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ATTACHMENTS

Attachment 1 Puente Valley Operable Unit Interim Record of Decision

Attachment 2 Puente Valley Operable Unit Explanation of Significant Differences

Attachment 3 Map of former Benchmark Facility, City of Industry, California

Attachment 4 Statement of Work for Administrative Order 2011-14

## I. INTRODUCTION AND JURISDICTION

1. (a) This Order directs the Respondent, Northrop Grumman Systems Corporation ("Northrop" or "Respondent") to perform the interim remedial design and remedial action for the shallow groundwater zone south of Puente Creek ("the Shallow Zone South of Puente Creek") as described in the Interim Record of Decision ("ROD") for the Puente Valley Operable Unit of the San Gabriel Valley Superfund Sites, Area 4, dated September 30, 1998, as modified by the Explanation of Significant Differences issued on June 14, 2005. This Order is issued to Respondent by the United States Environmental Protection Agency ("EPA") under the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9606(a). This authority was delegated to the Administrator of EPA on January 23, 1987, by Executive Order 12580 (52 Fed. Reg. 2926, January 29, 1987), and was further delegated to EPA Regional Administrators on September 13, 1987 by EPA Delegation No. 14-14-B. This authority was further delegated to the Chief of the Superfund Site Cleanup Branch (now titled Assistant Director), EPA Region 9, by Regional Order R9-1290.14(a), dated November 16, 2001.
- (b) This Order only affects the remedial design and remedial action for the Shallow Zone South of Puente Creek and is not intended to alter or affect Northrop Grumman's rights and obligations under the consent decree between EPA and Northrop Grumman entered by the U.S. District Court for the Central District of California on August 21, 2009.

## II. FINDINGS OF FACT

### Puente Valley Operable Unit Site Background

2. In May of 1984, pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, EPA placed the San Gabriel Valley Superfund Sites, Areas 1-4, on the National Priorities List, set forth in 40 C.F.R. Part 300, Appendix B (49 Fed. Reg. 40320).
3. To study and undertake response activities at the San Gabriel Valley Superfund Sites, EPA divided the four San Gabriel Valley Sites into operable units, based on geography. This Order addresses a portion of the interim remedial design and remedial action for the Puente Valley Operable Unit ("PVOU" or "Site"), which is located within San Gabriel Valley Superfund Site Area 4. Specifically, this Order addresses interim remedial design and remedial action for the portion of the PVOU shallow groundwater zone that is south of Puente Creek.
4. The PVOU is located in the southeastern portion of the San Gabriel Valley in Los Angeles County, California, and encompasses an area of groundwater contamination that is over twelve miles in length and from two to three miles in width. This area of contamination underlies most of the City of Industry and portions of La Puente and is depicted generally in the ROD (Attachment 1). Groundwater within the PVOU generally flows to the west

and northwest, except that at the mouth of Puente Valley, the direction of groundwater flow ranges from west to north. Most of this groundwater is extracted by water supply wells at the northwest end of the PVOU. Some of the PVOU groundwater bypasses the water supply wells and flows towards the Whittier Narrows.

5. The San Gabriel Valley groundwater basin, including groundwater from the PVOU, provides drinking water to more than one million residents of the San Gabriel Valley and other nearby areas. The rights to extract and use this groundwater have been adjudicated by the State. Only specified users, including a number of domestic water purveyors, are permitted to extract groundwater from the Site. Given the absence of dependable alternatives to the aquifer as the region's primary water supply, the groundwater is expected to remain the residents' primary source of drinking water indefinitely.
6. The State of California considers all subsurface groundwater zones (shallow, intermediate, and deep) of relatively high permeability in the PVOU to be potential sources of drinking water.
7. The EPA, State of California, and local water producers have detected chemicals of potential concern in the PVOU groundwater, including tetrachloroethylene ("PCE"), trichloroethylene ("TCE"), 1,1,1-trichloroethylene ("1,1,1-TCA"), their degradation products, and the other volatile organic compounds ("VOCs") listed in Table 1 of the ROD. These chemicals were used at many industrial facilities in and around the City of Industry beginning in the 1950s for degreasing metal parts and other purposes. Investigations of the source facilities indicate that these chemicals were released to the ground through on-site disposal, careless handling, leaking tanks, pipes and sumps, and other means. Within the San Gabriel Valley Superfund Sites, more than one-quarter of the approximately 366 water supply wells have been found to be contaminated with one or more of these chemicals.
8. Fifty-four VOCs have been detected in the groundwater drawn from production and monitoring wells in the PVOU. (See Table 1 in Attachment 1). At least five of these VOCs are classified as known or probable human carcinogens. If groundwater contamination is not addressed, there will be a long-term potential for human exposure to VOCs. The human populations potentially exposed to VOCs present in the groundwater include individuals using the groundwater for domestic purposes.

#### EPA's Site Activities

9. Beginning in March 1991, EPA sent general notice letters to those entities that EPA believed to be potentially responsible for contamination at the Site. In May 1993, acting pursuant to Section 122(e) of CERCLA, 42 U.S.C. § 9622(e), EPA sent special notice letters to 58 potentially responsible parties for the Site. The special notice letters requested that the recipients enter into negotiations with EPA to perform the Remedial Investigation

and Feasibility Study ("RI/FS") for the PVOU. Forty-two of the potentially responsible parties, including Respondent, formed the Puente Valley Steering Committee ("PVSC") and in September 1993 entered into an Administrative Order on Consent to perform the RI/FS.

10. From September 1993 to May 1997, the PVSC undertook the RI/FS for the PVOU. Because of the PVSC's failure to adequately address EPA comments on RI/FS deliverables, EPA took over the Feasibility Study in December 1996. In two separate reports dated May 30, 1997, the PVSC presented the results of the Remedial Investigation and EPA presented the results of the Feasibility Study, in accordance with CERCLA and the National Contingency Plan, 40 C.F.R. Part 300.
11. Pursuant to Section 117 of CERCLA, 42 U.S.C. § 9617, EPA published notice of the completion of the Feasibility Study and the proposed plan for remedial action on January 28, 1998, and provided opportunity for public comment on the proposed interim remedial action.
12. The decision by EPA on the interim remedial action to be implemented at the PVOU is embodied in the ROD, executed on September 30, 1998, on which the State of California has given its concurrence. The ROD is Attachment 1 to this Order and is incorporated by reference. The ROD is supported by an administrative record that contains the documents and information upon which EPA based the selection of the response action.
13. On September 28, 2000, EPA issued CERCLA Section 122(e) special notice letters to 56 potentially responsible parties ("PRPs") for the PVOU, including Respondent. These special notice letters requested that the PRPs make a "good faith offer" to perform the remedial design and remedial action ("RD/RA") and reimburse EPA for its past response costs. On December 4, 2000, the PVSC, including Respondent, replied with an offer to perform a portion of the RD/RA and pay a portion of EPA's past response costs. EPA subsequently engaged in settlement discussions with the PVSC.
14. Some of the PRPs for the PVOU did not make a good faith offer to perform the RD/RA or reimburse EPA's past response costs. On September 13, 2001, EPA issued Administrative Order 2001-20 to one of these PRPs, Carrier Corp., to perform the shallow groundwater portion of the RD/RA. Carrier Corp. refused to comply with Administrative Order 2001-20. Consequently, EPA initiated the shallow groundwater portion of the RD/RA for the PVOU. EPA subsequently entered into a consent decree with Carrier under which Carrier agreed to implement the shallow zone remedy north of Puente Creek and to perform mid-valley monitoring in accordance with the Interim ROD, as modified by the ESD. On April 28, 2006, the U.S. District Court for the Central District of California entered this consent decree. The consent decree superseded the previously issued Administrative Order.
15. On March 21, 2002, EPA issued Administrative Order 2002-06 to TRW Inc. ("TRW"), the predecessor-in-interest to Northrop, to perform the intermediate groundwater zone portion

of the RD/RA. TRW sent EPA notice of its intent to comply with the Order. Between 2002 and 2009 TRW and subsequently Respondent began implementation of the intermediate zone remedy in compliance with the Order. The work performed included installation of groundwater monitoring wells, collection and analysis of groundwater samples, groundwater modeling to support remedial design activities, the design of the extraction well network, construction of a portion of the extraction well network, pipeline installation, and related project management activities.

16. In June 2005, EPA issued an Explanation of Significant Differences (“ESD”) modifying the 1998 Interim ROD. The ESD updated the cleanup plan in response to the detection of 1,4-dioxane and perchlorate in the underlying groundwater. The ESD (a) required treatment of 1,4-dioxane and, if necessary, perchlorate; (b) added 1,4-dioxane to the contaminants of concern requiring containment; and (c) modified the Performance Criteria and Applicable or Relevant and Appropriate Requirements (“ARARs”) established in the Interim ROD to include the foregoing changes with respect to these two contaminants.
17. EPA subsequently entered into a consent decree with Northrop, as the successor-in-interest to TRW, under which Northrop agreed to implement the intermediate zone remedy in accordance with the Interim ROD and the ESD. The consent decree superseded Administrative Order 2002-06 with respect to performance of the intermediate zone remedy. A number of other PRPs joined this consent decree as cashout parties. On August 21, 2009, the U.S. District Court for the Central District of California entered this consent decree. Pursuant to Paragraph 88.j. of the consent decree, EPA reserved all of its rights against Northrop with respect to liability for implementation of the remedy for the Shallow Zone South of Puente Creek. At the time the consent decree was entered Northrop, as discussed in greater detail below, was subject to an administrative order issued by the Los Angeles Regional Water Quality Control Board (“the LARWQCB”) for the performance of the work in the Shallow Zone South of Puente Creek.
18. As discussed further below, on or about March 4, 2010, and again on May 19, 2010, the LARWQCB informed Northrop, through written communications, that EPA and the LARWQCB had agreed that EPA would take the lead from the LARWQCB in directing and overseeing Northrop’s performance of the remedy for the Shallow Zone South of Puente Creek.

