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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:

Wpsc Marinette MGP Site
Marinette, Marinette County, Wisconsin

Respondent:

Wisconsin Public Service Corporation

ADMINISTRATIVE SETTLEMENT
AGREEMENT AND ORDER ON
CONSENT FOR REMOVAL ACTION

Docket No.

V-W-13-C-001

Proceeding Under Sections 104, 106(a), 107
and 122 of the Comprehensive
Environmental Response, Compensation,
and Liability Act, as amended, 42 U.S.C.
§§ 9604, 9606(a), 9607 and 9622

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 (“U.S. EPA” or “Agency”) and Wisconsin Public Service Corporation (“WPSC” or “Respondent”). This Settlement Agreement provides for the performance of removal actions by Respondent and the payment of certain response costs incurred by the United States at or in connection with the WPSC Marinette MGP Site (Site) located at 1609 Ely Street, Marinette, Marinette County, Wisconsin.

2. This Settlement Agreement is issued under the authority vested in the President of the United States by Sections 104, 106(a), 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (“CERCLA”), 42 U.S.C. §§ 9604, 9606(a), 9607 and 9622. This authority has been delegated to the Administrator of the U.S. EPA by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, and further delegated to the Regional Administrators by U.S. EPA Delegation Nos. 14-14-A, 14-14-C and 14-14-D, and to the Director, Superfund Division, Region 5, by Regional Delegation Nos. 14-14-A, 14-14-C and 14-14-D.

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

4. U.S. EPA and Respondent recognize that this Settlement Agreement has been negotiated in good faith and that the actions undertaken by Respondent in accordance with this Settlement Agreement do not constitute an admission of any liability. Respondent does not admit, and retains the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Settlement Agreement, the validity of the findings of facts, conclusions of law, and determinations in Sections IV (Findings Of Fact) and V (Conclusions Of Law And Determinations) 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 Respondent’s officers and directors, receivers, trustees, 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 comply with this Settlement Agreement. Respondent shall be responsible for any noncompliance with this Settlement Agreement.

III. DEFINITIONS

7. Unless otherwise expressly provided in this Settlement Agreement, terms used in this Settlement Agreement that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are

used in this Settlement Agreement or in the appendices attached hereto and incorporated hereunder, the following definitions shall apply:

- a. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601-9675.
- b. "Day" shall mean a calendar day unless otherwise specified. 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.
- c. "Effective Date" shall be the effective date of this Settlement Agreement as provided in Section XXIX (Effective Date).
- d. "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 and other items pursuant to this Settlement Agreement, in overseeing implementation of the Work, or otherwise implementing, overseeing, or enforcing this Settlement Agreement on or after the Effective Date. Future Response Costs shall also include, but not be limited to, payroll costs, contractor costs, travel costs, laboratory costs, the costs incurred pursuant to Paragraph 23 (including, but not limited to, costs and attorneys fees and any monies paid to secure access, including, but not limited to, the amount of just compensation), and Paragraph 33 (emergency response). Future Response Costs shall also include all costs, including, but not limited to, direct and indirect costs, incurred prior to the Effective Date, but paid after that date.
- e. "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 on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.
- f. "National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.
- g. "Paragraph" shall mean a portion of this Settlement Agreement identified by an Arabic numeral or an upper or lower case letter.
- h. "Parties" shall mean U.S. EPA and Respondent.
- i. "RCRA" shall mean the Solid Waste Disposal Act, as amended, 42 U.S.C. § 6901, *et seq.* (also known as the Resource Conservation and Recovery Act).
- j. "Respondent" shall mean Wisconsin Public Service Corporation.
- k. "Section" shall mean a portion of this Settlement Agreement identified by a Roman numeral.

l. “Settlement Agreement” shall mean this Administrative Settlement Agreement and Order on Consent and all appendices attached hereto (listed in Section XXVIII (Severability/Integration/Attachments). In the event of conflict between this Settlement Agreement and any appendix, this Settlement Agreement shall control.

m. “Site” shall mean the Wisconsin Public Service Marinette Manufactured Gas Plant Superfund Alternative Site, encompassing approximately 4 acres, located at 1609 Ely Street, Marinette, Marinette County, Wisconsin and depicted generally on the map attached as **Attachment A**. “On-site” shall mean the areal extent of contamination and all suitable areas in very close proximity to the contamination necessary for implementation of the response action, as defined in the NCP.

n. “State” shall mean the State of Wisconsin.

o. “United States” shall mean the United States of America and each department, agency, and instrumentality of the United States, including U.S. EPA.

p. “U.S. EPA” shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

q. “Waste Material” shall mean (i) any “hazardous substance” under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), (ii) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33), (iii) any “solid waste” under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27) and (iv) any “hazardous substance” under Wis. Stat. §§ 292.01(5), 299.01(6) or Wis. Admin. Code § NR 700.03(25).

r. “Work” shall mean all activities Respondent is required to perform under this Settlement Agreement, except those required by Section XI (Record Retention).

IV. FINDINGS OF FACT

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

a. The Site is located at 1609 Ely Street in Marinette, Wisconsin. The four-acre former MGP facility is about 750 feet south of the Menominee River and 1.5 miles upstream from the river mouth at Green Bay. The Site is currently owned by the City of Marinette (“City”), which operates a wastewater treatment plant (“WWTP”) on the Site. The City also built a boat launch called Boom Landing Park along the Menominee River adjacent to the property; a former slough ran from the Site through Boom Landing Park to the river. The Site also includes adjacent or nearby areas of the Menominee River where hazardous substances, contaminants, or pollutants associated with former MGP operations at the WPSM Marinette MGP have come to be located.

b. The former MGP facility was constructed between 1901 and 1910 and operated through 1960. In 1922, WPSM acquired control of Menominee and Marinette Light and Traction Company and operated it as a wholly owned subsidiary until 1953 when it merged with the parent company. The WPSM Marinette MGP used two methods to produce coal gas: retort and carbureted

water gas processes. In 1962, the property was purchased by the City, which converted the property into a WWTP.

c. MGP operations conducted by WPSC resulted in the release of hazardous substances, including volatile organic compounds (“VOCs”), polynuclear aromatic hydrocarbons (“PAHs”), metals, and cyanide into the soil, water, groundwater, and sediments on the Site.

d. Contaminants such as VOCs, specifically benzene, toluene, ethylbenzene, and xylene (“BTEX”), PAHs, metals, and cyanide were detected in sediment, soil, and groundwater samples collected in various locations at the WPSC Marinette MGP Site, as summarized by Natural Resource Technology Inc., on behalf of WPSC, in the May 2009 Completion Report. Concentration ranges, from sediment samples from July 1995, are as follows: benzo(a)pyrene: 8.6-95,000 micrograms per kilogram (“µg/Kg”); pyrene: 26-171,000 µg/Kg; benzo(b)fluoranthene: 3.2-5,000 µg/Kg; chrysene: 4.7-15,000 µg/Kg.

