA shall be used. The Respondent shall only use laboratories which have a documented Quality Assurance Program which complies with ANSI/ASQC E-4 1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs," (American National Standard, January 5, 1995) and "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B-01-002, March 2001) or equivalent documentation as determined by U.S. EPA.

- The Respondent shall participate in a meeting or conference call with U.S. EPA, if either party deems it necessary, to review the Multi-Site QAPP. The purpose of this meeting or conference call is to discuss QAPP elements to be clarified or included in the River Operable Unit RI/FS Work Plan.

v. Health and Safety Plan

- The Respondent shall reference the Multi-Site Health and Safety Plan that conforms to their health and safety program and complies with the Occupational Safety and Health Administration ("OSHA") regulations and protocols outlined in Title 29 of the Code of Federal Regulations (C.F.R.), Part 1910.
- The Multi-Site Health and Safety Plan includes the eleven (11) elements described in the RI/FS Guidance such as a health and safety risk analysis, a description of monitoring and personal protective equipment, medical monitoring, and Site control.
- U.S. EPA does not "approve" the Respondent's Health and Safety Plan, but rather U.S. EPA reviews it to ensure that all the necessary elements are included, and that the plan provides for the protection of human health and the environment, and after that review provides comments as may be necessary and appropriate.
- The safety plan follows the U.S. EPA's guidance document *Standard Operating Safety Guides* (Publication 9285.1-03, PB92-963414, June 1992).

TASK 2: COMMUNITY RELATIONS SUPPORT

- U.S. EPA and WDNR have the responsibility of developing and implementing community relations activities for the Site. The critical community relations planning steps performed by U.S. EPA and WDNR include conducting community interviews and developing a Community Relations Plan.
- Although implementing the Community Relations Plan is the responsibility of U.S. EPA and WDNR, the Respondent, if directed by U.S. EPA, shall assist by providing information regarding the Site's history; participating in public meetings; assisting in preparing fact sheets for distribution to the general public; or conducting other activities approved by U.S. EPA.
- All PRP-conducted community relations activities, that are conducted pursuant to the U.S. EPA and WDNR Community Relations Plan, shall be planned and developed in coordination with U.S. EPA and WDNR. Respondent may continue to conduct its own public relations activities in the Sheboygan area.

TASK 3: SITE CHARACTERIZATION

Taking into account the prior work conducted at the Site under the State Issued Upland ROD:

(A) Upland Operable Unit

If appropriate, the Respondent shall collect additional data of the Upland Operable Unit. These tasks, if determined necessary following U.S. EPA review and comment on the Technical Letter, will be focused on specific data gaps, if any.

(B) Investigate and Define River Operable Unit Physical and Biological Characteristics

1. The Respondent shall collect data on the physical and biological characteristics of the River Operable Unit and its surrounding areas including the physical physiography, geology, and hydrology, and specific physical characteristics identified in the work plan. This information will be ascertained through a combination of physical measurements, observations, and sampling efforts and will be utilized to define potential transport pathways and human and ecological receptor populations.
2. In defining the River Operable Unit's physical characteristics and in the event existing data proves insufficient for an engineering evaluation, the Respondent will also obtain sufficient engineering data (such as grain size distribution) for the projection of contaminant fate and transport, and development and screening of remedial action alternatives, including information to assess treatment technologies.
3. Define Sources of Contamination
 - a. The Respondent shall characterize the media in the River Operable Unit for sources of contamination. For the River Operable Unit, Respondent shall

determine the areal extent and depth of contamination by sampling at incremental depths on a sampling grid or otherwise defined in the approved Work Plan.

- b. Respondents shall determine the physical characteristics and chemical constituents and their concentrations for all known and discovered sources of contamination at the River Operable Unit.
- c. The Respondent shall conduct sufficient sampling to define the boundaries of the contaminant sources to the level established in the Multi-Site QAPP and DQOs, with additional information presented in the River Operable Unit RI/FS Work Plan, if appropriate.
- d. Defining the source of contamination will include analyzing the potential for contaminant release, contaminant mobility and persistence, and characteristics important for evaluating remedial actions, including information to assess appropriate treatment technologies.

4. Describe the Nature and Extent/Fate and Transport of Contamination

The Respondent shall gather information to describe the nature and extent of contamination as a final step during the field investigation. To describe the nature and extent of contamination, the Respondent will utilize the information on the Site's (Upland and River Operable Units) physical and biological characteristics and sources of contamination to give a preliminary estimate of the contaminants that may have migrated. The Respondent will then implement an iterative monitoring program and any study program identified in the River Operable Unit RI/FS work plan or sampling plan such that by using analytical techniques sufficient to detect and quantify the concentration of contaminants, the migration of contaminants through the various media in the River Operable Unit can be determined. In addition, the Respondent shall gather data for calculations of contaminant fate and transport. This process is continued until the area and depth of contamination are known to the level of contamination established in the QAPP and DQOs. The Respondent will build upon existing Site-specific data as well as data generated by this RI/FS.

5. Evaluate River Operable Unit characteristics

The Respondent shall analyze and evaluate the data to describe: (1) River Operable Unit physical and biological characteristics, (2) contaminant source characteristics, (3) nature and extent of contamination and (4) contaminant fate and transport. Results of the River Operable Unit physical characteristics, source characteristics, and extent of contamination analyses are utilized in the analysis of contaminant fate and transport. The Respondent shall evaluate the actual and potential magnitude of releases from the sources, and horizontal and vertical spread of contamination as well as mobility and persistence of contaminants. Where modeling is appropriate, such models shall be identified to U.S. EPA in a technical memorandum prior to their use. All data and programming, including any proprietary programs, shall be made available to U.S. EPA together with a sensitivity analysis. The River Operable Unit RI data shall be presented electronically according to

U.S. EPA Region 5 format requirements. Analysis of data collected for River Operable Unit characterization will meet the DQOs developed in the River Operable Unit RI/FS Work Plan.

