

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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Docket No. RCRA-08-2013-0001

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:)
)

Jore Corporation)
34837 Innovation Drive)
Ronan, MT 59864)

Respondent.)
_____)

ADMINISTRATIVE ORDER
PURSUANT TO
SECTION 7003 OF RCRA

I. INTRODUCTION

- A. This Administrative Order on Consent (AOC) is entered into voluntarily by the United States Environmental Protection Agency Region 8 (EPA) and Respondent, Jore Corporation (Respondent) and is issued pursuant to authority granted to the Administrator of the EPA under section 7003 of the Resource Conservation and Recovery Act, as amended 42 U.S.C. § 6901, 6973 (Section 7003).
- B. The Administrator has delegated the authority to issue orders under Section 7003 to the Regional Administrators of the EPA by Delegations 8-22-A and 8-22-C (April 20, 1994). In EPA Region 8 this authority was further redelegated to the Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice by Delegations 8-22-A and 8-22-C (November 20, 2000).
- C. The mutual objectives of the EPA and Respondent in entering into this AOC are to identify, investigate, remedy, and/or prevent potential endangerments to human health and/or the environment from Respondent's handling of certain solid waste at Respondent's manufacturing facility located at 34837 Innovation Drive in Ronan, Montana (Facility), and to ensure that the work ordered by EPA hereunder is designed and implemented to protect human health and/or the environment.
- D. This AOC thus provides for the performance by Respondent of characterization and clean-up activities specified in Section VIII (Work to Be Performed), including any additional work that may be required under Section VIII E (Additional Work) of this AOC.
- E. Respondent's participation in this AOC shall not constitute or be construed as an admission of liability. Respondent neither admits nor denies the factual allegations and legal conclusions set forth in this AOC (Sections V and VI, Findings of Fact and Conclusions of Law).

F. The EPA and Respondent acknowledge that this AOC has been negotiated by the parties in good faith and that this AOC is fair, reasonable, and in the public interest.

II. JURISDICTION

A. As more fully described below, the EPA has determined that Respondent has contributed or is contributing to the past or present handling, storage, treatment, transportation or disposal of solid waste in a manner that may present an imminent and substantial endangerment to health or the environment.

B. The EPA notified the Confederated Salish and Kootenai Tribes of the Flathead Indian Reservation (Tribes) of this action pursuant to Section 7003(c) of RCRA, 42 U.S.C. Section § 6973(c), on November 30, 2012.

C. The EPA notified the State of Montana of this action pursuant to Section 7003(a) of RCRA, 42 U.S.C. § 6973(a) on July 19, 2013.

D. Respondent agrees to undertake and complete all actions required by the terms and conditions of this AOC. Respondent consents to and agrees not to contest the authority or jurisdiction of the undersigned to issue or enforce this AOC, and agrees not to contest the validity of this AOC, or its terms or conditions, in any action by EPA or the United States to enforce this AOC.

III. PARTIES BOUND

A. This Order shall apply to and be binding upon Respondent, its employees, agents, successors and assigns.

B. Respondent shall provide a copy of this Order to all contractors, subcontractors, laboratories and consultants retained to conduct or monitor any portion of the work performed pursuant to this Order within two (2) calendar days of the date of Respondent's receipt of this order, or date of retention, and shall condition all such contracts on compliance with the relevant terms of this Order.

C. Respondent shall give notice to the EPA thirty (30) or more days prior to transfer of ownership or operation of Jore Corporation or the Facility.

IV. DEFINITIONS

Unless otherwise expressly provided herein, terms used in this AOC that are defined in RCRA shall have the meaning assigned to them therein. Whenever the terms listed below are used in this AOC the following definitions apply:

“Acceptable” shall mean that the quality of submittals or completed work is sufficient to warrant EPA review to determine whether the submittal or work meets the terms and conditions of this

AOC. Acceptability of submittals or work, however, does not necessarily imply that they will be approvable. Approval by the EPA of submittals or work, however, establishes that those submittals were prepared, or work was completed, in a manner acceptable to the EPA.

“AOC” shall mean this Administrative Order on Consent, any amendments thereto, and any documents incorporated by reference into this AOC.

“Administrative Record” shall mean the administrative record compiled by the EPA in support of the EPA’s issuance of this Order. The Administrative Record is maintained at the EPA Region 8 offices located at 1595 Wynkoop Street, Denver, CO. The Administrative Record may be updated after issuance of this AOC as the EPA determines is necessary.