#### Respondent’s Past Operations and Evidence of Releases

19. Respondent, its predecessor-in-interest TRW, and TRW’s subsidiary Lucas Western, Inc., and Lucas Western’s predecessors in interest, operated three manufacturing facilities (“Respondent’s Facilities”) at the Site, at the following locations: (1) 200 South Turnbull Canyon Road, City of Industry, California; (2) 14724 East Proctor Avenue, City of Industry, California; and (3) 18301 East Arenth Avenue, City of Industry, California (the “Facilities”). The 200 South Turnbull Canyon Road Facility is located south of Puente Creek.

20. Pursuant to the requirements of the Los Angeles Regional Water Quality Control Board ("LARWQCB"), Respondent investigated soil matrix, soil gas and groundwater conditions on and around the Facilities for evidence of VOC releases. Sampling at the Facilities detected TCE, PCE, 1,1,1-TCA, 1,1-dichloroethene ("1,1-DCE"), 1,1-dichloroethane ("1,1-DCA"), 1,1,2-trichloroethane ("1,1,2-TCA"), methylene chloride, and other chemicals of concern listed in Table 1 of the ROD, in the soil matrix, soil gas, and groundwater. Environmental assessments of the Facilities identified significant sources of VOC releases to the environment.

The 200 South Turnbull Canyon Road Facility ("the Benchmark Facility")

21. Respondent, through its predecessor TRW, owned and operated the 200 South Turnbull Canyon Road facility from approximately 1968 to December 30, 1983, when it was sold to Benchmark Technology, Inc. (hereinafter referred to as "the Benchmark facility"). TRW retained responsibility for environmental contamination at the Benchmark facility. During the period TRW owned and operated the Benchmark facility, TRW manufactured printed circuit boards and used TCE, 1,1,1-TCA and methylene chloride for degreasing purposes. 1,4-Dioxane was used as a stabilizer in the 1,1,1-TCA. TRW used chromic acid to etch printed circuit boards; releases of the chromic acid have resulted in elevated total chromium and hexavalent chromium groundwater concentrations downgradient of the Benchmark facility. A December 1985 inspection by the LARWQCB found two aboveground storage tanks ("ASTs") containing 1,1,1-TCA, two closed-loop solvent cleaning systems, a floor drain system in the processing areas, and poor housekeeping in the AST farm area.
22. The Benchmark facility is located at the mouth of Puente Valley, approximately a mile from the planned location of the interim remedial action for the intermediate zone groundwater. The Benchmark facility overlies soils consisting of interbedded silty sands, sandy clay and silty clays with traces of gravel and coarse sands lying over a medium of coarse sand. The depth to groundwater measured at the Benchmark facility has varied from approximately 27 to 64 feet ' below ground surface (bgs).
23. On January 21, 1987, TRW's contractor collected soil matrix samples from three soil borings drilled to a maximum depth of 45' bgs in several areas of concern. Laboratory analysis of these samples detected up to 1,300 µg/kg of 1,1-DCE at 20' bgs, 2,500 µg/kg of 1,1,1-TCA at 20' bgs, 460 µg/kg of 1,1-DCA at 20' bgs, and 910 µg/kg of methylene chloride at 20' bgs. TRW's contractor collected additional soil matrix samples from 31 additional soil borings during 1987 and 1988. Laboratory analysis of these samples also detected significant VOC concentrations at depths ranging from 1' to 30' bgs.
24. During January and May 1987, TRW's contractor conducted two soil gas investigations of several areas of concern at the facility. Laboratory analysis of samples collected at 4' bgs

detected up to 180,000 µg/l of TCE, up to 122,000 µg/l of 1,1,1-TCA, and up to 5,600 µg/l of PCE.

25. On April 12, 1989, the LARWQCB issued Cleanup and Abatement Order (“CAO”) 89-034 to TRW. The CAO required TRW to perform (1) onsite characterization of the soil and groundwater contamination; (2) offsite assessment of groundwater contamination; (3) remediation of contaminated soils; and (4) remediation of onsite contaminated groundwater.
26. During January 1990, TRW’s contractor collected soil matrix samples from 16 soil borings drilled to a maximum depth of 40' bgs in several areas of concern. Laboratory analysis of these samples detected up to 75,000 µg/kg of 1,1,1-TCA at 35' bgs, 9,400 µg/kg of 1,1-DCE at 35' bgs, 11,000 µg/kg of methylene chloride at 30' bgs, 2,900 µg/kg of 1,2-dichloroethene ("1,2-DCA") at 35' bgs, 1,500 µg/kg of 1,1,2-TCA at 25' bgs, 1,500 µg/kg of TCE at 30' bgs, and 330 µg/kg of PCE at 25' bgs.
27. During January 1991, TRW’s contractor collected soil matrix samples from 45 soil borings drilled to a maximum depth of 40' bgs in several areas of concern. Laboratory analysis of these samples detected up to 28,000 µg/kg of TCE, 2,100 µg/kg of PCE, 2,300 µg/kg of 1,1,1-TCA at 4' bgs, 2,300 µg/kg of 1,1-DCA at 4' bgs, 2,000 µg/kg of 1,1-DCE at 4' bgs, 14 µg/kg of 1,1,2-TCA at 4' bgs, and 14 µg/kg of 1,2-DCA at 4' bgs. TRW’s contractor collected additional soil matrix samples from 31 additional soil borings during 1991. Laboratory analysis of these samples also detected significant VOC concentrations at depths to 40' bgs.
28. The highest concentrations of VOCs in the soil matrix and soil gas were detected in the former solvent stripping area, degreasing area, AST farm area, underground piping runs, developer and still areas, and sump areas.
29. From January 1987 to October 1992, TRW’s contractor installed 25 groundwater monitoring wells, which were screened at 60' bgs, 80-100' bgs and 160-180' bgs. Laboratory analysis of groundwater samples from monitoring well W-3 detected up to 120,000 µg/l of 1,1,1-TCA, up to 73,000 µg/l of TCE, up to 56,000 µg/l of 1,1-DCE, 4,700 µg/kg of 1,1-DCA, and up to 900 µg/l of PCE. Laboratory analysis of groundwater samples from monitoring well W-9 detected up to 56,000 µg/l of 1,1-DCE. The highest VOC concentrations in groundwater were detected at the northwestern corner of the property and the northern property boundary.
30. The buildings located on the 200 South Turnbull Canyon Road facility were demolished in 1990. In 1991, TRW excavated and removed soils from areas with the most significant VOC contamination and began operating a soil vapor extraction system to clean up soils at remaining “hot spots” on the property.

31. TRW installed a groundwater remediation system in 1995, and operated intermittently between February and December 1996, and continuously from July 1998 to February 2000. The system was shut down on or about February 22, 2000 due to the detection of 1,4-dioxane above permitted effluent limit concentrations. An advanced oxidation system was installed in December 2000 to treat 1,4-dioxane. The groundwater treatment system resumed operation after the installation of the advanced oxidation system. The groundwater remediation system included ten groundwater extraction wells. Groundwater extraction rates varied between about 35 and 50 gpm. The groundwater remediation system operated full time from 2001-2003 and intermittently from 2004-2008. It was discontinued in 2009.
32. Northrop Grumman acquired TRW in December 2002 and succeeded to TRW's responsibilities with respect to the PVOU. On October 1, 2003, the LARWQCB issued a new Cleanup and Abatement Order ( CAO No. R4-2003-0021), to Northrop for the Benchmark facility due to a concern regarding a groundwater hotspot emanating from the Benchmark facility. The purpose of the new CAO was to ensure that Northrop continue onsite remediation, complete assessment of the offsite migration of VOCs and emergent chemicals -- specifically, 1,4-dioxane -- and, as necessary, undertake remediation of the affected groundwater offsite as part of a source control strategy to clean up the hotspot generated at the Benchmark facility. The CAO stated that the cleanup must be conducted in coordination with the EPA regional remedy to ensure groundwater production wells protection by providing the LARWQCB with monitoring and progress reports. The Benchmark facility plume has a unique chemical contaminant signature with elevated concentrations of 1,1-DCE, TCE, and 1,4-dioxane, and a comparably lower concentration of PCE.
33. On or about October 29, 2003, the LARWQCB sent a letter to Northrop stating that CAO No. R4-2003-0021 was rescinded in view of Northrop's ongoing negotiations with EPA, and the anticipation of a three-party meeting with EPA, the LARWQCB, and Northrop to address, clarify, and resolve onsite and offsite investigation and cleanup issues.
34. On or about August 18, 2004, the LARWQCB sent a letter to Northrop stating the LARWQCB's position that CAO No. 89-034 was still in effect and that Northrop should expand its proposed downgradient groundwater extraction system to Puente Creek.
35. On or about February 23, 2005, the LARWQCB sent a letter to Northrop stating that, based on progress made during negotiations following rescission of CAO R4-2003-21, the LARWQCB believed there was no longer a need to issue a new CAO, but that remediation work with respect to the Benchmark facility should continue under the existing CAO No. 89-034, supplemented in certain important respects -- namely, that Northrop was to commence design and construction of a Valley Boulevard Groundwater Treatment System to address the 1,4-dioxane contamination and was to ensure that the "design components should be consistent or compatible with the regional remedy being implemented

under EPA's oversight, particularly with respect to timing of system startup, and vertical and horizontal containment."