6. Risk Assessment

- a. The Respondent shall conduct a baseline risk assessment to determine whether River Operable Unit contaminants pose a current or potential risk to human health and the environment in the absence of any remedial action. The Respondent shall address the contaminant identification, exposure assessment, toxicity assessment, and risk characterization, as appropriate.
- b. Respondent shall conduct a baseline human health risk assessment that focuses on actual and potential risks to persons coming into contact with hazardous substances, pollutants or contaminants present in the River Operable Unit as well as risks to the nearby residential, recreational and industrial worker populations, as appropriate, from exposure to hazardous substances, pollutants or contaminants in sediments and surface water. The human health risk assessment shall define central tendency and reasonable maximum estimates of exposure for current land use conditions and reasonable future land use conditions, as appropriate.
- c. The human health risk assessment shall use data from the Site (Upland and River Operable Units) and nearby areas to identify the contaminants of concern (COC), provide an estimate of how and to what extent human receptors might be exposed to these COCs, and provide an assessment of the health effects associated with these COCs. The human health risk assessment shall project the potential risk of health problems occurring if no cleanup action is taken in the River Operable Unit and/or nearby areas, and establish target action levels for COCs (carcinogenic and non-carcinogenic).
- d. The Respondent shall conduct the human health risk assessment in accordance with the Multi-Site Risk Assessment Framework which incorporates U.S. EPA guidance documents including: "Risk Assessment Guidance for Superfund (RAGS), Volume I - Human Health Evaluation Manual (Part A)," Interim Final (EPA-540-1-89-002)," OSWER Directive 9285.7-01A; December 1, 1989; and "Risk Assessment Guidance for Superfund (RAGS), Volume I - Human Health Evaluation Manual (Part D, Standardized Planning, Reporting, and Review of Superfund Risk Assessments)," Interim, (EPA 540-R-97-033), OSWER 9285.7-01D, January, 1998. Additional relevant guidance may be found in Exhibit A of this SOW. Additional applicable or relevant guidance may be used, if appropriate.
- e. The Respondent shall prepare the Human Health Risk Assessment according to the guidelines outlined below:

- **Hazard Identification (sources)**
The Respondent shall review available information on the hazardous substances present at the Site and identify the major contaminants of concern.
- **Dose-Response Assessment**
Contaminants of concern should be selected based on their intrinsic toxicological properties and site-relatedness.
- **Conceptual Exposure/Pathway Analysis**
Critical exposure pathways (e.g., drinking water) shall be identified and analyzed. The proximity of contaminants to exposure pathways and their potential to migrate into critical exposure pathways shall be assessed.
- **Characterization of Site and Potential Receptors**
The Respondent shall identify and characterize human populations in the exposure pathways.
- **Exposure Assessment**
The exposure assessment will identify the magnitude of actual or potential human exposures, the frequency and duration of these exposures, and the routes by which receptors are exposed. The exposure assessment shall include an evaluation of the likelihood of such exposures occurring and shall provide the basis for the development of acceptable exposure levels. In developing the exposure assessment, The Respondent shall develop reasonable maximum estimates of exposure for both current land use conditions and potential land use conditions in the River Operable Unit.
- **Risk Characterization**
During risk characterization, chemical-specific toxicity information, combined with quantitative and qualitative information from the exposure assessment, shall be compared to measured levels of contaminant exposure levels and the levels predicted through environmental fate and transport modeling. These comparisons shall determine whether concentrations of contaminants at or near the River Operable Unit are affecting or could potentially affect human health.
- **Identification of Limitations/Uncertainties**
The Respondent shall identify critical assumptions (e.g., background concentrations and conditions) and uncertainties in the report.
- **Site Conceptual Model**
Based on contaminant identification, exposure assessment, toxicity assessment, and risk characterization, The Respondent shall develop a conceptual model of the Site (River Operable Unit).
- **Final Human Health Risk Assessment Report for the River Operable Unit**
After the draft Human Health Risk Assessment Report for the River

Operable Unit has been reviewed and commented on by U.S. EPA, The Respondent will incorporate U.S. EPA comments and submit the final Human Health Risk Assessment Report for the River Operable Unit.

f. The Respondent shall prepare the Baseline Ecological Risk Assessment for the River Operable Unit as outlined in the Multi-Site Risk Assessment Framework and according to the guidelines outlined below, as appropriate:

- Utilize U.S. EPA guidance including, at a minimum: "Ecological Risk Assessment Guidance for Superfund, Process for Designing and Conducting Ecological Risk Assessments, (EPA-540-R-97-006, June 1997), OSWER Directive 9285.7-25. Additional relevant guidance may be found in Exhibit A of this SOW. Additional applicable or relevant guidance may be used only if approved by U.S. EPA's RPM.
- Evaluate and assess the risk to the environment posed by River Operable Unit contaminants.

g. Prepare a draft Baseline Ecological Risk Assessment Report for the River Operable Unit that addresses the following:

- **Hazard Identification (sources)**
The Respondent shall review available information on the hazardous substances present in the River Operable Unit and identify the major contaminants of concern.
- **Dose-Response Assessment**
Contaminants of concern should be selected based on their intrinsic toxicological properties.
- **Conceptual Exposure/Pathway Analysis**
The Multi-Site CSM will be used to identify and analyze critical exposure pathways (e.g., surface water). The proximity of contaminants to exposure pathways and their potential to migrate into critical exposure pathways shall be assessed.
- **Characterization of Site and Potential Receptors**
The Multi-Site CSM will be used to identify and characterize environmental exposure pathways.
- **Select Chemicals, Indicator Species, and End Points**
In preparing the assessment, The Respondent will select representative chemicals, indicator species (species that are especially sensitive to environmental contaminants), and end points on which to concentrate, as discussed in the Multi-Site Risk Assessment Framework.

- **Exposure Assessment**
As discussed in the Multi-Site Risk Assessment Framework, the exposure assessment will identify the magnitude of actual or environmental exposures, the frequency and duration of these exposures, and the routes by which receptors are exposed. The exposure assessment shall include an evaluation of the likelihood of such exposures occurring and shall provide the basis for the development of acceptable exposure levels. In developing the exposure assessment, The Respondent shall develop reasonable maximum estimates of exposure for both current land use conditions and potential land use conditions in the River Operable Unit.
- **Toxicity Assessment/Ecological Effects Assessment**
The toxicity and ecological effects assessment will address the types of adverse environmental effects associated with chemical exposures, the relationships between magnitude of exposures and adverse effects, and the related uncertainties for contaminant toxicity (e.g., weight of evidence for a chemical's carcinogenicity).
- **Risk Characterization**
During risk characterization, chemical-specific toxicity information, combined with quantitative and qualitative information from the exposure assessment, shall be compared to measured levels of contaminant exposure levels and the levels predicted through environmental fate and transport modeling. These comparisons shall determine whether concentrations of contaminants at or near the River Operable Unit are affecting or could potentially affect the environment.
- **Identification of Limitations/Uncertainties**
Identify critical assumptions (e.g., background concentrations and conditions) and uncertainties in the report.
- **Site Conceptual Model**
Based on contaminant identification, exposure assessment, toxicity assessment, and risk characterization. The Respondent shall develop a conceptual model of the Site.

TASK 4: REMEDIAL INVESTIGATION ("RI") REPORT

1. UPLAND OPERABLE UNIT RI REPORT

- (A) The Final Upland Operable Unit RI/FS Work Plan will contain the schedule for the submission of the Upland Operable Unit RI Report, Feasibility Study, and all other deliverables (i.e., monthly progress reports) deemed appropriate by U.S. EPA.
- (B) The Upland Operable Unit RI Report shall be consistent with the AOC and this SOW.