“CEI” shall mean the RCRA compliance evaluation inspection conducted by an EPA inspector at the Facility on or about August 30, 2012.

“Data Quality Objectives” shall mean those qualitative and quantitative statements derived from the outputs of a scientific and legally defensible data collection planning process.

“Day” shall mean a calendar day unless expressly stated otherwise.

“Effective Date” shall be the date on which the EPA signs this AOC following the public comment period held pursuant to Section XXIV (Public Comment on this AOC).

“Facility” shall mean all properties and structures owned by Jore Corporation located at 34837 Innovation Drive in Ronan, Montana, in Lake County, and adjacent properties to which releases of hazardous waste, solid waste, or hazardous constituents have migrated.

“RCRA” shall mean the Resource Conservation and Recovery Act (also known as the Solid Waste Disposal Act), as amended, 42 U.S.C. § 6901, *et seq.*

“Record” shall include all documents, reports, data, and other information, both in paper and electronic form, generated or produced during implementation of this AOC.

“SPCC Plan” shall mean Spill Prevention Control and Countermeasures Plan as required by the Oil Pollution Act and which is necessary for RCRA facilities with a storage capacity of greater than 1320 gallons of used oil.

“Tribes” shall mean the Confederated Salish and Kootenai Tribes of the Flathead Indian Reservation.

“Work” shall mean all the activities and requirements specified in this AOC including, but not limited to, Section VIII (Work to Be Performed).

V. FINDINGS OF FACT

A. The EPA conducted a RCRA compliance evaluation inspection (CEI) at the Facility on August 30, 2012.

B. At the time of the CEI, Jore had notified that it was operating as a conditionally exempt small quantity generator of hazardous waste. The inspector noted the following items on the Notice of Inspection (NOI) form: failure to make timely hazardous waste determinations, failure to respond to releases of oil to soils and water, no SPCC Plan while storing greater than 1320 gallons of oil.

C. A ditch and pond system for storm water collection was installed in 2000 and 2001. It was lined with 30 MIL PVC liner selected by the design engineer to resist a variety of chemicals. Each storm drainage to the ponds or collection ditch passes through one of nine 1500-gallon separator tanks. In addition, eleven catch basins overflow into the collection ditch. The collection ditch, referred to by the facility as the swale (Swale), is 1362.5 uniform feet in length and has a total capacity of 163,075 gallons.

D. The facility manufactures drill bits and power tool accessories, using mineral oil coolant for their cutting machines. The bulk of the oil is recycled for reuse through filter systems equipped with paper filters. Once spent, the oil-soaked filter papers were placed into an open-top roll-off (Roll-off).

E. During the CEI, the EPA RCRA inspector observed releases of what appeared to be used oil emanating from the bottom of the Roll-off. Oil had leaked from the Roll-off and had flowed both over the pavement and onto the bank soils of the collection ditch and into the sediment and rocks in the collection ditch. There was also evidence of overflow from a manhole.

F. The inspector observed numerous drums and containers with unknown contents on the exterior of the process building, including 21 drums on the northwest corner of the process building for which a waste determination was needed. There were another 15 or more drums on the northeast corner for which the contents needed to be determined. There were also numerous drums that had been cut open and were empty or contained small amounts of rainwater.

G. In a September 6, 2012, email to the EPA, Jore explained that the water and oil collected in the sumps come from oil mist from air exchangers on the roof and water runoff from the roof.

H. The collection ditch flows into a large pond used by Jore for containment of storm water drainage. The first pond, which has a volume of 776,620 gallons, flows into a second pond, also used for containment, that has a volume of 609,962 gallons.

I. During the CEI, the EPA RCRA inspector observed waterfowl landing on the first of the two containment ponds.

J. The inspector was told that a portion of the land adjacent to the second pond is leased for cattle grazing. In a follow-up email, dated September 10, 2012, the facility stated: "I am confident that cattle have not been allowed to graze in the area around the first pond. The second pond is fenced off from the rest of the pasture as well, but I cannot say with certainty they have not been allowed to graze in that area in the past."

K. An unsigned copy of the lease between Jore Corporation and Hughes Ranch, LLC (tenant) for the 2012 grazing season was submitted by email on March 29, 2013.