e. Based on results from investigations performed to date, sediment contaminated with PAHs and BTEX is present in the Menominee River. Contaminated sediment is located from 0-10 feet deep, between the shoreline and Strawberry Island (Figure 1), the depth of fish habitat. Evidence of PAH and non-aqueous phase liquid (“NAPL”) impacts to sediment and debris, including tar-coloring and sheen have been observed. Fish pass through Site-impacted sediments en-route to Lake Michigan. Also, there are human health risks associated with exposure to NAPL and PAHs.

f. Marinette, Wisconsin is in the temporal zone that experiences significant winter precipitation that later results in significant spring thaw events that can lead to flooding conditions. There is also the potential for flooding due to other precipitation events. Thunderstorms and drought conditions can also allow for contamination to migrate further off-site.

g. From mid-2012 through late 2013, Ansul Inc., a facility under RCRA cleanup oversight, is dredging arsenic-contaminated sediment from the Menominee River, immediately downstream from the Site. In order to avoid recontamination of the RCRA dredged sediment sections of the river, simultaneous removal of MGP wastes is necessary.

h. The Site has not been proposed to the National Priorities List (“NPL”). It is, however, designated as a Superfund Alternative (“SA”) site, requiring the Site to go through the Superfund remedial cleanup process, as described in the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300, as amended (“NCP”).

i. In May 2006, U.S. EPA and Respondent entered into an Administrative Order on Consent for Respondent to conduct a remedial investigation and feasibility study of the Site. Remedial investigation studies began November 2011.

j. In July 2012, U.S. EPA and Respondent entered into an Administrative Order on Consent for Respondent to conduct an engineering evaluation/cost analysis (EE/CA) in preparation for a non-time critical removal action of contaminated sediment. Respondent submitted the EE/CA for review in July 2012.

k. On August 29, 2012, U.S. EPA issued a Proposed Plan for public comment recommending sediment removal actions based on the EE/CA.

l. The Respondent has designated Narendra Prasad of Integrys Business Support, LLC as its project coordinator. Mr. Prasad can be reached via email at nmprasad@integrysgroup.com; via telephone at (312) 240-4569; and via mail at 130 East Randolph Street, 22nd Floor, Chicago, IL 60601. The U.S. EPA has designated Margaret Gielniewski of the Remedial Response Branch #2 as the On-Scene Coordinator. Ms. Gielniewski can be reached via email at Gielniewski.margaret@epa.gov; via telephone at (312) 886-6244; and via mail at 77 West Jackson Boulevard, SR-6J, Chicago, IL 60604-3507.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

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

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

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

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

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

e. Respondent was the “owner” and/or “operator” of the facility at the time of disposal of hazardous substances at the facility, as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20), and within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2).

f. The conditions described in the Findings of Fact above constitute an actual or threatened “release” of a hazardous substance from the facility into the “environment” as defined by Sections 101(22) and 101(8) of CERCLA, 42 U.S.C. §§ 9601(22) and 9601(8), respectively.

g. The conditions present at the Site constitute a threat to public health, welfare, or the environment based upon the factors set forth in Section 300.415(b)(2) of the National Oil and Hazardous Substances Pollution Contingency Plan, as amended (NCP), 40 C.F.R. § 300.415(b)(2). These factors include, but are not limited to, the following:

(i) Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances, pollutants or contaminants – this factor is present at the Site due to the existence of elevated concentrations of manufactured gas by-products, including PAHs and BTEX, in river sediment.

(ii) Actual or potential contamination of sensitive ecosystems – this factor is present at the Site due to the existence of elevated concentrations of manufactured gas by-products, including PAHs and BTEX.

(iii) Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released - this factor is present at the Site due to the existence of elevated concentrations of manufactured gas by-product, including PAHs and BTEX that may migrate.

(iv) Other situations or factors that may pose threats to public health or welfare or the environment – this factor is present at the Site due to the Site being located in a Great Lakes National Program Office (“GLNPO”) Area of Concern (“AOC”), and upstream from a RCRA facility that also requires dredging of the river to remove contaminated sediments. In order to remove this portion of the Menominee River from the AOC by 2015, GLNPO is working closely with RCRA and Superfund to address contaminated sediment from our respective sites.

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

VI. SETTLEMENT AGREEMENT AND ORDER

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

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

11. Respondent shall retain one or more contractors to perform the Work and shall notify U.S. EPA of the name(s) and qualifications of such contractor(s) within 5 business days of the Effective Date. Respondent shall also notify U.S. EPA of the name(s) and qualification(s) of any other contractor(s) or subcontractor(s) retained to perform the Work at least 5 business days prior to commencement of such Work. U.S. EPA retains the right to disapprove of any or all of the contractors and/or subcontractors retained by Respondent. If U.S. EPA disapproves of a selected contractor, Respondent shall retain a different contractor and shall notify U.S. EPA of that contractor’s name and qualifications within 3 business days of U.S. EPA’s disapproval. The contractor must demonstrate compliance with ANSI/ASQC E-4-1994, “Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs” (American National Standard, January 5, 1995), by submitting a copy of the proposed contractor’s Quality Management Plan (QMP). The QMP should be prepared consistent with “U.S. EPA Requirements for Quality Management Plans (QA/R-2)” (U.S. EPA/240/B-01/002), or equivalent documentation as required by U.S. EPA. Any decision not to require submission of the contractor’s QMP should be documented in a

memorandum from the On-Scene Coordinator (OSC) and Regional quality assurance personnel to the Site file.

12. Respondent has designated, and U.S. EPA has not disapproved, Narendra Prasad of Integrys Business Support, LLC as Project Coordinator, who shall be responsible for administration of all actions by Respondent required by this Settlement Agreement. Mr. Prasad can be reached via email at nmprasad@integrysgroup.com; via telephone at (312) 240-4569; and via mail at 130 East Randolph Street, 22nd Floor, Chicago, IL 60601. 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 4 business days following U.S. EPA's disapproval. 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.

13. U.S. EPA has designated Margaret Gielniewski of the Remedial Response Branch #2, Region 5, as its OSC. Ms. Gielniewski can be reached via email at gielniewski.margaret@epa.gov; via telephone at (312) 886-6244; and via mail at 77 West Jackson Boulevard, SR 6J; Chicago, IL 60604-3507. Except as otherwise provided in this Settlement Agreement, Respondent shall direct all submissions required by this Settlement Agreement to the OSC. Respondent is encouraged to make its submissions to U.S. EPA electronically or on recycled paper (which includes significant post consumer waste paper content where possible) and using two-sided copies.

14. U.S. EPA and Respondent shall have the right, subject to Paragraph 12, to change their respective designated OSC or Project Coordinator. U.S. EPA shall notify the Respondent, and Respondent shall notify U.S. EPA, as early as possible before such a change is made, but in no case less than 24 hours before such a change. The initial notification may be made orally but shall be promptly followed by a written notice.

VIII. WORK TO BE PERFORMED

15. Respondent shall perform, at a minimum, the following removal activities:

- a. Dredge NAPL-containing sediments and adjacent sediments containing PAHs as well as upstream near-shore sediments containing PAHs near Nestegg Marine (Areas 1 and 2 in **Attachment B**).
- b. Dewater and disposed of dredged sediment in a manner consistent with U.S. EPA and State hazardous waste disposal.
- c. Meet all Applicable or Relevant and Appropriate Requirements (ARARs) during the removal action.