- (C) The Upland Operable Unit RI Report shall accurately establish the Upland Operable Unit characteristics, considering the work done under the State issued ROD, such as media contaminated, extent of contamination, and the physical boundaries of the contamination.
- (D) The Respondent shall complete and submit an Upland Operable Unit RI Report to U.S. EPA for review and approval pursuant to Section IV and it shall include the following:
 - 1) Executive Summary
 - 2) Site Background
 - 3) The Respondent shall assemble and review available facts about the regional conditions and conditions specific to the site under investigation referencing the Technical Letter Report, as appropriate. If applicable, the RI Report shall include additional field investigation, additional field investigation, analysis and methodologies for work performed under this SOW.
 - 4) Analysis of remedy implemented under the State Issued Upland ROD
 - 5) Summary and Conclusions.

2. RIVER OPERABLE UNIT RI REPORT

- (A) The Final River Operable Unit RI/FS Planning documents will contain the schedule for submission of the River Operable Unit RI Report, Risk Assessment Reports, Treatability Study Reports, Feasibility Study Reports, and all other deliverables (i.e., monthly progress reports) deemed appropriate by U.S. EPA. It is expected that all data collected will be analyzed and validated on a reasonable schedule and will be fast-tracked to the extent possible (depending upon the type of sample, the analytical methods, the laboratory availability). Schedules for field work, data analysis, and data validation will be included in the project schedule, submitted with the River Operable Unit RI/FS Work Plan.
- (B) Based on that final approved schedule, the Respondent shall submit to U.S. EPA, for review and approval pursuant to Section IV, a River Operable Unit RI Report addressing all of the River Operable Unit.
- (C) The River Operable Unit RI Report shall be consistent with the AOC and this SOW.
- (D) The River Operable Unit RI Report shall take into account the work done under the State Issued Upland ROD.
- (E) The River Operable Unit RI Report shall accurately establish the River Operable Unit characteristics, considering the work done under the State Issued Upland ROD, such as media contaminated, extent of contamination, and the physical boundaries of the contamination. Pursuant to this objective, the Respondent shall obtain only the essential

amount of detailed data necessary to determine the key contaminant(s) movement and extent of contamination source areas.

- (F) The key contaminant(s) must be selected based on persistence and mobility in the environment and the degree of hazard.
- (G) The key contaminant(s) identified in the River Operable Unit RI shall be evaluated for receptor exposure and an estimate of the key contaminant(s) level reaching human or environmental receptors must be made.
- (H) The Respondent shall use existing standards and guidelines and other criteria as identified in the Multi-Site Risk Assessment Framework and accepted by the U.S. EPA as appropriate for the situation may be used to evaluate effects on human receptors that may be exposed to the key contaminant(s) above appropriate standards or guidelines.
- (H) The Respondent shall complete and submit a River Operable Unit RI Report to U.S. EPA for review and approval pursuant to Section IV and it shall include the following:

1) Executive Summary

2) Site Background

The Respondent shall assemble and review available facts about the regional conditions and conditions specific to the site under investigation.

3) Analysis of remedy implemented under the State Issued Upland ROD, as it relates to the CSM.

4) Investigation

- a. Field Investigation & Technical Approach
- b. Chemical Analysis & Analytical Methods
- c. Field Methodologies.
 - Biological
 - Surface Water
 - Sediment
 - Hydrogeological Assessment

5) Site Characteristics

- Geology
- Hydrogeology
- Meteorology
- Demographics and Land Use

6) Nature and Extent of Contamination

- Contaminant Sources
- Contaminant Distribution and Trends.
- Fate and Transport
- Contaminant Characteristics

- Transport Processes
- Contaminant Migration Trends

7) Human Risk Assessment

- Hazard Identification (sources).
- Dose-Response Assessment.
- Prepare Conceptual Exposure/Pathway Analysis.
- Characterization of Site and Potential Receptors.
- Exposure Assessment.
- Risk Characterization.
- Identification of Limitations/Uncertainties.
- Site Conceptual Model

8) Ecological Risk Assessment

- Hazard Identification (sources).
- Dose-Response Assessment.
- Prepare Conceptual Exposure/Pathway Analysis.
- Characterization of Site and Potential Receptors.
- Select Chemicals, Indicator Species, and End Points.
- Exposure Assessment.
- Toxicity Assessment/Ecological Effects Assessment.
- Risk Characterization.
- Identification of Limitations/Uncertainties.
- Site Conceptual Model.

9) Summary and Conclusions.

TASK 5: DEVELOPMENT AND SCREENING OF ALTERNATIVES FOR THE UPLAND OPERABLE UNIT (IF APPLICABLE) AND RIVER OPERABLE UNIT (TECHNICAL MEMORANDUM)

The Respondent shall develop and screen remedial alternatives the Upland Operable Unit (if applicable) and for the River Operable Unit to determine an appropriate range of waste management options that the Respondent shall evaluate. This range of alternatives shall include, as appropriate, options in which treatment is used to reduce the toxicity, mobility, or volume of wastes, but which vary in the types of treatment, the amount treated, and the manner in which long-term residuals or untreated wastes are managed; options involving containment with little or no treatment; options involving both treatment and containment; and a no-action alternative. The Respondent shall perform the following activities as a function of the development and screening of remedial alternatives:

The Respondent shall prepare and submit to U.S. EPA and WDNR a technical memorandum for this task. An Upland Operable Unit Alternatives Screening Technical Memorandum (if applicable) shall be submitted 60 calendar days after submittal of the Draft Upland Operable Unit RI Report (if applicable). A River Operable Unit Alternatives Screening Technical Memorandum shall be submitted 60 calendar days after submittal of the Draft River Operable Unit RI Report.

5.1 Alternatives Screening Technical Memorandum

The Upland Operable Unit (if applicable) and River Operable Unit Alternatives Screening Technical Memorandum shall summarize the work performed and the results of each of the above tasks, and shall include an alternatives array summary. If required by U.S. EPA, the Respondent shall modify the alternatives array to assure that the array identifies a complete and appropriate range of viable alternatives to be considered in the detailed analysis. The Upland Operable Unit (if applicable) and River Operable Unit Alternatives Screening Technical Memorandum shall document the methods, the rationale and the results of the alternatives screening process, and shall include:

5.1.1 Remedial Action Objectives

The Respondent shall develop Remedial Action Objectives (RAOs) for the Upland Operable Unit (if applicable) and River Operable Unit. Based on the baseline human health and ecological risk assessments, the Respondent shall document the RAOs which shall specify the contaminants and media of concern, potential exposure pathways and receptors, and contaminant level or range of levels (at particular locations for each exposure route) that are protective of human health and the environment. RAOs shall be developed by considering the factors set forth in 40 C.F.R. § 300.430(e)(2)(i).

5.1.2 Identify Areas or Volumes of Media

The Respondent shall identify areas or volumes of media in the Upland Operable Unit (if applicable) and River Operable Unit to which response actions may apply, taking into account requirements for protectiveness as identified in the RAOs. The Respondent shall also take into account the chemical and physical characterization of the Upland Operable Unit (if applicable) and River Operable Unit.