36. The new groundwater treatment system and pipelines required by the LARWQCB CAO, as supplemented by the LARWQCB's February 23, 2005 communication, were never constructed.
37. In a letter dated March 4, 2010, the LARWQCB notified Northrop that the LARWQCB, after consultation with EPA, intended to transfer lead regulatory oversight responsibility to EPA for the remediation of contamination stemming from the Benchmark facility. The LARWQCB stated that "EPA is in a better position to oversee the Benchmark remedial system design, to integrate the Benchmark RA into the overall PVOU regional remedy, and to start up the Benchmark remedy within the context of the CERCLA regional remedy for the PVOU." In a subsequent letter, dated May 19, 2010, the LARWQCB reiterated the foregoing points and noted that Northrop, in a letter to the LARWQCB dated March 18, 2010, had commented on and in general supported the transfer to EPA. The LARWQCB further stated in its May 19, 2010 letter that "the transfer of lead oversight responsibilities for this site from the Regional Board to USEPA will now commence." In or about March through May 2010, EPA, in accordance with the above communications and pursuant to its reservation of rights in Paragraph 88.j. of the Consent Decree with Northrop, assumed the lead from the LARWQCB in directing and overseeing Northrop's performance of the remedy for the Shallow Zone South of Puente Creek.

#### Impact of the Releases

38. The environmental analytical sampling results, described above, and other data collected at the Site indicate severe impact to groundwater quality from Respondent's releases at the Benchmark Facility. These investigations have shown that Respondent's contamination from the Benchmark Facility is migrating from the Benchmark Facility northward into the shallow zone north of Puente creek and into the upper unit of the intermediate zone.
39. Hazardous substances released from Respondent's Benchmark Facility have migrated through the soil, contaminating groundwater beneath the Facility. These hazardous substances have generally migrated towards and/or through the mouth of Puente Valley, and have commingled with hazardous substances from other facilities, creating a large plume of contaminated groundwater. Evidence of downward migration through the soil includes the soil gas and soil matrix samples collected at and around Respondent's Facilities demonstrating the presence of TCE, PCE, 1,1,1-TCA, 1,1,2-TCA, 1,1-DCE, 1,1-DCA, 1,2-DCA, methylene chloride, and other hazardous substances originating from Respondent's Facilities, and geologic investigations which have documented the highly permeable nature of the subsurface soils. Evidence of migration through the aquifer includes the presence of the same hazardous substances in samples collected from a network of monitoring wells installed in the PVOU, and computer simulations of

groundwater flow and particle movement indicating that contamination originating at the Facilities has migrated through the PVOU.

40. The groundwater contamination from Respondent's Facilities, including the 200 South Turnbull Canyon Road Facility, and other sources in the PVOU has made it necessary for local water producers to install and operate wellhead treatment systems at public water supply wells at the Site. The affected water producers include the San Gabriel Valley Water Company ("SGVWC") and Suburban Water Systems. The SGVWC has detected contaminants in its B7 well field. Suburban Water Systems has also detected contaminants in its wells. This groundwater contamination threatens additional public water supply wells at the mouth of Puente Valley, and other presently uncontaminated sources of drinking water in and around the Site.
41. The selected interim remedy, embodied in the ROD, as modified by the ESD, requires containment of the contaminated groundwater in the shallow and intermediate depths to its current lateral and vertical extent, and continued groundwater monitoring at all depths (i.e., shallow, intermediate and deep). The objectives of the selected remedy are to contain and limit the movement of contaminated groundwater into clean or less contaminated areas and depths; remove significant mass of contamination from the groundwater; and provide the data necessary to determine, in a subsequent final Record of Decision, cleanup standards for the Site. These objectives are reflected in the ROD's Performance Criteria, as modified by the ESD, which are the principal requirements governing the design, implementation and evaluation of the interim remedial action.
42. The interim remedial action will reduce exposure to the contaminated groundwater by limiting the spread of the contamination into less contaminated and uncontaminated portions of the aquifer, and by reducing contaminant concentrations in the aquifer.

### **III. CONCLUSIONS OF LAW AND DETERMINATIONS**

43. The Puente Valley Operable Unit is a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9). The PVOU also contains the Benchmark Facility, formerly owned and operated by Respondent and TRW.
44. The substances referenced in Paragraphs 7, 8, and 20-29, found at the Site, and in connection with the Benchmark Facility, are "hazardous substances" as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).
45. These hazardous substances have been disposed of at the Site and have released and/or threaten to be released into the soil and groundwater, and have migrated and/or threaten to migrate from the Site.
46. Respondent is a "person" as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

47. Respondent is the successor-in-interest to TRW. Respondent is a liable party as defined in Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and is subject to this Order under Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).
48. The past disposal and subsequent migration of hazardous substances at the Benchmark Facility, and within the Shallow Zone South of Puente Creek constitute a "release" as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).
49. The potential for future migration of hazardous substances from the Shallow Zone South of Puente Creek, including from the Benchmark Facility, poses a threat of a "release" as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).
50. The release or threat of release of one or more hazardous substances from the Benchmark Facility may present an imminent and substantial endangerment to the public health or welfare or the environment under Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).
51. The contamination and endangerment in the Shallow Zone South of Puente Creek constitute an indivisible injury. The actions required by this Order are necessary to protect the public health or welfare or the environment. Respondent is jointly and severally responsible for all of the contamination in the Shallow Zone South of Puente Creek.

#### **IV. NOTICE TO THE STATE**

52. On September 6, 2011, prior to issuing this Order, EPA notified the State of California Department of Toxic Substances Control ("DTSC") and the LARWQCB, that EPA would be issuing this Order.

#### **V. ORDER**

53. Based on the foregoing, Respondent is hereby ordered to comply with the following provisions, including but not limited to all attachments to this Order, all documents incorporated by reference into this Order, and all schedules and deadlines in this Order, attached to this Order, or incorporated by reference into this Order:

#### **VI. DEFINITIONS**

54. Unless otherwise expressly provided herein, terms used in this Order which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in the statute or its implementing regulations. Whenever terms listed below are used in this Order, or in the documents attached to this Order, or incorporated by reference into this Order, the following definitions shall apply:

U.S. EPA (Region 9) Administrative Order for RD/RA, CERCLA Docket No. 2011-14

- A. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 et seq.
- B. "Day" shall mean a calendar day unless expressly stated to be a working day. "Working day" shall mean a day other than a Saturday, Sunday, or Federal holiday. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the end of the next working day.
- C. "EPA" shall mean the United States Environmental Protection Agency.
- D. "DTSC" shall mean the California Department of Toxic Substances Control and any successor departments or agencies of DTSC.
- E. "Hazardous Substance Superfund" or "Fund" shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.
- F. "LARWQCB" shall mean the Los Angeles Regional Water Quality Control Board and any successor boards, departments, or agencies of LARWQCB.
- G. "National Contingency Plan" or "NCP" shall mean the National Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, including any amendments thereto.
- H. "Operation and Maintenance" or "O&M" shall mean all activities required under the Compliance Monitoring Plan, Operation and Maintenance Plan, and the Operation and Maintenance Manual developed by Respondent pursuant to this Order and Section IV of the Statement of Work ("SOW"), and approved by EPA.
- I. "Paragraph" shall mean a portion of this Order identified by an arabic numeral.
- J. "Performance Criteria" shall mean those cleanup standards, standards of control, and other substantive requirements, criteria or limitations, identified in the SOW and the ROD, as modified by the ESD, that the Remedial Action and Work required by this Order must attain and maintain.
- K. "PVOU" or "Site" shall mean the Puente Valley Operable Unit of the San Gabriel Valley Superfund Sites, Areas 1-4, in and near the cities of Industry and La Puente in Los Angeles County, California, and depicted generally in the ROD (Attachment 1) and the ESD (Attachment 2).
- L. "Record of Decision" or "ROD" shall mean the EPA Record of Decision relating to the PVOU, signed on September 30, 1998, by the Regional Administrator, EPA Region 9, or her delegate, and all attachments thereto.

- M. "Remedial Action" or "RA" shall mean those activities, except for Operation and Maintenance, to be undertaken by Respondent to implement the remedy for the Shallow Zone South of Puente Creek in accordance with the Interim ROD, as modified by the ESD, the applicable SOW and the final plans and specifications submitted by Respondent pursuant to the Remedial Design/Remedial Action Work Plan ("RD/RA Work Plan") approved by EPA, including any additional activities required under Sections X, XI, XII, XIII, and XIV of this Order.
- N. "Remedial Design" or "RD" shall mean those activities to be undertaken by Respondent to develop the final plans and specifications for the Remedial Action pursuant to the Remedial Design/Remedial Action Work Plan.
- O. "Remedial Design/Remedial Action Work Plan" or "RD/RA Work Plan" shall mean the work plan setting forth the Work to be performed by Respondent under this Order, as more fully described in Section IX of this Order and in the SOW. The "RA Work Plan" shall mean the subsequent work plan, to be submitted after the approval of the Remedial Design, that more specifically provides for the construction and implementation of the remedy for the Shallow Zone South of Puente Creek, taking into account all of the information obtained during the Remedial Design process.
- P. "Response Costs" shall mean all costs, including direct costs, indirect costs, and accrued interest incurred and to be incurred by the United States to perform or support response actions at the Shallow Zone South of Puente Creek. Response costs include but are not limited to the costs of overseeing the Work, such as the costs of reviewing or developing plans, reports and other items pursuant to this Order and costs associated with verifying the Work.
- Q. "Shallow Zone South of Puente Creek" shall mean the shallow zone of the PVOU aquifer, as referenced in the ROD and ESD, that lies south of Puente Creek and is bounded on the east, west, and south by the extent of shallow zone contamination. Puente Creek, a surface water reconveyance channel located in Los Angeles County, lies above the underlying shallow zone groundwater and shall serve as the northern physical boundary for the Shallow Zone South of Puente Creek remedy.
- R. "Statement of Work" or "SOW" shall mean the statement of work for implementation of the Remedial Design, Remedial Action, and Operation and Maintenance for the remedy relating to the Shallow Zone South of Puente Creek that is set forth in Attachment 4. The Statement of Work is incorporated into this Order and is an enforceable part of this Order.
- S. "Section" shall mean a portion of this Order identified by a roman numeral and which includes one or more paragraphs.