16. **Work Plan and Implementation.**

- a. Within 10 business days after the Effective Date, Respondent shall submit to U.S. EPA for approval a draft Work Plan for performing the removal action generally described in

Paragraph 15 above. The draft Work Plan shall provide a description of, and an expeditious schedule for, the actions required by this Settlement Agreement. The Work Plan shall include a Quality Assurance Project Plan (QAPP). The following documents shall be used for the development of the QAPP for this Site:

(i) The Uniform Federal Policy for Quality Assurance Projects Plans (UFP-QAPP), OSWER Directive 9272.0-17; the QAPP format can be found at <http://www.U.S.EPA.gov/fedfac/documents/qualityassurance.htm>.

(ii) U.S. EPA Requirements for Quality Assurance Project Plans QA/R-5 (U.S. EPA/240/B-01/003), March 2001, Reissued May 2006.

The following guidance may be used in conjunction with the requirements above:

(i) U.S. EPA Guidance for the Quality Assurance Project Plans QA/G-5 (U.S. EPA/240/R-02/009), December 2002.

(ii) Guidance on Choosing a Sampling Design for Environmental Data Collection U.S. EPA QA/G-5S, December 2002.

b. U.S. EPA may approve, disapprove, require revisions to, or modify the draft Work Plan in whole or in part. If U.S. EPA requires revisions, Respondent shall submit a revised draft Work Plan within 7 business days of receipt of U.S. EPA's notification of the required revisions. Respondent shall implement the Work Plan as approved in writing by U.S. EPA in accordance with the schedule approved by U.S. EPA. Once approved, or approved with modifications, the Work Plan, the schedule, and any subsequent modifications shall be incorporated into and become fully enforceable under this Settlement Agreement.

c. Respondent shall not commence any Work except in conformance with the terms of this Settlement Agreement. Respondent shall not commence implementation of the Work Plan developed hereunder until receiving written U.S. EPA approval pursuant to Paragraph 16.b.

17. Health and Safety Plan. Within 10 business days after the Effective Date, Respondent shall submit for U.S. EPA review and comment a plan that ensures the protection of the public health and safety during performance of on-site work under this Settlement Agreement. This plan shall be prepared consistent with U.S. EPA's Standard Operating Safety Guide (PUB 9285.1-03, PB 92-963414, June 1992). In addition, the plan shall comply with all currently applicable Occupational Safety and Health Administration (OSHA) regulations found at 29 C.F.R. Part 1910. If U.S. EPA determines that it is appropriate, the plan shall also include contingency planning. Respondent shall incorporate all changes to the plan recommended by U.S. EPA and shall implement the plan during the pendency of the removal action.

18. Quality Assurance and Sampling.

a. All sampling and analyses performed pursuant to this Settlement Agreement shall conform to EPA direction, approval, and guidance regarding sampling, quality assurance/quality control ("QA/QC"), data validation, and chain of custody procedures, and to the September 4, 2007 Multi-Site

Quality Assurance Project Plan – Revision 2, which was previously submitted to EPA pursuant to the Administrative Settlement Agreement and Order on Consent for Remedial Investigations and Feasibility Studies for the WPSO Wisconsin MGP Sites, CERCLA Docket No. V-W-06-C-847, effective May 5, 2006. Respondent shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with the appropriate U.S. EPA guidance. Respondent shall follow, as appropriate, “Quality Assurance/Quality Control Guidance for Removal Activities: Sampling QA/QC Plan and Data Validation Procedures” (OSWER Directive No. 9360.4-01, April 1, 1990), as guidance for QA/QC and sampling. Respondent shall only use laboratories that have a documented Quality System that complies with ANSI/ASQC E-4 1994, “Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs” (American National Standard, January 5, 1995), and U.S. EPA Requirements for Quality Management Plans (QA/R-2) (U.S. EPA/240/B-01/002, March 2001, Reissued May 2006),” or equivalent documentation as determined by U.S. EPA. U.S. EPA may consider laboratories accredited under the National Environmental Laboratory Accreditation Program (NELAP) as meeting the Quality System requirements.

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

c. Upon request by U.S. EPA, Respondent shall allow U.S. EPA or its authorized representatives to take split and/or duplicate samples. Respondent shall notify U.S. EPA not less than 3 business days in advance of any sample collection activity, unless shorter notice is agreed to by U.S. EPA. U.S. EPA shall have the right to take any additional samples that U.S. EPA deems necessary. Upon request, U.S. EPA shall allow Respondent to take split or duplicate samples of any samples it takes as part of its oversight of Respondent’s implementation of the Work.

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

20. Reporting.

a. Respondent shall submit a written progress report to U.S. EPA concerning actions undertaken pursuant to this Settlement Agreement every 30th day after the date of receipt of U.S. EPA’s approval of the Work Plan until termination of this Settlement Agreement, unless otherwise directed in writing by the OSC. These reports shall describe all significant developments during the preceding period, including the actions performed and any problems encountered, analytical data received during the reporting period, and the developments anticipated during the next reporting period, including a schedule of actions to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

b. Respondent shall submit 3 copies of all plans, reports or other submissions required by this Settlement Agreement, or any approved work plan. Upon request by U.S. EPA, Respondent shall submit such documents in electronic form.

21. Final Report. Within 60 days after completion of all Work required by Section VIII (Work to Be Performed) of this Settlement Agreement, Respondent shall submit for U.S. EPA review and approval a final report summarizing the actions taken to comply with this Settlement Agreement. The final report shall conform, at a minimum, with the requirements set forth in Section 300.165 of the NCP entitled "OSC Reports" and with the guidance set forth in "Superfund Removal Procedures: Removal Response Reporting POLREPS and OSC Reports" (OSWER Directive No. 9360.3-03, June 1, 1994). The final report shall include a good faith estimate of total costs or a statement of actual costs incurred in complying with the Settlement Agreement, a listing of quantities and types of materials removed off-site or handled on-site, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destination(s) of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (*e.g.*, manifests, invoices, bills, contracts, and permits). The final report shall also include the following certification signed by a person who supervised or directed the preparation of that report:

"Under penalty of law, I certify that to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of the report, the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

22. Off-Site Shipments.

a. Respondent shall, prior to any off-site shipment of Waste Material from the Site to an out-of-state waste management facility, provide written notification of such shipment of Waste Material to the appropriate state environmental official in the receiving facility's state and to the On-Scene 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: 1) the name and location of the facility to which the Waste Material is to be shipped; 2) the type and quantity of the Waste Material to be shipped; 3) the expected schedule for the shipment of the Waste Material; and 4) the method of transportation. Respondent shall notify the state in which the planned receiving facility is located of major changes in the shipment plan, such as a decision to ship the Waste Material to another facility within the same state, or to a facility in another state.

c. The identity of the receiving facility and state will be determined by Respondent following the award of the contract for the removal action. Respondent shall provide the information required by Paragraph 22.a and 22.b 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.