L. As requested at the close-out of the CEI and in several emails, the facility performed waste determinations for the 55-gallon drums of unknown or questionable contents and were disposing of them. In an email dated December 11, 2012, Jore provided RCRA hazardous waste characterization information and the disposal status of the drums observed at the Facility during the CEI. Of the 100 drums for which waste characterization was performed subsequent to the inspection, 3 were determined to be corrosive hazardous waste (with a pH of less than 2).

M. In a March 20, 2013, email, the facility provided a copy of the hazardous waste manifest documenting disposal of the three drums of corrosive hazardous waste at US Ecology Nevada.

N. In a November 9, 2012, email, Jore provided the analytical results collected from samples collected on October 9, 2012, taken at three locations: the inlet to the containment ditch by the dumpster, the inlet to the first pond, and the inlet to the second pond. Results of the sampling are provided below:

Location	Matrix	Constituent	Result
J1-SW	Aqueous	C19-C36 Aliphatics	85,700 ug/L
		C11-C22 Aromatics	3,480 ug/L
		Total Extractable HC	90,300 ug/L
		Naphthalene	0.26 ug/L
		Phenanthrene	0.22 ug/L
J2-SW	Aqueous	C19-36 Aliphatics	3,150 ug/L
		C11-C22 Aromatics	221 ug/L
		Total Extractable HC	3,400 ug/L
		Naphthalene	0.24 ug/L
J3-SW	Aqueous	Total Extractable HC (screen analysis)	340 ug/L
J1-Sed	Sediment	C9-C18 Aliphatics	2,260 mg/kg-dry
		C19-C36 Aliphatics	317,000 mg/kg-dry
		C11-C22 Aromatics	21,400 mg/kg-dry
		Total Extractable HC	344,000 mg/kg-dry

J3-Sed	Sediment	C19-C36 Aliphatics	850 mg/kg-dry
		C11-C22 Aromatics	217 mg/kg-dry
		Total Extractable HC	1150 mg/kg-dry

O. In an email dated March 29, 2013, the facility clarified that the sediment sample J2 was not analyzed because there was no fine material, and the sediment turned out to be algae.

P. In an email to the EPA dated September 6, 2012, Jore wrote that the ground water level varies between 48 and 61 inches.

Q. According to the Montana Tier 1 Risk-Based Corrective Action Guidance for Petroleum Releases, September 2009, a copy of which is included as Attachment A to this AOC, the following risk-based screening levels (RBSLs) for petroleum release sites are appropriate. For a commercial site with a depth to groundwater of less than 10 feet, the RBSLs are as follows:

	Surface Soil (0-2 feet)	Subsurface Soil (> 2 feet)	Groundwater
C9-C18 Aliphatics	1000 mg/kg	2000 mg/kg	1000 ug/l
C19-C36 Aliphatics	100,000 mg/kg	100,000 mg/kg	1000 ug/l
C11-C22 Aromatics	400 mg/kg	400 mg/kg	1000 ug/l
Naphthalene	9 mg/kg	9 mg/kg	100 ug/l
EPH Screen, Fractionate	200 mg/kg	200 mg/kg	1000 ug/l

VI. CONCLUSIONS OF LAW

A. Based on the Findings of Fact set forth above and other information in the Administrative Record supporting this AOC, the EPA has determined that:

B. Respondent is a "person" within the meaning of section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

C. Wastes handled by Jore at the Facility are "solid waste[s]" as defined in section 1004(27) of RCRA, 42 U.S.C. § 6903(27).

D. Respondent has contributed and/or is contributing to the handling, storage, treatment, transportation or disposal of solid waste at the Facility within the meaning of section 7003 of the Act, 42 U.S.C. § 6973.

E. Based upon evidence received, the EPA has determined that Respondent's handling of solid waste and hazardous waste may present an imminent and substantial endangerment to health or the environment within the meaning of Section 7003 of the Act.

F. The EPA takes this action pursuant to Section 7003 having determined that the issuance of this AOC is necessary to protect human health or the environment.

VII. ORDER ON CONSENT

Based upon the Administrative Record and the Findings of Fact (Section V) and Conclusions of Law (Section VI) set forth above, and in consideration of the promises set forth herein, the following is hereby agreed to and ordered by the EPA. Respondent shall comply with all provisions of this AOC, including, but not limited to, all appendices to this AOC and all documents incorporated by reference into this AOC.