5.1.3 Identify, Screen, and Document Remedial Technologies

Based on the preliminary screening process, the Respondent shall identify and evaluate applicable technologies and eliminate those that cannot be implemented in the Upland Operable Unit (if applicable) and River Operable Unit. The Respondent shall evaluate process options on the basis of effectiveness, implementability, and cost factors to select and retain one or, if necessary, more representative processes for each technology type. The Respondent shall summarize and include the technology types and process options in the Upland Operable Unit (if applicable) and River Operable Unit Alternatives Screening Technical Memorandum. Whenever practicable, the alternatives shall also consider the CERCLA preference for treatment over conventional containment or land disposal approaches.

5.1.4 Assemble and Document Alternatives

The Respondent shall assemble the selected representative technologies into alternatives for each affected medium in the Upland Operable Unit (if applicable) and River Operable Unit. Together, all of the alternatives shall represent a range of treatment and containment combinations that shall address the Upland Operable Unit (if applicable) and River Operable Unit in part or as a whole.

The Respondent shall prepare a summary of the assembled alternatives and their related ARARs. If necessary, the Respondent shall conduct the screening of alternatives to assure that only the alternatives with the more favorable composite evaluation of all factors are retained for further analysis. As appropriate, the screening shall preserve the range of treatment and containment alternatives that was initially developed. The Respondent shall specify the reasons for eliminating alternatives during the preliminary screening process.

TASK 6: UPLAND OPERABLE UNIT (IF APPLICABLE) AND RIVER OPERABLE UNIT TREATABILITY STUDIES

(A) If U.S. EPA or the Respondent determines that treatability testing is necessary for the Upland Operable Unit (if applicable) or River Operable Unit, the Respondent shall conduct treatability studies. In addition, if applicable, the Respondent shall use the testing results and operating conditions in the detailed design of the selected remedial technology.

(B) The Respondent shall perform the following activities if treatability testing is deemed necessary:

1. Determine Candidate Technologies and of the Need for Testing for the Upland Operable Unit (if applicable) or River Operable Unit:
The Respondent shall submit a Candidate Technologies and Testing Needs Technical Memorandum for the Upland Operable Unit (if applicable) or River Operable Unit, subject to U.S. EPA and WDNR review and U.S. EPA approval that identifies candidate technologies for a treatability studies program. The Respondent shall submit the technical memorandum as early as project planning (Task 1) and no later than at the time of submittal of the Upland Operable Unit (if applicable) and River Operable Unit Alternative Screenings Technical Memorandum to avoid any potential delays in the FS. The list of candidate technologies shall cover the range of technologies required for alternatives analysis. The Respondent shall determine and refine the specific data requirements for the testing program during Upland Operable Unit (if applicable) and River Operable Unit site characterization and the development and screening of remedial alternatives.
2. Conduct Literature Survey and Determine the Need for Testing:
The Respondent shall conduct a literature survey to gather information on the performance, relative costs, applicability, removal efficiencies, operation and maintenance ("O&M") requirements, and implementability of candidate technologies for the Upland Operable Unit (if applicable) and River Operable Unit. If the Respondent has not sufficiently demonstrated practical candidate technologies, or if such technologies cannot be adequately evaluated for the Upland Operable Unit (if applicable) and River Operable Unit on the basis of the available information, the Respondent shall conduct treatability testing. If U.S. EPA determines that treatability testing is necessary, and the Respondent cannot demonstrate to U.S. EPA's satisfaction that such testing is unnecessary, then the Respondent shall submit a statement of work to U.S. EPA and WDNR that outlines the steps and the data necessary to evaluate and initiate the Upland Operable Unit

(if applicable) and River Operable Unit treatability testing program within ninety (90) days of a request of the U.S. EPA.

3. Evaluate Treatability Studies

Once a decision has been made to perform treatability studies for the Upland Operable Unit (if applicable) and River Operable Unit, U.S. EPA will decide on the type of treatability testing to use (e.g., bench versus pilot). Because of the time required to design, fabricate, and install pilot scale equipment as well as perform testing for various operating conditions, the decision to perform pilot testing will be made as early in the process as possible to minimize potential delays of the Upland Operable Unit (if applicable) or River Operable Unit FS.

4. Treatability Testing and Deliverables

i. Upland Operable Unit (if applicable) and River Operable Unit Treatability Testing Work Plan and Sampling and Analysis Plan ("SAP")

Within ninety (90) days of U.S. EPA's request, the Respondent shall prepare an Upland Operable Unit (if applicable) and River Operable Unit Treatability Testing Work Plan and a SAP, or amendments to the original Upland Operable Unit (if applicable) and River Operable Unit RI/FS Work Plan, FSP and QAPP, for U.S. EPA and WDNR review and U.S. EPA approval that describes the Upland Operable Unit (if applicable) and River Operable Unit background, the remedial technology or technologies to be tested, test objectives, experimental procedures, treatability conditions to be tested, measurements of performance, analytical methods, data management and analysis, health and safety, and residual waste management. The Respondent shall document the Upland Operable Unit (if applicable) and River Operable Unit data quality objectives ("DQO") for treatability testing as well. If pilot scale treatability testing is to be performed, the Upland Operable Unit (if applicable) and River Operable Unit Treatability Study Work Plan shall describe pilot plant installation and start-up, pilot plant operation and maintenance procedures, operating conditions to be tested, a sampling plan to determine pilot plant performance, and a detailed health and safety plan. If testing is to be performed off-Site, the plans shall address all permitting requirements.

ii. Upland Operable Unit (if applicable) and River Operable Unit Treatability Study Health and Safety Plan

If the original Health and Safety Plan is not adequate for defining the activities to be performed during the treatability tests, the Respondent shall submit a separate or amended Health and Safety Plan. U.S. EPA and WDNR will review, but do not "approve" the Treatability Study Health and Safety Plan.

iii. Upland Operable Unit (if applicable) and River Operable Unit Treatability Study Evaluation Report

Following the completion of the treatability testing, the Respondent shall analyze and interpret the testing results in a technical report to U.S. EPA and WDNR. The Respondent shall submit the treatability study report according to the schedule in the Upland Operable Unit (if applicable) and River Operable Unit Treatability Study Work Plan. This report may be a part of the Upland Operable Unit (if applicable) and River Operable Unit RI Report or submitted as a separate deliverable. The Upland Operable Unit (if applicable) and River Operable Unit Treatability Study Evaluation Report shall evaluate each technology's effectiveness, implementability and cost, and actual results as compared with predicted results. The report shall also evaluate full scale application of the technology, including a sensitivity analysis identifying the key parameters affecting full-scale operation.