IX. SITE ACCESS

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

24. Where any action under this Settlement Agreement is to be performed in areas owned by or in possession of someone other than Respondent, Respondent shall use its best efforts to obtain all necessary access agreements within 10 business days after the Effective Date, or as otherwise specified in writing by the OSC. 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 its efforts to obtain access. U.S. EPA may then assist Respondent in gaining access, to the extent necessary to effectuate the response actions described in this Settlement Agreement, 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 XV (Payment of Response Costs).

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

X. ACCESS TO INFORMATION

26. Respondent shall provide to U.S. EPA, upon request, copies of all documents and information within its possession or control or that of its contractors or agents relating to activities at the Site or to the implementation of this Settlement Agreement, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Work. Respondent shall also make available to U.S. EPA, for purposes of investigation, information gathering, or testimony, its employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

27. Respondent may assert business confidentiality claims covering part or all of the documents or information submitted to U.S. EPA under this Settlement Agreement to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Documents or information determined to be confidential by 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 they are submitted to U.S. EPA, or if U.S. EPA has notified Respondent that the documents or information are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2, Subpart B, the public may be given access to such documents or information without further notice to Respondent.

28. 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, it 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; and 6) 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 or confidential.

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

XI. RECORD RETENTION

30. Until 6 years after Respondent's receipt of U.S. EPA's notification pursuant to Section XXVI (Notice of Completion of Work), Respondent shall preserve and retain all non-identical copies of records and documents (including records or documents in electronic form) now in its possession or control or which come into its possession or control that relate in any manner to the performance of the Work or the liability of any person under CERCLA with respect to the Site, regardless of any corporate retention policy to the contrary. Until 6 years after Respondent's receipt of U.S. EPA's notification pursuant to Section XXVI (Notice of Completion of Work), Respondent shall also instruct its contractors and agents to preserve all documents, records, and information of whatever kind, nature or description relating to performance of the Work.

31. At the conclusion of this document retention period, Respondent shall notify U.S. EPA at least 60 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: 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 subject of the document, record, or information; and 6) 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 or confidential.

XII. COMPLIANCE WITH OTHER LAWS

32. Respondent shall perform all actions required pursuant to this Settlement Agreement in accordance with all applicable local, state, and federal laws and regulations except as provided in Section 121(e) of CERCLA, 42 U.S.C. § 6921(e), and 40 C.F.R. §§ 300.400(e) and 300.415(j). In accordance with 40 C.F.R. § 300.415(j), all on-Site actions required pursuant to this Settlement Agreement shall, to the extent practicable, as determined by U.S. EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements (ARARs) under federal

environmental or state environmental or facility siting laws. Respondent shall identify ARARs in the Work Plan subject to U.S. EPA approval.

XIII. EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES

33. In the event of any action or occurrence during performance of the Work that causes or threatens a release of Waste Material from the Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Respondent shall immediately take all appropriate action. Respondent shall take these actions in accordance with all applicable provisions of this Settlement Agreement, including, but not limited to, the Health and Safety Plan, in order to prevent, abate or minimize such release or endangerment caused or threatened by the release. Respondent shall also immediately notify the OSC or, in the event of his/her unavailability, the Regional Duty Officer, Emergency Response Branch, Region 5 at (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 XV (Payment of Response Costs).

34. In addition, in the event of any release of a hazardous substance from the Site, Respondent shall immediately notify the OSC at (312) 886-6244 and the National Response Center at (800) 424-8802. Respondent shall submit a written report to U.S. EPA within 7 business days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. This reporting requirement is in addition to, and not in lieu of, reporting under Section 103(c) of CERCLA, 42 U.S.C. § 9603(c), and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. §§ 11004, *et seq.*

XIV. AUTHORITY OF ON-SCENE COORDINATOR

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

XV. PAYMENT OF RESPONSE COSTS

36. 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 requiring payment that consists of an Itemized Cost Summary. Respondent shall make all payments within 30 days of receipt of each bill requiring payment, except as otherwise provided in Paragraphs 36(c) or 38 of this Settlement Agreement, according to the following procedures. Respondent shall make all payments within 30 days of receipt of each bill requiring payment, except as otherwise provided in Paragraph 36(c) of this Settlement Agreement, according to the following procedures: Electronic Fund Payments (wire transfers) should be sent to the Federal Reserve Bank of New York, 33 Liberty Street, New York, NY 10045, and include the ABA No. 021030004, Account No. 68010727 and SWIFT address FRNYUS33.

b. Respondent shall make all payments required by this Paragraph to the U.S. EPA special account and the payment should read “D 68010727 Environmental Protection Agency” and shall reference Site, the WPSM Marinette MGP Site/B5BT and the U.S. EPA docket number for this action.

c. If the amount demanded in the bill is \$10,000 or less, Respondent may, in lieu of the procedures in subparagraph 36(a), make all payments required by this Paragraph by official bank check made payable to “U.S. EPA Hazardous Substance Superfund”. Each check, or a letter accompanying each check, shall identify the name and address of the party making payment, the Site name, U.S. EPA Region 5, the WPSM Marinette MGP Site/B5B ,and, if any, the U.S. EPA docket number for this action, and shall be sent to:

U.S. Environmental Protection Agency
Superfund Payments
Cincinnati Finance Center
P.O. Box 979076
St. Louis, MO 63197-9000

d. At the time of payment, Respondent shall send notice that payment has been made to the Director, Superfund Division, U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, Illinois, 60604-3590 and to John Tielsch, Associate Regional Counsel, 77 West Jackson Boulevard, C-14J, Chicago, Illinois, 60604-3590, and to the U.S. EPA Cincinnati Finance Office by email at acctreceivable.cinwdepa.gov, or by mail to: Cincinnati Finance Office, 26 Martin Luther King Drive, Cincinnati, Ohio 45268. Such notice shall reference the WPSM Marinette MGP Site/B5BT and the U.S. EPA docket number for this action.

37. In the event that the payments for Future Response Costs are not made within 30 days of Respondent’s receipt of a bill, Respondent shall pay Interest on the unpaid balance. The Interest on Future Response Costs shall begin to accrue on the date of the bill and shall continue to accrue until the date of payment. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to the United States by virtue of Respondent’s failure to make timely payments under this Section, including but not limited to, payment of stipulated penalties pursuant to Section XVIII (Stipulated Penalties).

38. Respondent may contest payment of any Future Response Costs billed under Paragraph 36 if it determines that U.S. EPA has made a mathematical error, or included a cost item that is not within the definition of Future Response Costs, or if it believes U.S. EPA incurred excess costs as a direct result of a U.S. EPA action that was inconsistent with a specific provision or provisions of the NCP. Such objection shall be made in writing within 30 days of receipt of the bill and must be sent to the OSC. Any such objection shall specifically identify the contested Future Response Costs and the basis for objection. In the event of an objection, Respondent shall within the 30-day period pay all uncontested Future Response Costs to U.S. EPA in the manner described in Paragraph 36. Simultaneously, Respondent shall establish, in a duly chartered bank or trust company, an interest-bearing escrow account that is insured by the Federal Deposit Insurance Corporation (FDIC), 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 OSC a copy of the transmittal letter and check paying the uncontested Future Response Costs, and a copy of the correspondence that establishes and funds the

escrow account, including, but not limited to, information containing the identity of the bank and bank account under which the escrow account is established as well as a bank statement showing the initial balance of the escrow account. Simultaneously with establishment of the escrow account, Respondent shall initiate the Dispute Resolution procedures in Section XVI (Dispute Resolution). If U.S. EPA prevails in the dispute, within 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 36. If Respondent prevails concerning any aspect of the contested costs, Respondent shall pay that portion of the costs (plus associated accrued interest) for which it did not prevail to U.S. EPA in the manner described in Paragraph 36. Respondent shall be disbursed any balance of the escrow account. The dispute resolution procedures set forth in this Paragraph in conjunction with the procedures set forth in Section XVI (Dispute Resolution) shall be the exclusive mechanisms for resolving disputes regarding Respondent's obligation to reimburse U.S. EPA for its Future Response Costs.