- T. "State" shall mean the State of California, including but not limited to the California Department of Toxic Substances, the California Regional Water Quality Control Board, and the California Department of Public Health, Drinking Water Field Operations Branch.
- U. "United States" shall mean the United States of America.
- V. "Work" shall mean all activities that Respondent is required to perform under this Order, including Remedial Design, Remedial Action, Operation and Maintenance, and any activities required to be undertaken pursuant to Sections VII through XXIV, and XXVII of this Order.

#### **VII. NOTICE OF INTENT TO COMPLY**

58. Respondent shall provide, not later than September 27, 2011, written notice to EPA's Project Manager stating whether it will comply with the terms of this Order. If Respondent does not unequivocally commit to perform the RD and RA as provided by this Order, Respondent shall be deemed to have violated this Order and to have failed or refused to comply with this Order. Respondent's written notice shall describe, using facts that exist on or prior to the effective date of this Order, any "sufficient cause" defenses asserted by Respondent under Sections 106(b) and 107(c)(3) of CERCLA, 42 U.S.C. §§ 9606(b) and 9607(c)(3). The absence of a response by EPA to the notice required by this Paragraph shall not be deemed to be acceptance of Respondent's assertions.

#### **VIII. PARTIES BOUND**

59. This Order shall apply to and be binding upon Respondent, its directors, officers, employees, agents, successors, and assigns. No change in the ownership, corporate status, or other control of Respondent shall alter any of Respondent's responsibilities under this Order.
60. Respondent shall provide a copy of this Order to any prospective owners or successors before a controlling interest in Respondent's assets, property rights, or stock are transferred to the prospective owner or successor. Respondent shall provide a copy of this Order to each contractor, sub-contractor, laboratory, or consultant retained to perform any Work under this Order, within five days after the effective date of this Order or on the date such services are retained, whichever date occurs later. Respondent shall also provide a copy of this Order to each person representing Respondent with respect to the PVOU or the Work and shall condition all contracts and subcontracts entered into hereunder upon performance of the Work in conformity with the terms of this Order. With regard to the activities undertaken pursuant to this Order, each contractor and subcontractor shall be deemed to be related by contract to Respondent within the meaning of Section 107(b)(3) of CERCLA, 42 U.S.C. § 9607(b)(3). Notwithstanding the terms of any contract, Respondent is responsible for compliance with this Order and for ensuring that its contractors,

subcontractors and agents comply with this Order, and perform any Work in accordance with this Order.

61. Not later than sixty (60) days prior to any transfer by Respondent of any real property interest in any property included within the PVOU, Respondent shall submit a true and correct copy of the transfer document(s) to EPA, and shall identify the transferee by name, principal business address and effective date of the transfer.

### **IX. WORK TO BE PERFORMED**

62. Respondent shall cooperate with EPA in providing information regarding the Work to the public. As requested by EPA, Respondent shall participate in the preparation of such information for distribution to the public and in public meetings which may be held or sponsored by EPA to explain activities at or relating to the Site.
63. All aspects of the Work to be performed by Respondent pursuant to this Order shall be under the direction and supervision of a qualified project manager the selection of whom shall be subject to approval by EPA. Within fifteen (15) days after the effective date of this Order, Respondent shall notify EPA in writing of the name and qualifications of the project manager, including primary support entities and staff, proposed to be used in carrying out Work under this Order. If at any time Respondent proposes to use a different project manager, Respondent shall notify EPA and shall obtain approval from EPA before the new project manager performs any Work under this Order.
64. EPA will review Respondent's selection of a project manager according to the terms of this Paragraph and Section XIV of this Order. If EPA disapproves of the selection of the project manager, Respondent shall submit to EPA within fourteen (14) days after receipt of EPA's disapproval of the project manager previously selected, a list of project managers, including primary support entities and staff, that would be acceptable to Respondent. EPA will thereafter provide written notice to Respondent of the names of the project managers that are acceptable to EPA. Respondent may then select any approved project manager from that list and shall notify EPA of the name of the project manager selected within fourteen (14) days of EPA's designation of approved project managers.
65. Within forty-five (45) days after the after the effective date of this Order, Respondent shall submit an initial RD/RA Work Plan to EPA for review and approval. Respondent shall prepare the RD/RA Work Plan in accordance with the SOW, and as otherwise required by EPA. The RD/RA Work Plan shall include a step-by-step plan for completing the Remedial Design and Remedial Action for the remedy described in the attached SOW and for attaining and maintaining all requirements, including the Performance Criteria, identified in the SOW and the ROD. The RD/RA Work Plan shall describe in detail the tasks and deliverables Respondent will complete during the Remedial Design and Remedial Action phases, and a schedule for completing all tasks and deliverables. Each iteration of the RD/RA Work Plan shall, to the extent possible, describe the major tasks

and deliverables, including, but not be limited to, the following: (1) Remedial Design Field Investigation Report; (2) a conceptual design; (3) a preliminary design; (4) an intermediate design; (5) a pre-final design; (6) identification and satisfactory compliance with applicable permitting requirements; (7) one or more sampling and analysis plan(s); (8) a Construction Quality Assurance Plan (CQAP); (9) an Operation and Maintenance Plan and Manual; and 10) a Compliance Monitoring Plan. In addition, the RD/RA Work Plan shall include an assessment of the vapor intrusion pathway.

66. The RD/RA Work Plan shall provide for implementation of the attached SOW, and shall comport with EPA's "Superfund Remedial Design/Remedial Action Handbook," U.S. EPA, Office of Emergency and Remedial Response, June 15, 1995, EPA 540/R-95/059. Upon approval by EPA, the RD/RA Work Plan and future revisions or addenda to the RD/RA Work Plan are incorporated into this Order as a requirement of this Order and shall be an enforceable part of this Order.
67. Upon approval of the RD/RA Work Plan by EPA, Respondent shall complete the Remedial Design and perform the Remedial Action by implementing the RD/RA Work Plan according to the schedule in the approved RD/RA Work Plan. Any violation of the RD/RA Work Plan shall be a violation of this Order.
68. Within forty-five days (45) days after the effective date of this Order, Respondent shall submit a Remedial Design Field Investigation Work Plan to EPA for review and approval. The Remedial Design Field Investigation Work Plan shall describe the planned Remedial Design Investigation (RDI) activities needed to assess the vertical and lateral extent of groundwater contamination exceeding 10 times ARARs within the Shallow Zone South of Puente Creek. The RD Field Investigation Work Plan shall include but not necessarily be limited to the scope and items listed in Section IV.B1 of the SOW
69. Within sixty (60) days after work performed under the RD Field Investigation Work Plan is completed, Respondent shall submit an RDI Report that will summarize and interpret the data collected from the field investigation to assess the extent of groundwater contamination downgradient of the former Benchmark facility and south of Puente Creek. This report shall include, but not necessarily be limited to, the items listed in Section IV.B2 of the SOW.
70. Within ninety (90) days after the RDI Report is submitted to EPA, Respondent shall submit a Compliance, Sentinel, and Monitoring Well Network Plan to EPA for review and approval. The Compliance and Sentinel, and Monitoring Well Network Plan shall describe the proposed locations and specifications of the compliance, sentinel, and monitoring wells. Respondent shall submit the Compliance, Sentinel, and Monitoring Well Installation Complete Report ninety (90) days after work performed under the approved Compliance, Sentinel, and Monitoring Well Network Plan, and the second quarterly sampling event has been completed.

71. Within ninety (90) days after the RDI Report is submitted to EPA, Respondent shall submit a Compliance/General Monitoring Plan to EPA for review and approval. Monitoring activities shall be performed in accordance with an approved Compliance/General Monitoring Plan, to evaluate whether the Performance Criteria, as described in Section III of this SOW and in the ESD, are met. Compliance with Performance Criteria will be evaluated based on the sampling results of the compliance monitoring wells in conjunction with other relevant parameters, such as capture zone analysis, hydrogeologic interpretations, etc. The Compliance/General Monitoring Plan shall specify the locations of compliance wells, any sentinel wells, and any other wells selected for monitoring; sampling methods; and, at a minimum, a proposed schedule for a quarterly sampling frequency. The Compliance/General Monitoring Plan shall also describe monitoring activities for wells other than the compliance and sentinel wells. The plan shall specify type, locations, frequencies, methods, and duration of all monitoring activities.
72. Respondent shall submit a Sampling and Analysis Plan and Site Health and Safety Plan for all field activities. The Site Health and Safety Plan shall conform to the applicable Occupational Safety and Health Administration and EPA requirements, including but not limited to the requirements in 29 C.F.R. § 1910.120.
73. Respondent shall submit a work plan to assess the Vapor Intrusion Pathway in accordance with the approved schedule and conduct a screening evaluation to determine whether or not the vapor intrusion exposure pathway at the Site is complete and, if so, whether it poses an unacceptable risk to human health. Respondent shall also prepare and submit an Investigation Report for the Vapor Intrusion Pathway in accordance with the approved schedule. The report will summarize and interpret the data collected from the vapor intrusion pathway evaluation.
74. Within sixty (60) days after the Remedial Design Investigation Report has been submitted to EPA, Respondent shall submit the Conceptual Remedial Design, as described in the attached Statement of Work, for EPA review and approval. Except as modified by EPA prior to the due date, Respondent shall submit a Conceptual Remedial Design for each potential Remedial Action option. The Conceptual Design submittal shall include, at a minimum, the following: (1) a detailed Design Basis Report that presents and justifies the concepts, assumption, standards, and preliminary interpretations and calculations used in the design, and shall include, but not necessarily be limited to, all the items listed in Section IV.C.1.a.1 - 17 of the SOW; (2) a Construction Schedule for construction and implementation of the Remedial Action which identifies timing for initiation and completion of all critical path tasks; (3) a list of permits, regulatory agency approvals, MOUs, access or use agreements, easements, and properties developed or acquired to date; copies of permits, approvals, and agreements not previously supplied to EPA; and activities and schedules for obtaining outstanding items required before start of construction (e.g., for use of existing facilities or disposition of the treated water).