TASK 7: DETAILED ANALYSIS OF ALTERNATIVES (FS REPORT)

The Respondent shall conduct and present a detailed analysis of remedial alternatives to provide U.S. EPA with the information needed to select a Site remedy. The Upland Operable Unit FS will take into account the remedial action performed under the State Contract and, to the extent necessary, alternatives will be evaluated considering the current and future use of the Site. A FS Report will be prepared for the River Operable Unit based on the results of Task 5 (Development and Screening of Alternatives) and Task 6 (Treatability Studies), identified above.

(A) Detailed Analysis of Alternatives

The Respondent shall conduct a detailed analysis of the remedial alternatives for the Upland Operable Unit (if applicable) and the River Operable Unit which takes into account the remedy implemented pursuant to the State Issued Upland ROD. The detailed analysis shall include an analysis of each remedial option against a set of nine evaluation criteria, and a comparative analysis of all options using the same nine criteria as a basis for comparison.

1. Apply Nine Criteria and Document Analysis

The Respondent shall apply the nine evaluation criteria to the assembled remedial alternatives to ensure that the selected remedial alternative will protect human health and the environment and meet remedial action objectives; will comply with, or include a waiver of, Upland Operable Unit and the River Operable Unit ARARs; will be cost-effective; will utilize permanent solutions and alternative treatment technologies, or resource recovery technologies, to the maximum extent practicable; and will address the statutory preference for treatment as a principal element. The evaluation criteria include: (1) overall protection of human health and the environment and how the alternative meets each of the remedial action objectives; (2) compliance with Upland Operable Unit and the River Operable Unit ARARs; (3) long-term effectiveness and permanence; (4) reduction of toxicity, mobility, or volume; (5) short-term effectiveness; (6) implementability; (7) cost; (8) state (or support agency) acceptance; and (9) community acceptance. (Note:

criteria 8 and 9 are considered after the Upland Operable Unit and the River Operable Unit RI/FS report has been released to the general public.) For each alternative the Respondent shall provide: (1) A description of the alternative that outlines the waste management strategy involved and identifies the key Upland Operable Unit and the River Operable Unit ARARs associated with each alternative, and (2) A discussion of the individual criterion assessment. If the Respondent does not have direct input on criteria (8) state (or support agency) acceptance and (9) community acceptance, U.S. EPA will address these criteria.

2. Compare both the Upland Operable Unit Alternatives and the River Operable Unit Alternatives Against Each Other and Document the Comparison of Alternatives

The Respondent shall perform a comparative analysis between the remedial alternatives for the River Operable Unit and to the extent necessary, the Upland Operable Unit. That is, the Respondent shall compare each alternative against the other alternatives using the evaluation criteria as a basis of comparison. U.S. EPA will identify and select the preferred alternative.

(B) Upland Operable Unit Feasibility Study Report (if applicable)

Within sixty (60) days after receipt of U.S. EPA's comments on the Upland Operable Unit RI Report, the Respondent shall prepare and submit a draft Upland Operable Unit FS Report to WDNR and U.S. EPA for review pursuant to Section IV. The Upland Operable Unit FS report shall focus on the remedial alternatives previously identified and present updates, as appropriate. In addition, the Upland Operable Unit FS Report shall also include the information U.S. EPA will need to prepare relevant sections of the Record of Decision ("ROD") for the Site [see Chapters 6 and 9 of U.S. EPA's *A Guide to Preparing Superfund Proposed Plans, Records of Decision, and Other Remedy Selection Decision Documents* (EPA 540-R-98-031, July 1999) for the information that is needed].

(B) River Operable Unit Feasibility Study Report

Within forty-five (45) days after receipt of U.S. EPA's comments on the River Operable Unit Alternatives Screening Memorandum, the Respondent shall prepare and submit a draft River Operable Unit FS Report to U.S. EPA and WDNR for review pursuant to Section IV. The River Operable Unit FS report shall summarize the development and screening of the remedial alternatives and present the detailed analysis of remedial alternatives. In addition, the River Operable Unit FS Report shall also include the information U.S. EPA will need to prepare relevant sections of the Record of Decision ("ROD") for the Site [see Chapters 6 and 9 of U.S. EPA's *A Guide to Preparing Superfund Proposed Plans, Records of Decision, and Other Remedy Selection Decision Documents* (EPA 540-R-98-031, July 1999) for the information that is needed].

TASK 8: PROGRESS REPORTS

The Respondent shall submit a monthly written progress reports to U.S. EPA and WDNR concerning actions undertaken pursuant to the AOC and this SOW in the Upland Operable Unit

and River Operable Units, beginning ninety (90) calendar days after the Effective Date of the AOC, until the termination of the AOC, unless otherwise directed in writing by the RPM. These reports shall include, but not be limited to, a description of all significant developments during the preceding period, including the specific work that was performed and any problems that were encountered; a summary of the analytical data that was received during the reporting period [refer to electronic data submission requirements in Section III, paragraph 3]; and the developments anticipated during the next reporting period, including a schedule of work to be performed, anticipated problems, and actual or planned resolutions of past or anticipated problems. The monthly progress reports will summarize the field activities conducted each month including, but not limited to drilling and sample locations, depths and descriptions; boring logs; sample collection logs; field notes; problems encountered; solutions to problems; a description of any modifications to the procedures outlined in the Upland Operable Unit and River Operable Unit RI/FS Work Plan, the FSP, QAPP or Health and Safety Plan, with justifications for the modifications; and upcoming field activities.

EXHIBIT A PARTIAL LIST OF GUIDANCE

The following list, although not comprehensive, comprises many of the regulations and guidance documents that apply to the RI/FS process. The majority of these guidance documents, and additional applicable guidance documents, may be downloaded from the following websites:

<http://www.epa.gov/superfund/pubs.htm> (General Superfund)
<http://clu.in.org> (Site Characterization, Monitoring and Remediation)
<http://www.epa.gov/ORD/NRMRL/Pubs> (Site Characterization and Monitoring)
http://www.epa.gov/quality/qa_docs.html#guidance (Quality Assurance)
<http://www.epa.gov/superfund/programs/risk/toolthh.htm> (Risk Assessment - Human)
<http://www.epa.gov/superfund/programs/risk/tooleco.htm> (Ecological Risk Assessment)
<http://www.epa.gov/superfund/programs/lead> (Risk Assessment - Lead)
<http://cfpub.epa.gov/ncea> (Risk Assessment - Exposure Factors/Other)
<http://www.epa.gov/nepis/srch.htm> (General Publications Clearinghouse)
<http://www.epa.gov/clariton/clhtml/pubtitle.html> (General Publications Clearinghouse)

- (1) The (revised) National Contingency Plan;
- (2) *Guidance for Conducting Remedial Investigations and Feasibility Studies Under CERCLA*, U.S. EPA, Office of Emergency and Remedial Response, OSWER Directive No. 9355.3-01, EPA/540/G-89/004, October 1988.
- (3) *Conducting Remedial Investigations/Feasibility Studies for CERCLA Municipal Landfill Sites*, U.S. EPA, Office of Emergency and Remedial Response, EPA/540/P-91/001, February 1991.
- (4) *Implementing Presumptive Remedies*, U.S. EPA, Office of Emergency and Remedial Response, EPA-540-R-97-029, October 1997.
- (5) *Presumptive Remedy for CERCLA Municipal Landfill Sites*, U.S. EPA, OSWER Directive No. 9355.0-49FS, EPA-540-F-93-035, September 1993.
- (6) *Presumptive Remedies: CERCLA Landfill Caps RI/FS Data Collection Guide*, U.S. EPA, OSWER 9355.3-18FS, EPA/540/F-95/009, August 1995.
- (7) *Presumptive Response Strategy and Ex-Situ Treatment Technologies for Contaminated Ground Water at CERCLA Sites*, OSWER 9283.1-12, EPA-540-R-96-023, October 1996.
- (8) *Field Analytical and Site Characterization Technologies Summary of Applications*, U.S. EPA, EPA-542-F-97-024, November 1997.