VIII. WORK TO BE PERFORMED

Respondent has agreed to perform the following work:

A. Designation of Project Coordinator

Respondent shall designate a Project Coordinator responsible for administration of all Respondent's actions required by this AOC. Within fifteen (15) days of the effective date of this AOC, Respondent shall submit the designated Project Coordinator's name, address, and telephone number in writing to the EPA. To the greatest extent possible, the Project Coordinator shall be present on-site or readily available during site work. The EPA has designated Linda Jacobson of the Office of Enforcement, Compliance and Environmental Justice as its Project Coordinator. Respondent shall direct all submissions required by the Consent Order to both the Tribes and to the EPA. Submissions to the EPA shall be directed to:

Linda Jacobson, 8ENF-RC
US EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129
Telephone: (303) 312-6503
email: jacobson.linda@epa.gov
Fax: (303) 312-6953

Submissions to the Tribes shall be directed to:

Mr. Mike Durglo
Environmental Director
Confederated Salish and Kootenai Tribes
P.O. Box 278
Polson, MT. 59860-0278

B. Sampling and Analysis Work Plan

1. Within forty-five (45) days of the effective date of this AOC, Respondent shall submit a Sampling and Analysis Work Plan (Work Plan) for EPA approval.

2. The Work Plan shall be designed so that Respondent will determine the nature and extent of any environmental contamination from releases of solid waste, hazardous waste, or hazardous constituents, if any, at the Facility and beyond the Facility boundaries. The Work Plan shall document the procedures Respondent shall use to conduct those activities necessary to: characterize the source(s) of contamination; characterize the potential pathways of contaminant migration; define the degree and extent of contamination; and identify actual or potential human and/or ecological receptors. A specific schedule for implementation of all activities shall be included in the Work Plan.

3. The Work Plan shall include characterization of the following and specify the rationale for and definition of the number, location and depth of the samples, and the parameters for analysis:

(A) A sufficient number of soil and groundwater samples to establish background quality for the EPA-approved list of constituents proposed in the Work Plan ;

(B) Co-located samples of sediment and liquids (if present) in the collection ditch, catch basins, and ponds to determine the magnitude and extent of past releases;

(C) Collection of soil samples beneath liner at areas where the liner in the collection ditch and ponds has been breached by plant or animal intrusion, and contamination has been detected in the sediment and liquid;

(D) Collection of representative soils in the banks of the collection ditch and ponds and at the pond outlets;

(E) The initial phase of the Work Plan shall consist of a GeoProbe system of sampling to characterize the groundwater even through potential "secondary" source areas. The results of the Geo Probe system sampling will be presented to EPA with recommendations as to whether installations of groundwater wells are warranted to determine groundwater flow direction(s), identify aquifer depth, and impacts to groundwater from past releases, if any. In addition, the groundwater sampling and analysis section shall identify all well specifications and construction and the procedures to be used in making the above-well placement determinations (e.g., well design, well construction, the use of "Push Probe" technology to aid in the placement of wells, iterative sampling concepts, geophysical investigative methods, groundwater modeling, etc.).

(F) Identification of human and ecological receptors, including well usage and well construction for all non-Facility wells within 2 miles of the Facility property boundary, and identification of endangered or threatened species, migratory bird usage of ponds and ditches including any past mortalities observed by Respondent's personnel. Non-Facility well usage and construction will be assessed by use of permits and recorded well logs, as supplemented by interviews with well owners should a well log or permit not be available for a specific well. Copies of such permits, well logs, and interview notes will be included in the Sampling and Analysis Report.

(G) As part of the Work Plan, Respondent shall include a Quality Assurance Project Plan (QAPP) for EPA review and approval. The QAPP shall address quality assurance, quality control, and chain of custody procedures for all sampling, monitoring and analytical activities.

(H) Analytical methods must be those specified in the most recent version of Test Methods for Evaluating Solid Waste-Physical/Chemical Methods, U.S. EPA Publication No. SW-846, Final Update III, promulgated on June 13, 1997 (*See* 62 Federal Register 32452), Methods for Chemical Analysis of Water and Wastes, EPA Report 600/4-79-020, March 1983, or alternate methods approved by the EPA that will perform equal to or better than SW-846 methods under conditions expected during the investigation

4. Concurrent with the submission of the Work Plan, Respondent shall submit for EPA's information, but not approval, a Health and Safety Plan (HASP) for the work to be performed under this AOC.

5. Upon receipt of EPA approval of the Work Plan, or approval with modifications, Respondent shall implement the EPA-approved Work Plan in accordance with the terms and schedules contained therein.