75. Within ninety (90) days after EPA approval of the Conceptual Remedial Design, Respondent shall submit the Preliminary Remedial Design. Except as modified by EPA prior to the due date, Respondent shall submit a Preliminary Remedial Design for each potential Remedial Action option. The Preliminary Design submittal shall include, at a minimum, the following: (1) any changes to the Design Basis Report submitted as part of the Conceptual Design; (2) preliminary plans and drawings of groundwater extraction, treatment, conveyance, and monitoring systems; (3) outline of required specifications; (4) an Updated Construction Schedule for construction and implementation of the Remedial Action which identifies timing for initiation and completion of all critical path tasks; (5) an updated list of permits, regulatory agency approvals, MOUs, access or use agreements, easements, and properties developed or acquired to date; copies of permits, approvals, and agreements not previously supplied to EPA; and activities and schedules for obtaining outstanding items required before start of construction (e.g., for use of existing facilities or disposition of the treated water); (6) a draft O&M Plan; and (7) a Sampling and Analysis Plan, which shall address performance of compliance monitoring and carry out any other field investigations needed to complete the remedial design, and construct and operate the remedial action. The Plan shall discuss the timing of data collection activities, including data collection activities needed to establish baseline conditions before startup of the remedial action.
76. Within ninety (90) days after EPA approval of the Preliminary Design, Respondent shall submit an Intermediate Design to EPA for review and approval. The Intermediate Design shall fully address all comments made on the Preliminary Design Report and be accompanied by a memorandum indicating how the comments were incorporated into the Intermediate Design. The Intermediate Design submittal shall include, but not necessarily be limited to the all items listed in Section IV.C.4.a - f of the SOW.
77. Within sixty (60) days after EPA approval of the Intermediate Design, Respondent shall submit a Pre-Final/Final Design to EPA for review and approval. The Pre-Final/Final Design shall be, if necessary, a draft version of the Final Design. The Prefinal/Final Design shall fully address all comments made on the Intermediate Design Report and be accompanied by a memorandum indicating how the comments were incorporated into the Prefinal Design. The Pre-Final/Final Design submittal shall include, at a minimum, the following: (1) revised plans and specifications; (2) a draft Operation and Maintenance Manual; and (3) a Construction Quality Assurance Plan (CQAP). The CQAP shall describe the approach to quality assurance during construction activities at the PVOU and shall specify a quality assurance official (QA Official), independent of the construction contractor, to conduct a quality assurance program during the construction phase of the project.
78. Upon EPA approval, the Pre-Final/Final Design submittal shall become the Final Design and be incorporated into this Order as a requirement of this Order and shall be an enforceable part of this Order.

79. If Respondent seeks to retain a construction contractor to assist in the performance of the Remedial Action, then Respondent shall submit a copy of the contractor solicitation documents to EPA as follows: (1) if a design-build approach is used, then Respondent shall submit contractor solicitation documents to EPA within thirty (30) days after EPA approval of the Preliminary Remedial Design; or (2) if a design-bid-build approach is used, then Respondent shall submit contractor solicitation documents to EPA within thirty (30) days after EPA approval of the final design.
80. Thirty (30) days after EPA approval of the Final Design, Respondent shall submit to EPA and DTSC a Work Plan for the performance of the RA at the Site ("RA Work Plan"). The RA Work Plan shall update the RD/RA Work Plan and provide for construction and implementation of the remedy for the Shallow Zone South of Puente Creek, and the achievement of the Performance Standards for the Shallow Zone South of Puente Creek, in accordance with this Order, the ROD, as modified by the ESD, and in accordance with Section IV.D.1 of the SOW, and the design plans and specifications developed in accordance with the RD/RA Work Plan and approved by EPA. Upon its approval by EPA, the RA Work Plan shall be incorporated into and become enforceable under this Order. At the same time the RA Work Plan is submitted to EPA, Respondent shall submit to EPA and the State a HASP for field activities required by the RA Work Plan, which conforms to the applicable OSHA and EPA requirements, including but not limited to, 29 C.F.R. § 1910.120.
81. As specified in the EPA-approved RA Work Plan, Respondent shall notify EPA in writing of the name, title, and qualifications of any construction contractors that may be used in carrying out work under this Order. EPA shall thereafter provide written notice of the name(s) of the contractor(s) it disapproves, if any. Respondent may select any contractor not disapproved and shall notify EPA of the name of the contractor selected within 5 days of selection. If at any time Respondent proposes to change the construction contractor, Respondent shall notify EPA and shall obtain approval from EPA as provided in this Paragraph, before the new construction contractor performs any work under this Order. If EPA disapproves of the selection of any contractor as the construction contractor, Respondent shall submit a list of contractors that would be acceptable to them to EPA within thirty (30) days after receipt of EPA's disapproval of the contractor previously selected.
82. The Work performed by Respondent pursuant to this Order shall, at a minimum, achieve the Performance Criteria specified in Section III of the SOW and the ROD, as modified by the ESD, consistent with the approved Compliance Monitoring Plan.
83. Notwithstanding any action by EPA, Respondent shall remain fully responsible for achievement of the Performance Criteria in the SOW and the ROD. Nothing in this Order, or in the SOW or ROD, or in EPA's approval of the Remedial Design/Remedial Action Work Plan, approval of the subsequent RA Work Plan, or approval of any other submission, shall be deemed to constitute a warranty or representation of any kind by EPA

that full performance of the Remedial Design or Remedial Action will achieve the Performance Criteria set forth in Section III of the SOW or in the ROD. Respondent's compliance with such approved documents does not foreclose EPA from seeking additional work to achieve the Performance Criteria.

84. Respondent shall, prior to any off-site shipment of hazardous substances from the PVOU to an out-of-state waste management facility, provide written notification to the appropriate state environmental official in the receiving state and to EPA's RPM of such shipment of hazardous substances. However, the notification of shipments shall not apply to any shipments when the total volume of all shipments from the PVOU to the state will not exceed ten (10) cubic yards.
- A. The notification shall be in writing, and shall include the following information, where available: (1) the name and location of the facility to which the hazardous substances are to be shipped; (2) the type and quantity of the hazardous substances to be shipped; (3) the expected schedule for the shipment of the hazardous substances; and (4) the method of transportation. Respondent shall notify the receiving state of major changes in the shipment plan, such as a decision to ship the hazardous substances to another facility within the same state, or to a facility in another state.
- B. The identity of the receiving facility and State will be determined by Respondent following the award of the contract for Remedial Action construction. Respondent shall provide all relevant information, including information under the categories noted in Paragraph 77.A above, on the shipments as soon as practicable after the award of the contract and before the hazardous substances are actually shipped.
85. Within forty-five (45) days after Respondent concludes that the Remedial Action, including all Operation and Maintenance activities, has been fully performed, Respondent shall so notify EPA and shall schedule and conduct a pre-certification inspection to be attended by Respondent and EPA. The pre-certification inspection shall be followed by a written report, submitted within thirty (30) days of the inspection by a registered professional engineer and Respondent's Project Manager, certifying that the Remedial Action has been completed in full satisfaction of the requirements of this Order. If, after completion of the pre-certification inspection and receipt and review of the written report, EPA determines that the Remedial Action or any portion thereof has not been completed in accordance with this Order, EPA shall notify Respondent in writing of the activities that must be undertaken to complete the Remedial Action and shall set forth in the notice a schedule for performance of such activities. Respondent shall perform all activities described in the notice in accordance with the specifications and schedules established therein. If EPA concludes, following the initial or any subsequent certification of completion by Respondent that the Remedial Action has been fully performed in accordance with this Order, EPA may notify Respondent that the Remedial Action has been fully performed. EPA's notification shall be based on present knowledge and

Respondent's certification to EPA, and shall not limit EPA's right to perform periodic reviews pursuant to Section 121(c) of CERCLA, 42 U.S.C. § 9621(c), or to take or require any action that in the judgment of EPA is appropriate at the Shallow Zone South of Puente Creek, in accordance with Sections 104, 106, or 107 of CERCLA, 42 U.S.C. §§ 9604, 9606, or 9607, or any other applicable law.

86. Within thirty (30) days after Respondent concludes that all phases of the Work have been fully performed, that the Performance Criteria have been attained, and that all Operation and Maintenance activities have been completed, Respondent shall submit to EPA a written report by a registered professional engineer certifying that the Work has been completed in full satisfaction of the requirements of this Order. EPA shall require such additional activities as may be necessary to complete the Work or EPA may, based upon present knowledge and Respondent's certification to EPA, issue written notification to Respondent that the Work has been completed, as appropriate. EPA's notification shall not limit EPA's right to perform periodic reviews pursuant to Section 121(c) of CERCLA, 42 U.S.C. § 9621(c), or to take or require any action that in the judgment of EPA is appropriate at the PVOU, in accordance with Sections 104, 106, or 107 of CERCLA, 42 U.S.C. §§ 9604, 9606, or 9607, or any other applicable law.

#### **X. FAILURE TO ATTAIN PERFORMANCE STANDARDS**

87. Respondent shall be responsible for attaining and maintaining compliance with the Performance Standards at all times. Performance Standards shall include the Performance Criteria and Applicable or Relevant and Appropriate Requirements ("ARARs") included in the Interim ROD, as modified by the ESD. The procedures to be implemented to demonstrate compliance with the Performance Standards should be documented in the Compliance/General Monitoring Plan. Failure to attain or maintain compliance with any of the Performance Standards at any time is a violation of this Order, which shall, at EPA's discretion, make Respondent subject to the enforcement actions and penalties set forth in Section XXVI of this Order.
88. Respondent shall not implement the Remedial Action or conduct Operation and Maintenance in such manner that it increases the migration of contamination into production wells that are not part of the interim remedial action or otherwise causes adverse effects. Respondent shall implement the Remedial Action and conduct Operation and Maintenance in such manner that it provides sufficient capture of contaminated groundwater without relying on the effects of groundwater extraction that is not part of the Remedial Action.
89. In the event that EPA determines that additional response activities are necessary to meet or maintain compliance with applicable Performance Standards, EPA may require Respondent to perform additional response actions.