- (9) *CLU-IN Hazardous Waste Clean-Up Information World Wide Web Site*, U.S. EPA, EPA-542-F-99-002, February 1999.
- (10) *Field Sampling and Analysis Technology Matrix and Reference Guide*, U.S. EPA, EPA-542-F-98-013, July 1998.
- (11) *Subsurface Characterization and Monitoring Techniques: A Desk Reference Guide, Volumes 1 and 2*, U.S. EPA, EPA/625/R-93/003, May 1993.
- (12) *Use of Airborne, Surface, and Borehole Geophysical Techniques at Contaminated Sites: A Reference Guide*, U.S. EPA, EPA/625/R-92/007(a,b), September 1993.
- (13) *Innovations in Site Characterization: Geophysical Investigation at Hazardous Waste Sites*, U.S. EPA, EPA-542-R-00-003, August 2000.
- (14) *Innovative Remediation and Site Characterization Technology Resources*, U.S. EPA, OSWER, EPA-542-F-01-026b, January 2001.
- (15) *Handbook of Suggested Practices for the Design and Installation of Ground-Water Monitoring Wells*, U.S. EPA, EPA/600/4-89/034, 1991.
- (16) *Ground-Water Sampling Guidelines for Superfund and RCRA Project Managers*, U.S. EPA, EPA-542-S-02-001, May 2002.
- (17) *Ground Water Issue: Low-Flow (Minimal Drawdown) Ground-Water Sampling Procedures*, U.S. EPA, EPA/540/S-95/504, April 1996.
- (18) *Superfund Ground Water Issue: Ground Water Sampling for Metals Analysis*, U.S. EPA, EPA/540/4-89/001, March 1989.
- (19) *Resources for Strategic Site Investigation and Monitoring*, U.S. EPA, OSWER, EPA-542-F-010030b, September 2001.
- (20) *Region 5 Framework for Monitored Natural Attenuation Decisions for Groundwater*, U.S. EPA Region 5, September 2000.
- (21) *Ground Water Issue: Suggested Operating Procedures for Aquifer Pumping Tests*, U.S. EPA, OSWER, EPA/540/S-93/503, February 1993.
- (22) *Technical Protocol for Evaluating Natural Attenuation of Chlorinated Solvents in Ground Water*, U.S. EPA, EPA/600/R-98/128, September 1998.
- (23) *Use of Monitored Natural Attenuation at Superfund, RCRA Corrective Action and Underground Storage Tank Sites*, U.S. EPA, OSWER Directive 9200.4-17P, April 21, 1999.

- (24) *Ground Water Issue: Fundamentals of Ground-Water Modeling*, U.S. EPA, OSWER, EPA/540/S-92/005, April 1992.
- (25) *Assessment Framework for Ground-Water Model Applications*, U.S. EPA, OSWER Directive #9029.00, EPA-500-B-94-003, July 1994.
- (26) *Ground-Water Modeling Compendium - Second Edition: Model Fact Sheets, Descriptions, Applications and Cost Guidelines*, U.S. EPA, EPA-500-B-94-004, July 1994.
- (27) *A Guide to Preparing Superfund Proposed Plans, Records of Decision, and Other Remedy Selection Decision Documents*, U.S. EPA, Office of Solid Waste and Emergency Response, OSWER Directive No. 9200.1-23P, EPA 540-R-98-031, July 1999.
- (28) *Region 5 Instructions on the Preparation of A Superfund Division Quality Assurance Project Plan Based on EPA QA/R-5, Revision 0*, U.S. EPA Region 5, June 2000.
- (29) *Guidance for the Data Quality Objectives Process (QA-G-4)*, U.S. EPA, EPA/600/R-96/055, August 2000.
- (30) *Guidance for the Data Quality Objectives Process for Hazardous Waste Sites (QA/G-4HW)*, U.S. EPA, EPA/600/R-00/007, January 2000.

- (31) *Guidance for the Preparation of Standard Operating Procedures (QA-G-6)*, U.S. EPA, EPA/240/B-01/004; March 2001.
- (32) *EPA Requirements for Quality Management Plans (QA/R-2)*, U.S. EPA, EPA/240/B-01/002, March 2001.
- (33) *EPA Requirements for QA Project Plans (QA/R-5)*, U.S. EPA, EPA/240/B-01/003, March 2001.
- (34) *Guidance for Quality Assurance Project Plans (QA/G-5)*, U.S. EPA, EPA/600/R-98/018, February 1998.
- (35) *Users Guide to the EPA Contract Laboratory Program*, U.S. EPA, Sample Management Office, OSWER Directive No. 9240.0-01D, January 1991.
- (36) *Technical Guidance Document: Quality Assurance and Quality Control for Waste Containment Facilities*, U.S. EPA, EPA/600/R-93/182, 1993.
- (37) *Risk Assessment Guidance for Superfund - Volume I Human Health Evaluation Manual (Part A)*, U.S. EPA, EPA/540/1-89/002, December 1989.
- (38) *Risk Assessment Guidance for Superfund - Volume I Human Health Evaluation Manual (Part B, Development of Risk-Based Preliminary Remediation Goals)*, U.S. EPA, EPA/540/R-92/003, OSWER Publication 9285.7-01B, December 1991.
- (39) *Risk Assessment Guidance for Superfund - Volume I Human Health Evaluation Manual (Part C - Risk Evaluation of Remedial Alternatives)*, U.S. EPA, Office of Emergency and Remedial Response, Publication 9285.7-01C, October, 1991.
- (40) *Risk Assessment Guidance for Superfund - Volume I Human Health Evaluation Manual (Part D - Standardized Planning, Reporting, and Review of Superfund Risk Assessments)*, U.S. EPA, Office of Emergency and Remedial Response, Publication 9285.7-47, December 2001.
- (41) *Risk Assessment Guidance for Superfund: Volume III - Part A, Process for Conducting Probabilistic Risk Assessment*, U.S. EPA, OSWER Publication 9285.7-45, EPA-540-R-02-002, December 2001.
- (42) *Policy for Use of Probabilistic in Risk Assessment at the U.S. Environmental Protection Agency*, U.S. EPA, Office of Research and Development, 1997.
- (43) *Human Health Evaluation Manual, Supplemental Guidance: Standard Default Exposure Factors*, U.S. EPA, OSWER Directive 9285.6-03, March 25, 1991.