XVI. DISPUTE RESOLUTION

39. 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.

40. If 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 10 days of such action, unless the objection(s) has/have been resolved informally. This written notice shall include a statement of the issues in dispute, the relevant facts upon which the dispute is based; all factual data, analysis or opinion supporting Respondent's position, and all supporting documentation on which such party relies. U.S. EPA and Respondent shall have 10 days from U.S. EPA's receipt of Respondent's written objection(s) to resolve the dispute through formal negotiations. The period for formal negotiations may be extended at the sole discretion of U.S. EPA. If the parties are unable to reach a written agreement by the conclusion of the formal negotiation period, U.S. EPA shall provide its Statement of Position, including supporting documentation, no later than 10 days after the formal negotiation period concludes. In the event that these 10-day time periods for exchange of written documents may cause a delay in the work, they shall be shortened upon, and in accordance with, notice by U.S. EPA. An administrative record of any dispute under this Section shall be maintained by U.S. EPA. The record shall include the written notification of such dispute, and the Statement of Position served pursuant to the preceding Paragraph. Upon review of the administrative record, the Director of the Superfund Division, U.S. EPA Region 5, shall resolve the dispute consistent with the NCP and the terms of this Settlement Agreement. U.S. EPA's decision shall be incorporated into and become an enforceable part of this Settlement Agreement.

41. 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.

XVII. FORCE MAJEURE

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

43. 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 24 hours of when Respondent first knew that the event might cause a delay. Within 7 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 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 be grounds for U.S. EPA to deny Respondent an extension of time for performance. Respondent shall have the burden of demonstrating by a preponderance of the evidence that the event is a *force majeure*, that the delay is warranted under the circumstances, and that best efforts were exercised to avoid and mitigate the effects of the delay.

44. 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. STIPULATED PENALTIES

45. Respondent shall be liable to U.S. EPA for stipulated penalties in the amounts set forth in Paragraphs 46 and 47 for failure to comply with the requirements of this Settlement Agreement specified below, unless excused under Section XVII (*Force Majeure*). "Compliance" by Respondent shall include completion of the activities under this Settlement Agreement or any work plan or other plan approved under this Settlement Agreement identified below in accordance with all applicable requirements of law, this Settlement Agreement, and any plans or other documents approved by U.S. EPA pursuant to this Settlement Agreement within the specified time schedules established by and approved under this Settlement Agreement.

46. Stipulated Penalty Amounts – Work (Including Payments).

a. The following stipulated penalties shall accrue per violation per day for failure to implement the Work as prescribed in the Removal Work Plan in accordance with the schedules established in the plans, including the Removal Work Plan.

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$1,000	1st through 14th day
\$1,500	15th through 30th day
\$2,500	31st day and beyond

47. Stipulated Penalty Amounts - Reports. The following stipulated penalties shall accrue per violation per day for failure to submit timely or adequate reports or other written documents described below:

- a. Work Plan and Removal Design within 10 days of Effective Date that detail the removal scope of work;
- b. Health and Safety Plans within 10 days of Effective Date, submit for U.S. EPA review and comment to ensure protection of public health and safety during performance of Work under this Settlement Agreement;
- c. Quality Assurance and Sampling that is consistent with the Quality Assurance Project Plans (QAPP) approved for the RI SOW and NCP;
- d. Final Report within 90 days after completion of all Work required by this Settlement Agreement summarizing actions taken to comply with this Settlement Agreement. Conforming, at a minimum, with the requirements set forth in Section 300.165 of the NPC entitled “OSC Reports.”; and

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$ 250	1st through 14th day
\$ 500	15th through 30th day
\$1,000	31st day and beyond

48. In the event that EPA assumes performance of a portion or all of the Work pursuant to Paragraph 58 of Section XX (Reservation of Rights by U.S. EPA), Respondent shall be liable for a stipulated penalty in the amount of \$200,000 or 25% of the cost of the Work EPA performs, whichever is less.

49. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs, and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. However, stipulated penalties shall not accrue: 1) with respect to a deficient submission under Section VIII (Work to be Performed), 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 2) with respect to a decision by the Director of the Superfund Division, Region 5, under Paragraph 40 of Section XVI (Dispute Resolution), during the period, if any,

beginning on the 21st day after U.S. EPA submits its written statement of position until the date that the Director of the Superfund Division issues a final decision regarding such dispute. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement Agreement.

50. 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 failure and describe the noncompliance. U.S. EPA may send Respondent a written demand for payment of the penalties. However, penalties shall accrue as provided in the preceding Paragraph regardless of whether U.S. EPA has notified Respondent of a violation.

51. 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 under Section XVI (Dispute Resolution). Respondent shall make all payments required by this Section by official bank check made payable to "U.S. EPA Hazardous Substance Superfund." Each check, or a letter accompanying each check, shall identify the name and address of the party making payment, the WPSC Marinette MGP Site, U.S. EPA Region 5, the Site/Spill ID Number B5BT, and, if any, the U.S. EPA docket number for this action, and shall be sent to:

U.S. Environmental Protection Agency
Superfund Payments
Cincinnati Finance Center
P.O. Box 979076
St. Louis, MO 63197-9000

and shall indicate that the payment is for stipulated penalties, and shall reference the name and address of the party making payment. At the time of payment, copies of check(s) paid pursuant to this Section, and any accompanying transmittal letter(s), shall be sent to U.S. EPA as provided in Paragraph 36.b.

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

53. Penalties shall continue to accrue during any dispute resolution period, but need not be paid until 20 days after the dispute is resolved by agreement or by receipt of U.S. EPA's decision.

54. 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 51. 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 Sections 106(b) and 122(l) of CERCLA, 42 U.S.C. §§ 9606(b) and 9622(l), and punitive damages pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3); provided, however, that U.S. EPA shall not seek civil penalties pursuant to Section 106(b) or 122(l) of CERCLA or punitive damages pursuant to Section 107(c)(3) of CERCLA for any violation for which a stipulated penalty is provided in this Section, except in the case of a willful violation of this Settlement

Agreement. Should Respondent violate this Settlement Agreement or any portion hereof, U.S. EPA may carry out the required actions unilaterally, pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, and/or may seek judicial enforcement of this Settlement Agreement pursuant to Section 106 of CERCLA, 42 U.S.C. § 9606. Notwithstanding any other provision of this Section, U.S. EPA may, in its unreviewable discretion, waive in writing any portion of stipulated penalties that have accrued pursuant to this Settlement Agreement.