90. Unless otherwise stated by EPA, within thirty (30) days of receipt of notice from EPA that additional response activities are necessary to meet any applicable Performance Standards, Respondent shall submit for approval by EPA a work plan for the additional response activities. The plan shall conform to the applicable requirements of Sections IX, XVI, and XVII of this Order. Upon EPA's approval of the plan pursuant to Section XIV, Respondent shall implement the plan for additional response activities in accordance with the provisions and schedule contained therein.

#### **XI. EPA PERIODIC REVIEW**

91. Under Section 121(c) of CERCLA, 42 U.S.C. § 9621(c), and any applicable regulations, EPA may conduct a review relating to the Shallow Zone South of Puente Creek Portion of the PVOU to assure that the Work performed pursuant to this Order adequately protects human health and the environment. Until such time as EPA certifies completion of the Work, Respondent shall conduct the requisite studies, investigations, or other response actions as determined necessary by EPA in order to permit EPA to conduct the review under Section 121(c) of CERCLA, 42 U.S.C. § 9621(c). As a result of any review performed under this Paragraph, Respondent may be required to perform additional Work or to modify Work previously performed.

#### **XII. ADDITIONAL RESPONSE ACTIONS**

92. EPA may determine that in addition to the Work identified in this Order and attachments to this Order, additional response activities may be necessary to protect human health and the environment. If EPA determines that additional response activities are necessary, EPA may require Respondent to submit a work plan for additional response activities. EPA may also require Respondent to modify any plan, design, or other deliverable required by this Order, including any approved modifications.
93. Not later than thirty (30) days after receiving EPA's notice that additional response activities are required pursuant to this Section, Respondent shall submit a work plan for the response activities to EPA for review and approval. Upon approval by EPA, the work plan is incorporated into this Order as a requirement of this Order and shall be an enforceable part of this Order. Upon approval of the work plan by EPA, Respondent shall implement the work plan according to the standards, specifications, and schedule in the approved work plan. Respondent shall notify EPA of its intent to perform such additional response activities within seven (7) days after receipt of EPA's request for additional response activities.

### **XIII. ENDANGERMENT AND EMERGENCY RESPONSE**

94. In the event of any action or occurrence during the performance of the Work which causes or threatens to cause a release of a hazardous substance or which may present an immediate threat to public health or welfare or the environment, Respondent shall immediately take all appropriate action to prevent, abate, or minimize the threat, and shall immediately notify EPA's Remedial Project Manager ("RPM") or, if the RPM is unavailable, the RPM's Section Chief. If neither of these persons is available, Respondent shall notify the EPA Emergency Response Office, Region 9. Respondent shall take such action in consultation with EPA's RPM and in accordance with all applicable provisions of this Order, including but not limited to the Health and Safety Plan. In the event that Respondent fails to take appropriate response action as required by this Section, and EPA takes that action instead, Respondent shall reimburse EPA for all costs of the response action not inconsistent with the NCP. Respondent shall pay the Response Costs in the manner described in Section XXIV of this Order, within thirty (30) days of Respondent's receipt of demand for payment and a reconciled EPA financial cost summary of the costs incurred.
95. Nothing in the preceding Paragraph shall be deemed to limit any authority of the United States to take, direct, or order all appropriate action to protect human health and the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances on, at, or from the PVOU.

### **XIV. EPA REVIEW OF SUBMISSIONS**

96. All deliverables shall be submitted to EPA and DTSC concurrently. After review of any deliverable, plan, report or other item which is required to be submitted for review and approval pursuant to this Order, EPA may: (a) approve the submission; (b) approve the submission with modifications; (c) disapprove the submission and direct Respondent to re-submit the document after incorporating EPA's comments; or (d) disapprove the submission and assume responsibility for performing all or any part of the response action. As used in this Order, the terms "approval by EPA," "EPA approval," or a similar term means the action described in items (a) or (b) of this Paragraph.
97. In the event of approval or approval with modifications by EPA, Respondent shall proceed to take any action required by the plan, report, or other item, as approved or modified by EPA.
98. Upon receipt of a notice of disapproval or a request for a modification, Respondent shall, within the time specified in the attached SOW or such longer time as specified by EPA in its notice of disapproval or request for modification, correct the deficiencies and resubmit the plan, report, or other item for approval. Notwithstanding the notice of disapproval, or

approval with modifications, Respondent shall proceed, at the direction of EPA, to take any action required by any non-deficient portion of the submission.

99. If any submission is disapproved by EPA, Respondent shall be deemed to be in violation of this Order.

#### **XV. PROGRESS REPORTS**

100. In addition to the other deliverables set forth in this Order, Respondent shall provide monthly progress reports to EPA with respect to actions and activities undertaken pursuant to this Order. The progress reports shall be submitted on or before the 10<sup>th</sup> day of each month following the effective date of this Order. Respondent's obligation to submit progress reports continues until EPA gives Respondent written notice that the Work has been completed. At a minimum these progress reports shall: (1) describe the actions which have been taken to comply with this Order during the prior month; (2) summarize test, sampling, or operating data generated or obtained by Respondent and not previously submitted to EPA; (3) provide any preliminary calculations and supporting data used to evaluate performance; (4) describe all work planned for the next two months with schedules relating such work to the overall project schedule for RD/RA completion; and (5) describe all problems encountered (including the nature of and duration of any noncompliance) and any anticipated problems, any actual or anticipated delays, and solutions developed and implemented to address any actual or anticipated problems or delays.

#### **XVI. QUALITY ASSURANCE, SAMPLING AND DATA ANALYSIS**

101. Respondent shall use the quality assurance, quality control, and chain of custody procedures described in the "EPA NEIC Policies and Procedures Manual," May 1978, revised May 1986, "EPA Guidance on Systematic Planning Using the Data Quality Objectives Process" (EPA QA/G-4), February 2006, "EPA Requirements for Quality Assurance Project Plans," (EPA QA/R-5), March 2001, "Guidance for Quality Assurance Project Plans" February 1998 (EPA QA/G-5), EPA Region 9 "Sampling and Analysis Plan Guidance and Template, Version 2," March 2000 (R9QA/002), and any amendments to these documents, while conducting all sample collection and analysis activities required herein by any plan. To provide quality assurance and maintain quality control, Respondent shall:
- A. Use only laboratories which have a documented Quality Assurance Program that complies with EPA guidance document EPA QA/R-5 (EPA Requirements for Quality Assurance Project Plans, March 2001).
  - B. Ensure that the laboratory used by Respondent for analyses performs according to a method or methods deemed satisfactory to EPA, is prepared to submit all protocols to be used for analyses to EPA at least 14 days before beginning analysis (if

requested), and maintains protocols according to the record preservation requirements included in Section XXI.

- C. Ensure that EPA personnel and EPA's authorized representatives are allowed access to the laboratory and personnel utilized by Respondent for analyses.
102. Respondent shall notify EPA not less than fourteen (14) days in advance of any sample collection activity. At the request of EPA, Respondent shall allow split or duplicate samples to be taken by EPA or its authorized representatives, of any samples collected by Respondent with regard to the PVOU shallow zone south of Puente Creek or pursuant to the implementation of this Order. In addition, EPA shall have the right to take any additional samples that EPA deems necessary.

### **XVII. COMPLIANCE WITH APPLICABLE LAWS**

103. All activities by Respondent pursuant to this Order shall be performed in accordance with the requirements of all Federal and state laws and regulations. EPA has determined that the activities contemplated by this Order are consistent with the NCP.
104. Except as provided in Section 121(e) of CERCLA and the NCP, no permit shall be required for any portion of the Work conducted entirely on-site (i.e., within the areal extent of contamination at the PVOU or in very close proximity to the contamination and necessary for implementation of the Work). The service of treated groundwater to the public is considered to be an off-site activity. Where any portion of the Work 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.
105. This Order is not, and shall not be construed to be, a permit issued pursuant to any Federal or state statute or regulation.
106. All materials removed from the PVOU shall be disposed of or treated at a facility approved by EPA's RPM and in accordance with Section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3); with the U.S. EPA Off-Site Rule, 40 C.F.R § 300.440; and with all other applicable Federal, state, and local requirements.

### **XVIII. EPA PROJECT MANAGER**

107. All communications, whether written or oral, from Respondent to EPA shall be directed to EPA's Project Manager. Respondent shall submit to EPA two copies (paper and electronic versions) of all documents, including plans, reports, and other correspondence, which are developed pursuant to this Order, and shall send these documents by mail and by electronic mail. Respondent shall also submit one copy of each deliverable to the project managers for DTSC, and any other State agencies, as specified by the EPA Project Manager.

(A) EPA's Project Manager is:

Raymond Chavira  
U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street (SFD-7-3)  
San Francisco, CA 94105  
phone: (415) 947-4218  
fax: (415) 947-3526  
email: [chavira.raymond@epa.gov](mailto:chavira.raymond@epa.gov)

(B) DTSC's Contact is:

Peter MacNicholl  
California Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, CA 95826  
Phone: (916) 255-3713  
Fax: (916) 255-3596  
Email: [pmacnich@dtsc.ca.gov](mailto:pmacnich@dtsc.ca.gov)

One or more copies of each deliverable shall also be sent to EPA contractors, as specified by the EPA Project Manager.