6. Progress made in completing the requirements of the Work Plan shall be detailed in quarterly progress reports (Progress Reports) which shall include, at a minimum, the following information: activities conducted during the previous quarter; summary of problems encountered during the previous quarter and how the problems were or are being addressed; changes in work; and projected work for the next quarter. The first quarterly report will be due on the tenth day of the first January, April, July, or October after the AOC becomes effective.

C. Sampling and Analysis Report

1. Within forty-five (45) days of completion of the implementation of the Work Plan, Respondent shall submit to the EPA for review and approval a Sampling and Analysis Report, in accordance with the requirements in the EPA-approved Work Plan.

2. If the EPA determines that additional characterization work is necessary, the EPA will inform Respondent of such additional requirements, and Respondent shall conduct such characterization according to EPA directions and within a timeframe proposed by Respondent for EPA's approval.

D. Corrective Measures

Within thirty (30) days of receipt of EPA's written determination that the releases have been adequately assessed, Respondent shall submit a Corrective Measures Work Plan (CMWP) based upon the findings of the Sampling and Analysis Report. The CMWP shall, at a minimum:

1. Present the recommendations of the Sampling and Analysis Report;
2. Specify the corrective measures proposed by Respondent to address the releases to soils, sediment and groundwater, basing these recommendations on risks posed to identified receptors. At a minimum, proposed measures shall include: (a) removal of stained soils, sediment, and vegetation, unless Respondent successfully demonstrates to EPA that no unacceptable risks to receptors are posed by certain stained sediment or vegetation, or that receptors will be adequately protected in both the short term and long term by alternative remedial measures proposed by Respondent regarding certain stained soils, sediment or vegetation, and (b) further removal of source areas as necessary to prevent further releases to and from impacted areas; and
3. Include a plan that describes operation, maintenance, inspection practices for the stormwater collection system including the lined ditches and ponds. Inspections should include assessment of the liner integrity, repair or replacement of the liner as necessary, schedule for monitoring release response and overall system maintenance and record keeping.

E. Additional Work

1. The EPA may determine, or Respondent may propose, that certain tasks are necessary in addition to or in lieu of the tasks included in any EPA-approved Work Plan when such additional work is necessary to meet the objectives set forth in paragraph I.C. above. The EPA will specify, in writing, the basis for its determination that any additional work is necessary.
2. Within five (5) days after the receipt of such determination, Respondent shall have the opportunity to meet or confer with the EPA to discuss any additional work. The EPA may modify or withdraw its request for additional work after such conference.
3. If the EPA determines that Respondent must conduct additional work Respondent shall submit for EPA approval a work plan for any additional work within ten (10) days of Respondent's receipt of the EPA's determination that any additional work is necessary, or according to an alternative schedule established by the EPA (Additional Work Plan). The EPA shall review the Additional Work Plan pursuant to Section IX below.
4. Upon EPA approval of an Additional Work Plan, Respondent shall implement the Additional Work Plan in accordance with the schedule and provisions contained therein. The Additional Work Plan shall be incorporated by reference into this AOC upon approval by the EPA.

IX. AGENCY REVIEW AND APPROVAL OF DELIVERABLES

- A. The EPA may reject any submittal which the EPA determines is not Acceptable. Submittal of a document not Acceptable is a violation of this AOC unless such document is resubmitted prior to the due date for such submittal, or other due date agreed to by the EPA, and the EPA determines that the submittal is Acceptable.

B. The EPA will provide Respondent with its written approval, conditional approval, approval with modification, disapproval with comments and/or modifications, or notice of intent to draft and approve, for any acceptable work plan, report (except progress reports), specification or schedule submitted pursuant to or required by this AOC.

C. Prior to written approval, no submittal, except progress reports, shall be construed as approved and final. Oral advice, suggestions, or comments given by the EPA will not constitute an official approval, nor shall any oral approval or oral assurance of approval be considered binding on either party, except as otherwise expressly provided for in the imminent threat provisions below.

D. Respondent shall revise any submittal in accordance with the EPA's written comments, and in accordance with the due date specified by the EPA. Revised submittals are subject to EPA approval, approval with conditions, rejection as not acceptable, disapproval with comments and/or modifications, or notice of intent to draft and approve.

E. Any report, work plan, specification or schedule approved by the EPA, including those drafted by the EPA, shall be automatically incorporated into this AOC upon EPA approval.