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

55. 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 the Work and 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 XV (Payment of Response Costs). 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

56. Except as specifically provided in this Settlement Agreement, nothing in this Settlement Agreement 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 in this Settlement Agreement 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 the Respondent in the future to perform additional activities pursuant to CERCLA or any other applicable law.

57. The covenant not to sue set forth in Section XIX (Covenant Not to Sue by U.S. EPA) 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; and

g. Liability for costs incurred or to be incurred by the Agency for Toxic Substances and Disease Registry related to the Site.

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

XXI. COVENANT NOT TO SUE BY RESPONDENT

59. 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, Future Response Costs, or this Settlement Agreement, including, but not limited to:

a. Any direct or indirect claim for reimbursement from the Hazardous Substance Superfund established by 26 U.S.C. § 9507, based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. Any claim arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, 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 Future Response Costs.

These covenants not to sue shall not apply in the event the United States brings a cause of action or issues an order pursuant to any of the reservations set forth in Paragraphs 57.b, c and e-g, but only to the extent that Respondent's claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

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

61. U.S. EPA waiver of claims. This waiver shall not apply to any claim or cause of action against any person meeting the above criteria if such person asserts a claim or cause of action relating to the Site against such 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: 1) that the materials contributed to the Site by such person have contributed significantly or could contribute significantly, either

individually or in the aggregate, to the costs of response or natural resource restoration at the Site; or 2) 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 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.

XXII. OTHER CLAIMS

62. 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. The United States or U.S. EPA shall not be deemed a party to any contract entered into by Respondent or its directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Settlement Agreement.

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

XXIII. EFFECT OF SETTLEMENT/CONTRIBUTION

64. Nothing in this Settlement Agreement shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Settlement Agreement. The Parties expressly reserve any and all rights (including, but not limited to, pursuant to Section 113 of CERCLA, 42 U.S.C. § 9613), defenses, claims, demands, and causes of action which each Party may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto. Nothing in this Settlement Agreement diminishes the right of the United States, pursuant to Section 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613(f)(2)-(3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2).

65. Settlement Agreement

a. The Parties agree that this Settlement Agreement constitutes an administrative settlement for purposes of Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), and that Respondent is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), or as may otherwise be provided by law, for “matters addressed” in this Settlement Agreement. The “matters addressed” in this Settlement Agreement are the Work and Future Response Costs.

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

66. Respondent shall, with respect to any suit or claim brought by it for matters related to this Settlement Agreement, notify U.S. EPA in writing no later than 60 days prior to the initiation of such suit or claim. Respondent also shall, with respect to any suit or claim brought against it for matters related to this Settlement Agreement, notify U.S. EPA in writing within 10 days of service of the complaint or claim upon it. In addition, Respondent shall notify U.S. EPA within 10 days of service or receipt of any Motion for Summary Judgment and within 10 days of receipt of any order from a court setting a case for trial, for matters related to this Settlement Agreement.

67. In any subsequent administrative or judicial proceeding initiated by U.S. EPA, or by the United States on behalf of U.S. EPA, for injunctive relief, recovery of response costs, or other relief relating to the Site, Respondent shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the covenant by U.S. EPA set forth in Section XIX (Covenant Not to Sue).

68. Effective upon signature of this Settlement Agreement by Respondent, Respondent agrees that the time period after the date of its signature shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by the United States related to the "matters addressed" as defined in Paragraph 65(a) and that, in any action brought by the United States related to the "matters addressed," such Respondent will not assert, and may not maintain, any defense or claim based upon principles of statute of limitations, waiver, laches, estoppel, or other defense based on the passage of time after its signature of this Settlement Agreement. If U.S. EPA gives notice to Respondent that it will not make this Settlement Agreement effective, the statute of limitations shall begin to run again commencing ninety days after the date such notice is sent by U.S. EPA.

XXIV. INDEMNIFICATION

69. 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 attorney's 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 their behalf or under their control, in carrying out activities pursuant to this Settlement Agreement. The United States shall not be held out as a party to any contract entered into by or on behalf of 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. The Federal Tort Claims Act (28 U.S.C. §§ 2671, 2680) provides coverage for injury or loss of property, or injury or death caused by the negligent or wrongful act or omission of an employee of U.S. EPA while acting within the scope of his or her employment, under circumstances where U.S. EPA, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

70. 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.

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

XXV. MODIFICATIONS

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

73. If Respondent seeks permission to deviate from any approved work plan or schedule, Respondent's Project Coordinator shall submit a written request to U.S. EPA for approval outlining the proposed modification and its basis. Respondent may not proceed with the requested deviation until receiving oral or written approval from the OSC pursuant to Paragraph 72.

74. No informal advice, guidance, suggestion, or comment by the OSC 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.

XXVI. NOTICE OF COMPLETION OF WORK

75. When U.S. EPA determines, after U.S. EPA's review of the Final Report, that all Work has been fully performed in accordance with this Settlement Agreement, with the exception of any continuing obligations required by this Settlement Agreement, including, *e.g.*, post-removal site controls, payment of Future Response Costs, and record retention, U.S. EPA will provide written notice to Respondent. If U.S. EPA determines that such Work 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 Respondent modify the Work Plan if appropriate in order to correct such deficiencies. Respondent shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the U.S. EPA notice. Failure by Respondent to implement the approved modified Work Plan shall be a violation of this Settlement Agreement.

XXVII. FINANCIAL ASSURANCE

76. Within 30 days of the Effective Date, Respondent shall establish and maintain financial security, initially in the amount of four million dollars (\$4,000,000) in one or more of the following forms, in order to secure the full and final completion of Work by Respondent:

- a. A surety bond guaranteeing payment and/or performance of the Work;
- b. One or more irrevocable letters of credit equaling the total estimated cost of the Work, payable to or at the direction of U.S. EPA, issued by one or more financial institution(s) acceptable in all respects to U.S. EPA;
- 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 written guarantee to fund or perform the Work provided by one or more parent corporations of Respondent, or by one or more unrelated corporations that have a substantial business relationship with the Respondent, including a demonstration that any such guarantor company satisfies the requirements of 40 C.F.R. Part 264.143(f) with respect to the Estimated Cost of the Work (plus the amount(s) of any other federal or state environmental obligations financially assured through the use of a financial test or guarantee) that it proposes to guarantee hereunder; or
- f. A demonstration of sufficient financial resources to pay for the Work made by Respondent, which shall consist of a demonstration that Respondent satisfies the requirements of 40 C.F.R. Part 264.143(f). For these purposes, references in 40 C.F.R. § 264.143(f) to the “sum of current closure and post-closure costs estimates and the current plugging and abandonment costs estimates” shall mean the amount of financial security specified above. If Respondent seeks to provide a demonstration under 40 C.F.R. § 264.143(f) and has provided a similar demonstration at other RCRA or CERCLA sites, the amount for which it is providing financial assurance at those other sites shall be added to the estimated costs of the Work for this Paragraph.