108. EPA has the unreviewable right to change its Project Manager. If EPA changes its Project Manager, EPA will inform Respondent in writing of the name, address, and telephone number of the new Project Manager.
109. EPA's Project Manager shall have the authority lawfully vested in a Remedial Project Manager ("RPM") and On-Scene Coordinator ("OSC") by the National Contingency Plan, 40 C.F.R. Part 300. EPA's Project Manager shall have authority, consistent with the National Contingency Plan, to halt any work required by this Order, and to take any necessary response action.

### **XIX. ACCESS TO SITE NOT OWNED BY RESPONDENT**

110. To the extent that access to any portion of the PVOU, or any other property, owned or controlled by persons other than Respondent is necessary in order to perform the Work required by this Order, Respondent will obtain, or use its best efforts to obtain, site access agreements from the present owner(s) within 60 days of the effective date of this Order. Such agreements shall provide access for EPA, its contractors and oversight officials, the state and its contractors, and Respondent or Respondent's authorized representatives and contractors, and such agreements shall specify that Respondent is not EPA's representative with respect to liability associated with activities at the property. Respondent shall save and hold harmless the United States and its officials, agents, employees, contractors, subcontractors, or representatives for or from any and all claims or causes of action or other 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 acts or omissions of Respondent, its officers, directors, employees, agents, contractors, subcontractors, and any persons acting on Respondent's behalf or under its control, in carrying out activities pursuant to this Order, including any claims arising from any designation of Respondent as EPA's authorized representatives under Section 104(e) of CERCLA. Copies of such agreements shall be provided to EPA prior to Respondent's initiation of field activities. Respondent's best efforts shall include the payment of reasonable sums of money in consideration of access. If access agreements are not obtained within the time referenced above, Respondent shall immediately notify EPA of its failure to obtain access. Subject to the United States' non-reviewable discretion, EPA may use its legal authorities to obtain access for Respondent, may perform those response actions with EPA contractors at the property in question, or may terminate the Order if Respondent cannot obtain access agreements. If EPA performs those tasks or activities with contractors and does not terminate the Order, Respondent shall perform all other activities not requiring access to that property, and shall reimburse EPA, pursuant to Section XXIV of this Order, for all costs incurred in performing such activities. Respondent shall integrate the results of any such tasks undertaken by EPA into its reports and deliverables. Respondent shall reimburse EPA, pursuant to Section XXIV of this Order, for all Response Costs (including attorney fees) incurred by the United States to obtain access for Respondent.

### **XX. SITE ACCESS AND DATA / DOCUMENT AVAILABILITY**

111. Respondent shall allow EPA and its authorized representatives and contractors to enter and freely move about all property at the PVOU to which Respondent has access and which is subject to or affected by the work under this Order or where documents required to be prepared or maintained by this Order are located, for the following purposes: inspecting conditions, activities, the results of activities, records, operating logs, and contracts related to the Work or Respondent and its representatives or contractors pursuant to this Order; reviewing the progress of Respondent in carrying out the terms of this Order; conducting tests as EPA or its authorized representatives or contractors deem necessary; using a camera, sound recording device or other documentary type equipment; and verifying the

data submitted to EPA by Respondent. Respondent shall allow EPA and its authorized representatives to enter any property within the PVOU to which Respondent has access, to inspect and copy all records, files, photographs, documents, sampling and monitoring data, and other writings related to Work undertaken in carrying out this Order. Nothing herein shall be interpreted as limiting or affecting EPA's right of entry or inspection authority under Federal law.

112. Respondent may assert a claim of business confidentiality covering part or all of the information submitted to EPA pursuant to the terms of this Order under 40 C.F.R. § 2.203, provided such claim is not inconsistent with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7) or other provisions of law. This claim shall be asserted in the manner described by 40 C.F.R. § 2.203(b) and substantiated by Respondent at the time the claim is made. Information determined to be confidential by EPA will be given the protection specified in 40 C.F.R. Part 2. If no such claim accompanies the information when it is submitted to EPA, it may be made available to the public by EPA or the state without further notice to Respondent. Respondent shall not assert confidentiality claims with respect to any data related to conditions, sampling, or monitoring within the Shallow Zone South of Puente Creek Portion of the PVOU.
113. Respondent shall maintain for the period during which this Order is in effect, an index of documents relating to the Shallow Zone South of Puente Creek that Respondent claims contain confidential business information. The index shall contain, for each document, the date, author, addressee, and subject of the document. Upon written request from EPA, Respondent shall submit a copy of the index to EPA.

#### **XXI. RECORD PRESERVATION**

114. Respondent shall provide to EPA upon request, copies of all documents and information within its possession and/or control or that of its contractors or agents relating to activities at or near the Shallow Zone South of Puente Creek Portion of the PVOU or to the implementation of this Order, including but not limited to sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Work. Respondent shall also make available to EPA for purposes of investigation, information gathering, or testimony, its employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.
115. Until six (6) years after EPA provides notice that all Work required under this Order has been completed, Respondent shall preserve and retain all records and documents in its possession or control, and shall instruct its contractors and agents to preserve and retain all records and documents in its possession or control, that relate in any manner to the Shallow Zone South of Puente Creek Portion of the PVOU or the Work. At the conclusion of this document retention period, Respondent shall notify the United States at least ninety (90) calendar days prior to the destruction of any such records or documents, and upon

request by the United States, Respondent shall deliver any such records or documents to EPA.

116. Within forty-five (45) days after the effective date of this Order, Respondent shall submit a written certification to EPA's RPM that it has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents or other information relating to its potential liability with regard to the Shallow Zone South of Puente Creek portion of the PVOU since notification of potential liability by the United States or the State or the filing of suit against it regarding the Shallow Zone South of Puente Creek Portion of the PVOU. Respondent shall not dispose of any such documents without prior approval by EPA. Respondent shall, upon EPA's request and at no cost to EPA, deliver the documents or copies of the documents to EPA.

## **XXII. DELAY IN PERFORMANCE**

117. Any delay in performance of this Order that, in EPA's judgment, is not properly justified by Respondent under the terms of this Section shall be considered a violation of this Order. Any delay in performance of this Order shall not affect Respondent's obligations to fully perform all obligations under the terms and conditions of this Order.
118. Respondent shall notify EPA of any delay or anticipated delay in performing any requirement of this Order. Such notification shall be made by telephone to EPA's Project Manager within forty-eight (48) hours after Respondent first knew or should have known that a delay might occur. Respondent shall adopt all reasonable measures to avoid or minimize any such delay. Within five (5) business days after notifying EPA by telephone, Respondent shall provide written notification fully describing the nature of the delay, any justification for delay, any reason why Respondent should not be held strictly accountable for failing to comply with any relevant requirements of this Order, the measures planned and taken to minimize the delay, and a schedule for implementing the measures that will be taken to mitigate the effect of the delay. Increased costs or expenses associated with implementation of the activities called for in this Order is not a justification for any delay in performance.

### **XXIII. PERFORMANCE GUARANTEE AND INSURANCE**

119. In order to ensure the full and final completion of the Work, Respondent within sixty (60) days after the effective date of this Order shall establish and maintain a performance guarantee, initially in the amount of \$20 million, for the benefit of EPA (hereinafter “Estimated Cost of the Work”). The performance guarantee, which must be satisfactory in form and substance to EPA, shall be in the form of one or more of the following mechanisms (provided that, if Respondent intends to use multiple mechanisms, such multiple mechanisms shall be limited to surety bonds guaranteeing payment, letters of credit, trust funds, and insurance policies):
- a. A surety bond unconditionally guaranteeing payment and/or performance of the Work that is issued by a surety company among those listed as acceptable sureties on federal bonds as set forth in Circular 570 of the U.S. Department of the Treasury;
  - b. One or more irrevocable letters of credit, payable to or at the direction of EPA, that is issued by one or more financial institution(s) (1) that has the authority to issue letters of credit and (2) whose letter-of-credit operations are regulated and examined by a federal or state agency;
  - c. A trust fund established for the benefit of EPA that is administered by a trustee (1) that has the authority to act as a trustee and (2) whose trust operations are regulated and examined by a federal or state agency;
  - d. A policy of insurance that (1) provides EPA with acceptable rights as a beneficiary thereof; and (2) is issued by an insurance carrier (i) that has the authority to issue insurance policies in the applicable jurisdiction(s) and (ii) whose insurance operations are regulated and examined by a federal or state agency;
  - e. A demonstration by Respondent that Respondent meets the financial test criteria of 40 C.F.R. § 264.143(f) with respect to the Estimated Cost of the Work (plus the amount(s) of any other federal or any state environmental obligations financially assured through the use of a financial test or guarantee), provided that all other requirements of 40 C.F.R. § 264.143(f) are met to EPA’s satisfaction; or
  - f. A written guarantee to fund or perform the Work executed in favor of EPA by one or more of the following: (1) a direct or indirect parent company of Respondent, or (2) a company that has a “substantial business relationship” (as defined in 40 C.F.R. § 264.141(h)) with Respondent; provided, however, that any company providing such a guarantee must demonstrate to the satisfaction of EPA that it satisfies the financial test and reporting requirements for owners and operators set forth in subparagraphs (1) through (8) of 40 C.F.R. § 264.143(f) with respect to the Estimated Cost of the Work (plus the amount(s) of any other federal or any state environmental obligations financially assured through the use of a financial test or guarantee) that it proposes to guarantee hereunder.
120. If, at any time after the Effective Date and before issuance of the Certification of Completion of the Work pursuant to Paragraph 85, Respondent provides a performance

guarantee for completion of the Work by means of a demonstration or guarantee pursuant to Paragraphs 119(e) or 119(f), Respondent shall also comply with the other relevant requirements of 40 C.F.R. § 264.143(f) relating to these mechanisms unless otherwise provided in this Order, including but not limited to: (a) the initial submission of required financial reports and statements from Respondent's chief financial officer ("CFO") and independent certified public accountant ("CPA"), in the form prescribed by EPA in its financial test sample CFO letters and CPA reports available at:

<http://www.epa.gov/compliance/resources/policies/cleanup/superfund/fa-test-samples.pdf>;

(b) the annual resubmission of such reports and statements within 90 days after the close of Respondent's fiscal year; and (c) the prompt notification of EPA after each such entity determines that it no longer satisfies the financial test requirements set forth at 40 C.F.R. § 264.143(f)(1) and in any event within 90 days after the close of any fiscal year in which Respondent no longer satisfies such financial test requirements. For purposes of the performance guarantee mechanisms specified in this Section XXIII, references in 40 C.F.R. Part 264, Subpart H, to "closure," "post-closure," and "plugging and abandonment" shall be deemed to include the Work; the terms "current closure cost estimate," "current post-closure cost estimate," and "current plugging and abandonment cost estimate" shall be deemed to include the Estimated Cost of the Work; the terms "owner" and "operator" shall be deemed to refer Respondent making a demonstration under Paragraph 119; and the terms "facility" and "hazardous waste facility" shall be deemed to include the Site.