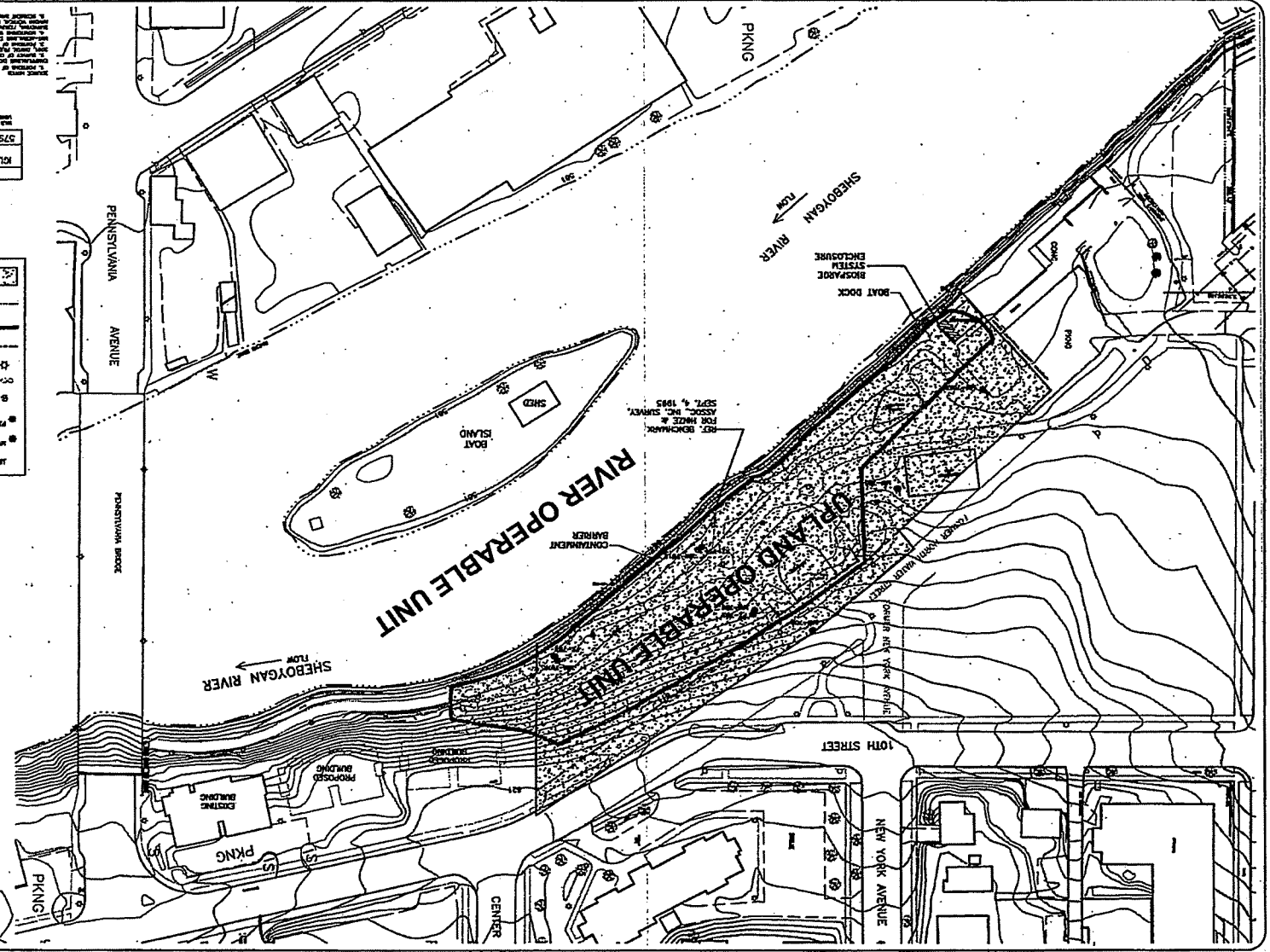
- (44) *Exposure Factors Handbook*, Volumes I, II, and III, U.S. EPA, EPA/600/P-95/002Fa,b,c, August 1997.
- (45) *Supplemental Guidance to RAGS: Calculating the Concentration Term*, U.S. EPA, OSWER Publication 9285.7-08I, May 1992.
- (46) *Revised Interim Soil Lead Guidance for CERCLA Sites and RCRA Corrective Action Facilities*, U.S. EPA, OSWER Directive 9355.4-12, EPA/540/F-94/043, July 14, 1994.
- (47) *Clarification to the 1994 Revised Interim Soil Lead Guidance for CERCLA Sites and RCRA Corrective Action Facilities*, U.S. EPA, OSWER Directive 9200.4-27, EPA/540/F-98/030, August 1998.
- (48) *Guidance Manual for the Integrated Exposure Uptake Biokinetic (IEUBK) Model for Lead in Children*, U.S. EPA, OSWER Publication 9285.7-15-1, February 1994; and associated, clarifying Short Sheets on IEUBK Model inputs, including but not limited to OSWER 9285.7-32 through 34, as listed on the OSWER lead internet site at www.epa.gov/superfund/programs/lead/prods.htm.
- (49) *Integrated Exposure Uptake Biokinetic (IEUBK) Model for Lead in Children*, Version 0.99D, NTIS PB94-501517, 1994 or *Integrated Exposure Uptake Biokinetic (IEUBK) Model for Lead in Children*, Windows© version, 2001,
- (50) *Role of the Baseline Risk Assessment in Superfund Remedy Selection Decisions*, U.S. EPA, OSWER Directive 9355.0-30, April 22, 1991.
- (51) *Performance of Risk Assessments in Remedial Investigation /Feasibility Studies (RI/FSSs) Conducted by Potentially Responsible Parties (PRPs)*, OSWER Directive No. 9835.15, August 28, 1990.
- (52) *Supplemental Guidance on Performing Risk Assessments in Remedial Investigation Feasibility Studies (RI/FSSs) Conducted by Potentially Responsible Parties (PRPs)*, OSWER Directive No. 9835.15(a), July 2, 1991.
- (53) *Role of Background in the CERCLA Cleanup Program*, U.S. EPA, OSWER 9285.6-07P, April 26, 2002.
- (54) *Soil Screening Guidance: User's Guide*, U.S. EPA, OSWER Publication 9355.4-23, July 1996.
- (55) *Soil Screening Guidance: Technical Background Document*, U.S. EPA, EPA/540/R95/128, May 1996.
- (56) *Supplemental Guidance for Developing Soil Screening Levels for Superfund Sites (Peer Review Draft)*, U.S. EPA, OSWER Publication 9355.4-24, March 2001.