77. 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. Within 30 days of the Effective Date, Respondent shall submit copies of all executed and/or otherwise finalized instruments or other documents required in order to make the selected performance guarantee(s) legally binding to U.S. EPA. In the event that U.S. EPA determines at any time that the financial assurances provided pursuant to this Section (including, without limitation, the mechanism(s) evidencing such assurances) are inadequate, Respondent shall, within 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 76, 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. 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.

78. If Respondent seeks to demonstrate the ability to complete the Work through a guarantee or demonstration by a third party pursuant to Paragraph 76 a. of this Section, Respondent's guarantor shall (a) demonstrate to U.S. EPA's satisfaction that the guarantor satisfies the requirements of 40 C.F.R. Part 264.143(f); and (b) resubmit sworn statements conveying the information required by 40 C.F.R. Part 264.143(f) annually thereafter within 90 days of the end of the guarantor's fiscal year or such other date as agreed by U.S. EPA, to U.S. EPA. For the purposes of this Settlement Agreement, wherever 40 C.F.R. Part 264.143(f) references "sum of current closure and post-closure costs estimates and the current plugging and abandonment costs estimates," the dollar amount to be used in the relevant financial test calculations shall be the current cost estimate of \$4,000,000 for the Work at the Site plus any other RCRA, CERCLA, TSCA, or other federal environmental obligations financially assured by the Respondent or guarantor to U.S. EPA by means of passing a financial test.

79. If, after the Effective Date, Respondent can show that the estimated cost to complete the remaining Work has diminished below the amount set forth in Paragraph 76 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 upon approval by U.S. EPA. In the event of a dispute, Respondent may seek dispute resolution pursuant to Section XVI (Dispute Resolution) and may reduce the amount of the security in accordance with the written decision resolving the dispute.

80. Respondent may change the form of financial assurance provided under this Section at any time, upon notice to and approval by U.S. EPA, provided that the new form of assurance meets the requirements of this Section. In the event of a dispute, Respondent may seek dispute resolution pursuant to Section XVI (Dispute Resolution), and may change the form of the financial assurance only in accordance with the written decision resolving the dispute.

81. Respondent may not release, cancel, or discontinue any performance guarantee provided pursuant to this Section except as provided in this Paragraph. If Respondent receives written notice from U.S. EPA in accordance with Paragraph 75 that the Work has been fully completed in accordance with the terms of this Settlement Agreement, Respondent may thereafter release, cancel, or discontinue the performance guarantee provided pursuant to this Section. In the event of a dispute, Respondent may seek dispute resolution pursuant to Section XVI (Dispute Resolution), and may release, cancel, or discontinue the performance guarantee required hereunder only in accordance with the written decision resolving the dispute.

XXVIII. SEVERABILITY/INTEGRATION/ATTACHMENTS

82. If a court issues an order that invalidates any provision of this Settlement Agreement or finds that Respondent has sufficient cause not to comply with one or more provisions of this Settlement Agreement, Respondent shall 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 order.

83. This Settlement Agreement and its attachments constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Settlement Agreement. The Parties acknowledge that there are no representations, agreements or

understandings relating to the settlement other than those expressly contained in this Settlement Agreement.

XXIX. EFFECTIVE DATE

84. This Settlement Agreement shall be effective upon receipt by Respondent of a copy of this Settlement Agreement signed by the Director, Superfund Division, U.S. EPA Region 5.

[Signature Page Follows]

The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party it represents to this document.

Agreed this 37 day of September, 2012.

For Respondent

By Cynthia M. [Signature]

Title Vice President - Financial Services

IN THE MATTER OF:

**WPSC Marinette MGP Site
Marinette, Wisconsin**

It is so ORDERED and Agreed this 3rd day of October, 2012.

By



Richard C. Karl, Director

for

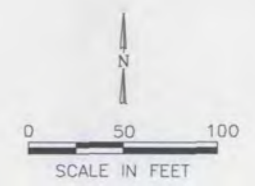
Superfund Division

United States Environmental Protection Agency

Region 5

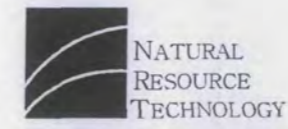


	UPLAND PORTION OF THE SITE
	RIVER PORTION OF THE SITE
	PROPERTY BOUNDARY
	MW-5 MONITORING WELL
	P-302 PIEZOMETER
	MW-2 ABANDONED MONITORING WELL
	GAS LINE
	WATER LINE
	ELECTRICAL LINE
	FORMER SLOUGH
	FORMER MGP STRUCTURE
	EXISTING STRUCTURE
	RAILROAD