121. In the event that EPA determines at any time that a performance guarantee provided by Respondent pursuant to this Section is inadequate or otherwise no longer satisfies the requirements set forth in this Section, whether due to an increase in the estimated cost of completing the Work or for any other reason, or in the event that Respondent becomes aware of information indicating that a performance guarantee provided pursuant to this Section is inadequate or otherwise no longer satisfies the requirements set forth in this Section, whether due to an increase in the estimated cost of completing the Work or for any other reason, Respondent, within 30 days after receipt of notice of EPA's determination or, as the case may be, within 30 days after Respondent becomes aware of such information, shall obtain and present to EPA for approval a proposal for a revised or alternative form of performance guarantee listed in Paragraph 119 that satisfies all requirements set forth in this Section XXIII; provided, however, that if Respondent cannot obtain such revised or alternative form of performance guarantee within such 30-day period, and provided further that Respondent shall have commenced to obtain such revised or alternative form of performance guarantee within such 30-day period, and thereafter diligently proceeds to obtain the same, EPA shall extend such period for such time as is reasonably necessary for Respondent in the exercise of due diligence to obtain such revised or alternative form of performance guarantee, such additional period not to exceed 30 days. Respondent's inability to post a performance guarantee for completion of the Work shall in no way excuse performance of any other requirements of this Order, including, without limitation, the obligation of Respondent to complete the Work in strict accordance with the provisions of this Order.

122. Respondent shall 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 EPA in accordance with Paragraph 85 that the Work has been fully and finally completed in accordance with the provisions of this Order, or if EPA otherwise so notifies Respondent in writing, Respondent may thereafter release, cancel, or discontinue the performance guarantee(s) provided pursuant to this Section.
123. At least fifteen (15) days prior to commencing any work at the Shallow Zone South of Puente Creek pursuant to this Order, Respondent shall submit to EPA a certification that Respondent or its contractors and subcontractors have insurance coverage in an amount not less than \$1 million, or have indemnification in that amount, for liabilities for injuries or damages to persons or property which may result from the activities to be conducted by or on behalf of Respondent pursuant to this Order. Respondent shall ensure that such insurance or indemnification is maintained for the duration of the Work required by this Order.

#### **XXIV. REIMBURSEMENT OF RESPONSE COSTS**

124. Respondent shall reimburse EPA, upon written demand, for all Response Costs incurred by the United States in overseeing Respondent's implementation of the requirements of this Order or in performing any response action which Respondent fails to perform in compliance with this Order. EPA may submit to Respondent on a periodic basis an accounting of all Response Costs incurred by the United States with respect to this Order. EPA's certified Superfund Cost Recovery Package Imaging and Online System summary data ("SCORPIOS Reports"), or such other summary as certified by EPA, shall serve as basis for payment demands.
125. Respondent shall, within thirty (30) days of receipt of each EPA accounting, remit payment by certified check, cashier's check, or wire transfer for the amount of those costs. Interest shall accrue from the later of the date that payment of a specified amount is demanded in writing or the date of the expenditure. The interest rate is the rate established by the Department of the Treasury pursuant to 31 U.S.C. § 3717 and 4 C.F.R. § 102.13.
126. Payments should be directed to the Hazardous Substances Superfund and must include: 1) the name of the Site (Puente Valley Operable Unit of the San Gabriel Valley Superfund Sites); 2) the Site identification number (CAD980817985); 3) the account number (098V); and 4) the title of this Order. Checks shall be made payable to the Hazardous Substances Superfund and shall be forwarded to:

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

Wire transfers should be directed to:

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

Field Tag 4200 of the Fedwire message should read “D 68010727 Environmental Protection Agency”

If payment is made by Automatic Clearinghouse (ACH, also known as REX or remittance express, the remittance should be directed to:

Automated Clearinghouse (ACH) for receiving U.S. currency  
PNC Bank  
808 17<sup>th</sup> Street, NW  
Washington, D.C. 20074  
Contact – Jesse White 301-887-6548  
ABA=051036706  
Transaction Code 22 - checking  
Environmental Protection Agency  
Account 310006  
CTX Format

127. Respondent shall send copies of each transmittal letter and payment to the EPA Project Manager.

#### **XXV. UNITED STATES NOT LIABLE**

128. The United States, by issuance of this Order, assumes no liability for any injuries or damages to persons or property resulting from acts or omissions by Respondent, or its directors, officers, employees, agents, representatives, successors, assigns, contractors, or consultants in carrying out any action or activity pursuant to this Order. Neither EPA nor the United States may be deemed to be a party to any contract entered into by Respondent or its directors, officers, employees, agents, successors, assigns, contractors, or consultants in carrying out any action or activity pursuant to this Order.

## XXVI. ENFORCEMENT AND RESERVATIONS

129. EPA reserves the right to bring an action against Respondent under Section 107 of CERCLA, 42 U.S.C. § 9607, for recovery of any Response Costs incurred by the United States related to this Order and not reimbursed by Respondent. This reservation shall include but not be limited to past costs, future costs, direct costs, indirect costs, the costs of oversight, the costs of compiling the cost documentation to support oversight cost demand, as well as accrued interest as provided in Section 107(a) of CERCLA.
130. Notwithstanding any other provision of this Order, at any time during the response action, EPA may perform its own studies, complete the response action (or any portion of the response action) as provided in CERCLA and the NCP, and seek reimbursement from Respondent for its costs, or seek any other appropriate relief.
131. Nothing in this Order shall preclude EPA from taking any additional enforcement actions including modification of this Order or issuance of additional Orders, and/or additional remedial or removal actions as EPA may deem necessary, or from requiring Respondent in the future to perform additional activities pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), or any other applicable law. Respondent shall be liable under CERCLA Section 107(a), 42 U.S.C. § 9607(a), for the costs of any such additional actions under CERCLA.
132. Notwithstanding any provision of this Order, the United States hereby retains all of its information gathering, inspection and enforcement authorities and rights under CERCLA, RCRA and any other applicable statutes or regulations.
133. Respondent shall be subject to civil penalties under Section 106(b) of CERCLA, 42 U.S.C. § 9606(b), of not more than \$37,500 for each day in which Respondent willfully violates, or fails or refuses to comply with this Order without sufficient cause. In addition, failure to properly provide response action under this Order, or any portion hereof, including failure to attain or maintain compliance with the Performance Criteria, without sufficient cause, may result in liability under Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3), for punitive damages in an amount at least equal to, and not more than three times the amount of any costs incurred by the Fund as a result of such failure to take proper action.
134. Nothing in this Order shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person for any liability it may have arising out of or relating in any way to the Site.
135. If a court issues an order that invalidates any provision of this Order or finds that Respondent has sufficient cause not to comply with one or more provisions of this Order, Respondent shall remain bound to comply with all provisions of this Order not invalidated by the court's order.

**XXVII. ADMINISTRATIVE RECORD**

136. Upon request by EPA, Respondent must submit to EPA all documents related to the selection of the response action for possible inclusion in the administrative record file.

**XXVIII. EFFECTIVE DATE AND COMPUTATION OF TIME**

137. This Order shall be effective on September 16, 2011. All times for performance of ordered activities shall be calculated from this effective date.

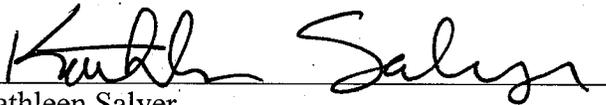
**XXIX. OPPORTUNITY TO CONFER**

138. Respondent may, not later than September 19, 2011, request a conference with EPA's RPM and Assistant Regional Counsel to discuss this Order. If requested, the conference shall occur at EPA's regional offices, or via telephone conference call, not later than September 26, 2011, at a date and time to be determined by EPA. Nothing in this Paragraph shall alter Respondent's obligation under Paragraph 58 to provide timely written notice of its intent to comply with this Order.
139. The purpose and scope of the conference shall be limited to issues involving the implementation of the response actions required by this Order and the extent to which Respondent intends to comply with this Order. This conference is not an evidentiary hearing, and does not constitute a proceeding to challenge this Order. It does not give Respondent a right to seek review of this Order, or to seek resolution of potential liability, and no official stenographic record of the conference will be made. At any conference held pursuant to Respondent's request, Respondent may appear in person or by an attorney or other representative.

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140. Requests for a conference must be by telephone followed by written confirmation e-mailed or faxed that day to Lewis Maldonado, (415) 972-3926, maldonado.lewis@epa.gov, facsimile (415) 947-3570, U.S. EPA Region 9, 75 Hawthorne Street (ORC-3), San Francisco, CA 94105.

So Ordered, this 13<sup>th</sup> day of September 2011.

BY: 

Kathleen Salyer  
Assistant Director  
Superfund Division  
California Site Cleanup Branch  
U.S. Environmental Protection Agency, Region IX