- (57) *Ecological Risk Assessment Guidance for Superfund: Process for Designing & Conducting Ecological Risk Assessments*, U.S. EPA, OSWER Directive 9285.7-25, EPA-540-R-97-006, June 1997.
- (58) *Guidelines for Ecological Risk Assessment*, U.S. EPA, EPA/630/R-95/002F, April 1998.
- (59) *The Role of Screening-Level Risk Assessments and Refining Contaminants of Concern in Baseline Ecological Risk Assessments*, U.S. EPA, OSWER Publication 9345.0-14, EPA/540/F-01/014, June 2001.
- (60) *Ecotox Thresholds*, U.S. EPA, OSWER Publication 9345.0-12FSI, EPA/540/F-95/038, January 1996.
- (61) *Issuance of Final Guidance: Ecological Risk Assessment and Risk Management Principles for Superfund Sites*, U.S. EPA, OSWER Directive 9285.7-28P, October 7, 1999.
- (62) *Guidance for Data Usability in Risk Assessment (Quick Reference Fact Sheet)*, OSWER 9285.7-05FS, September, 1990.
- (63) *Guidance for Data Usability in Risk Assessment (Part A)*, U.S. EPA, Office of Emergency and Remedial Response, Publication 9285.7-09A, April 1992.
- (64) *Guide for Conducting Treatability Studies Under CERCLA*, U.S. EPA, EPA/540/R-92/071a, October 1992.
- (65) *CERCLA Compliance with Other Laws Manual, Two Volumes*, U.S. EPA, Office of Emergency and Remedial Response, OSWER Directive No. 9234.1-01 and -02, EPA/540/G-89/009, August 1988.
- (66) *Guidance on Remedial Actions for Contaminated Ground Water at Superfund Sites*, U.S. EPA, Office of Emergency and Remedial Response, (Interim Final), OSWER Directive No. 9283.1-2, EPA/540/G-88/003, December 1988.
- (67) *Considerations in Ground-Water Remediation at Superfund Sites and RCRA Facilities - Update*, U.S. EPA, OSWER Directive 9283.1-06, May 27, 1992.
- (68) *Methods for Monitoring Pump-and-Treat Performance*, U.S. EPA, EPA/600/R-94/123, June 1994.
- (69) *Pump-and-Treat Ground-Water Remediation A Guide for Decision Makers and Practitioners*, U.S. EPA, EPA/625/R-95/005, July 1996.
- (70) *Ground-Water Treatment Technology Resource Guide*, U.S. EPA, OSWER, EPA-542-B-94/009, September 1994.

- (71) *Land Use in the CERCLA Remedy Selection Process*, U.S. EPA, OSWER Directive No. 9355.7-04, May 25, 1995.
- (72) *Reuse Assessments: A Tool To Implement The Superfund Land Use Directive*, U.S. EPA, OSWER 9355.7-06P, June 4, 2001.
- (73) *Reuse of CERCLA Landfill and Containment Sites*, U.S. EPA, OSWER 9375.3-05P, EPA-540-F-99-015, September 1999.
- (74) *Reusing Superfund Sites: Commercial Use Where Waste is Left on Site*, U.S. EPA, OSWER 9230.0-100, February 2002.
- (75) *Covers for Uncontrolled Hazardous Waste Sites*, U.S. EPA, EPA/540/2-85/002, 1985.
- (76) *Technical Guidance Document: Final Covers on Hazardous Waste Landfills and Surface Impoundments*, U.S. EPA, OSWER, EPA/530-SW-89-047, July 1989.
- (77) *Engineering Bulletin: Landfill Covers*, U.S. EPA, EPA/540/S-93/500, 1993.
-
- (78) *Principles for Managing Contaminated Sediment Risks at Hazardous Waste Sites*, U.S. EPA OSWER Directive 9285.6-08, February 12, 2002.
- (79) *Institutional Controls: A Site Manager's Guide to Identifying, Evaluating and Selecting Institutional Controls at Superfund and RCRA Corrective Action Cleanups*, U.S. EPA, OSWER 9355.0-74FS-P, EPA/540-F-00-005, September 29, 2000.
- (80) *Health and Safety Requirements of Employees Employed in Field Activities*, U.S. EPA, Office of Emergency and Remedial Response, EPA Order No. 1440.2, July 12, 1981.
- (81) *OSHA Regulations in 29 CFR 1910.120*, Federal Register 45654, December 19, 1986.
- (82) *Standard Operating Safety Guides*, PB92-963414, June 1992.
- (83) *Community Relations in Superfund: A Handbook*, U.S. EPA, Office of Emergency and Remedial Response, OSWER Directive No. 9230.0#3B June 1988; and OSWER Directive No. 9230.0-3C, January 1992.

ATTACHMENT B

SITE MAP



DATUM (FT)	USGS	CITY OF SHEBOYGAN
579.8	581	0

SCALE IN FEET
0 25 50 100

SYMBOL	DESCRIPTION
[Stippled Area]	UNLID OPERABLE UNIT
[Dashed Line]	RIVER DOCK
[Solid Line]	BOUNDARY
[Dotted Line]	PROPERTY BOUNDARY
[Circle with Cross]	LIGHT POLE
[Circle with Dot]	TRUCK
[Circle with X]	PROBABLE
[Circle with Triangle]	PROBABLE
[Circle with Square]	PROBABLE

APPENDIX B

<p>FIGURE NO. 1</p> <p>PROJECT NO. 1655/28</p>	<p>NATURAL RESOURCE TECHNOLOGY</p>	<p>R/FS OPERABLE UNIT AREAS FORMER MANUFACTURED GAS PLANT SITE (CAMPMARINA) WISCONSIN PUBLIC SERVICE CORPORATION SHEBOYGAN, WISCONSIN</p>	<table border="1"> <tr> <td>DRAWN BY:</td> <td>BJK</td> <td>DATE:</td> <td>11/14/06</td> </tr> <tr> <td>CHECKED BY:</td> <td>LJP</td> <td>DATE:</td> <td>11/17/06</td> </tr> <tr> <td>APPROVED BY:</td> <td>LJP</td> <td>DATE:</td> <td>11/17/06</td> </tr> <tr> <td>DRAWING NO.:</td> <td>1655-28-001</td> <td>REFERENCE:</td> <td></td> </tr> </table>	DRAWN BY:	BJK	DATE:	11/14/06	CHECKED BY:	LJP	DATE:	11/17/06	APPROVED BY:	LJP	DATE:	11/17/06	DRAWING NO.:	1655-28-001	REFERENCE:	
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DRAWING NO.:	1655-28-001	REFERENCE:																	

ATTACHMENT C
SITE INFORMATION AND I.D. NUMBER

EPA Site ID Number: B5DA

Project Description: WPSC Campmarina MGP Site

State: Wisconsin

County: Sheboygan

Other: Superfund Alternative Site