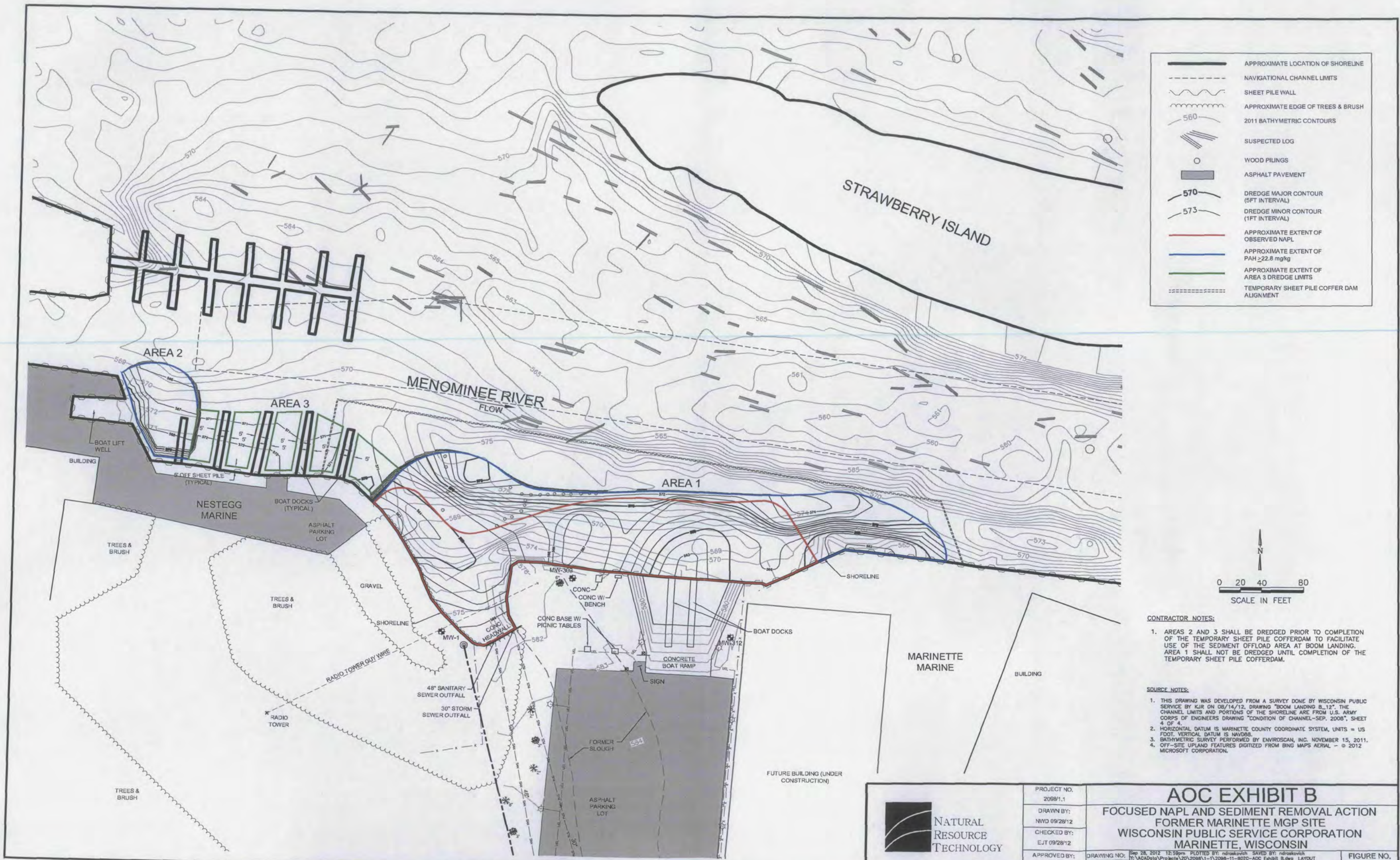


SOURCE NOTES:

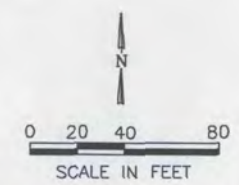
1. THIS DRAWING WAS DEVELOPED FROM A MAP BY THE CITY OF MARINETTE.
2. PORTIONS OF THE DRAWING ARE FROM A DIGITAL FILE FROM STS CONSULTANTS, LTD. CONSULTING ENGINEERS, GREEN BAY, WISCONSIN, PROJECT NUMBER 26936, REVISED JANUARY 2001. HYDROGRAPHIC SURVEY OF RIVER WAS PERFORMED BY AYRES AND ASSOCIATES ON JULY 24-26, 2001. VERTICAL CONTROL IS U.S.G.S. DATUM. BUILDING AND STREET LOCATIONS NORTH OF RAILROAD TRACKS WERE SUPPLIED BY MARINETTE MARINE CORPORATION.
3. PORTIONS OF THIS DRAWING ARE FROM HYDRO-SEARCH DRAWING.
4. EXISTING STRUCTURES AND UTILITIES FROM FOTH & VAN DYKE ENGINEERS/ARCHITECTS, GRADING PLAN, DIGITAL FILE 7m755c06.DWG, RECORD DRAWING REVISIONS 2/22/90.
5. WELL LOCATIONS FROM A SURVEY BY WPSO DATED OCTOBER 8, 2003, REVISED OCTOBER 31, 2003.
6. BRICK INTERCEPTOR SEWER REPLACEMENT TAKEN FROM DRAWING BY AYRES ASSOCIATES, GREEN BAY, WISCONSIN, JOB NO. 16-0189.10, DRAWING NO. P101, SHEET NO. 7, DATED 3/14/03.
7. MONITORING WELLS MW-2R, MW-3R, MW-307R INSTALLED OCTOBER 2004 AND MW-308, MW-310, P-305 INSTALLED JUNE 2004. SURVEYED BY WPSO IN JANUARY 2005. (NGVDB8, MARINETTE COUNTY COORDINATES).



PROJECT NO. 20981.1	AOC EXHIBIT A
DRAWN BY: NWD 09/28/12	
CHECKED BY: EJT 09/28/12	FOCUSED NAPL AND SEDIMENT REMOVAL ACTION FORMER MARINETTE MGP SITE WISCONSIN PUBLIC SERVICE CORPORATION MARINETTE, WISCONSIN
APPROVED BY: EJT 09/28/12	DRAWING NO. 20981.1-1-2098-11-2010-AOC Exhibit A.dwg LAYOUT1 REFERENCE: \\ACADData\Projects\20\2098\1-1-2098-11-2010-AOC Exhibit A.dwg
	FIGURE NO. A



- APPROXIMATE LOCATION OF SHORELINE
- - - NAVIGATIONAL CHANNEL LIMITS
- SHEET PILE WALL
- ~~~ APPROXIMATE EDGE OF TREES & BRUSH
- 560 2011 BATHYMETRIC CONTOURS
- SUSPECTED LOG
- WOOD PILINGS
- ASPHALT PAVEMENT
- 570 DREDGE MAJOR CONTOUR (5FT INTERVAL)
- 573 DREDGE MINOR CONTOUR (1FT INTERVAL)
- APPROXIMATE EXTENT OF OBSERVED NAPL
- APPROXIMATE EXTENT OF PAH ≥ 22.8 mg/kg
- APPROXIMATE EXTENT OF AREA 3 DREDGE LIMITS
- - - - - TEMPORARY SHEET PILE COFFER DAM ALIGNMENT



- CONTRACTOR NOTES:**
1. AREAS 2 AND 3 SHALL BE DREDGED PRIOR TO COMPLETION OF THE TEMPORARY SHEET PILE COFFERDAM TO FACILITATE USE OF THE SEDIMENT OFFLOAD AREA AT BOOM LANDING. AREA 1 SHALL NOT BE DREDGED UNTIL COMPLETION OF THE TEMPORARY SHEET PILE COFFERDAM.

- SOURCE NOTES:**
1. THIS DRAWING WAS DEVELOPED FROM A SURVEY DONE BY WISCONSIN PUBLIC SERVICE BY EIR ON 08/14/12, DRAWING "BOOM LANDING 8.12". THE CHANNEL LIMITS AND PORTIONS OF THE SHORELINE ARE FROM U.S. ARMY CORPS OF ENGINEERS DRAWING "CONDITION OF CHANNEL-SEP. 2008", SHEET 4 OF 4.
 2. HORIZONTAL DATUM IS MARINETTE COUNTY COORDINATE SYSTEM, UNITS = US FOOT. VERTICAL DATUM IS NAVD83.
 3. BATHYMETRIC SURVEY PERFORMED BY ENVIROSCAN, INC. NOVEMBER 15, 2011.
 4. OFF-SITE UPLAND FEATURES DIGITIZED FROM BING MAPS AERIAL - © 2012 MICROSOFT CORPORATION.

	AOC EXHIBIT B	PROJECT NO. 2098/1.1
	FOCUSED NAPL AND SEDIMENT REMOVAL ACTION FORMER MARINETTE MGP SITE WISCONSIN PUBLIC SERVICE CORPORATION MARINETTE, WISCONSIN	DRAWN BY: NWD 09/28/12
	FIGURE NO. B	CHECKED BY: EJT 09/28/12
	FIGURE NO. B	APPROVED BY: EJT 09/28/12
<small>DRAWING NO: Sep 28, 2012 12:59pm PLOTTED BY: ndraskovich SAVED BY: ndraskovich T:\ACADData\Projects\20\2098\1-1\2098-11-8020-AOC Exhibit B.dwg LAYOUT NAME: 2098-11-8020-AOC Exhibit B.dwg REFERENCE: T:\ACADData\Projects\20\2098\1-1\2098-11-8020-AOC Exhibit B.dwg</small>		<small>FIGURE NO. B</small>