X. DOCUMENT CERTIFICATION AND CONFIDENTIALITY CLAIM

A. Any notice, report, certification, data presentation, or other document submitted by Respondent pursuant to this Order which discusses, describes, demonstrates, or supports any finding or makes any representation concerning Respondent's compliance or noncompliance with any requirement of this Order shall be certified by a duly authorized representative of Respondent. A person is a "duly authorized representative" only if: the authorization is made in writing; the authorization specifies either an individual or position having responsibility for overall operation of the Facility or Respondent (a duly authorized representative thus may be either a named individual or any individual occupying a named position); and the written authorization is submitted to the EPA Project Manager.

B. The certification shall be in the following form:

I certify that the information contained in or accompanying this [type of submission] is true, accurate, and complete. As to [the/those identified portion(s)] of this [type of submission] for which I cannot personally verify [its/their] accuracy, I certify under penalty of law that this [type of submission] and all attachments were prepared in accordance with procedures designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, or the immediate supervisor of such person(s), the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Signature :

Name : *Mich Cheff*
Title : *President*
Date: *7-24-2013*

C. Respondent may assert a claim of business confidentiality covering part or all of the information submitted to the EPA pursuant to the terms of this AOC under 40 C.F.R. Part 2 in the manner described at 40 C.F.R. §2.203(b) and substantiated with the information described at 40 C.F.R. § 2.204(e)(4). Information the EPA determines is confidential will be given the protection specified in 40 C.F.R. Part 2. If no such claim or substantiation accompanies the information when it is submitted to the EPA, it may be made available to the public by the EPA or the Tribes without further notice to Respondent. Respondent agrees not to assert confidentiality claims with respect to any data related to Facility conditions, sampling, monitoring or the Work performed pursuant to this AOC.

D. Respondent may assert that certain documents, records and other information are privileged under any privilege recognized by federal law. If Respondent asserts such a privilege in lieu of providing documents to the EPA, Respondent shall provide the EPA with the following: the title of the document, record, or information; the date of the document, record, or information; the author's name and title; the name and title of each addressee and recipient; a description of the contents; and the privilege asserted by Respondent. No documents, reports or other information created or generated pursuant to the requirements of this AOC shall be withheld on the grounds that they are privileged.

E. All data, information, and records created or maintained relating to any solid or hazardous Waste handled by Respondent at the Facility shall be made available to the EPA upon request unless Respondent asserts a claim that such documents are legally privileged from disclosure pursuant to the paragraph immediately above. Respondent shall have the burden of demonstrating to the EPA such privilege exists at the time the privilege is asserted.

F. No claim of privilege shall be made with respect to any data, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at or around the Facility that are the subject of this AOC.

XI. SAMPLING, ACCESS AND DATA AVAILABILITY

A. All results of sampling, testing, modeling or other data generated (including raw data if requested) by Respondent, or on Respondent's behalf, during implementation of this AOC shall be validated by Respondent and submitted to the EPA within 30 days of Respondent's receipt of the data. Respondent shall tabulate data chronologically by media. The EPA will make available

to Respondent data generated by the EPA for the purposes of oversight of the Work unless it is exempt from disclosure by any federal or state law or regulation.

B. Respondent shall orally notify the EPA at least twenty (20) days prior to conducting field sampling. At the EPA's request, Respondent shall allow split or duplicate samples to be taken by the EPA or the EPA's representative.

C. Respondent shall provide access to the Site at reasonable times to the EPA, the EPA's contractors and oversight officials, and the Tribes. Respondent also shall provide access at reasonable times to the EPA, the EPA's contractors and oversight officials, and the Tribes, to all records and documentation in its possession or control, including those records and documents in the possession or control of Respondent's contractors and employees, related to the conditions at the Site and the actions conducted pursuant to this AOC. Respondent shall use its best efforts to gain access to areas owned by or in the possession of someone other than Respondent, as necessary to implement this AOC. Such access shall be provided to the EPA, its contractors and oversight officials, and the Tribes. The EPA, its contractors and oversight officials shall notify Respondent of their presence on the Site by presenting their credentials. All parties with access to the Site under this paragraph shall comply with all approved health and safety plans and regulations.

D. Pursuant to this Section, any denial of access to the EPA, the EPA's contractors and oversight officials, and the Tribes, at reasonable times, to any portion of the Facility where such access is related to implementation or oversight of implementation of this AOC, is a violation of this AOC and subject to the stipulated penalty provisions of this AOC.

E. Where action under this AOC is to be performed in areas owned by, or in possession of, someone other than Respondent, Respondent shall use its best efforts to obtain all necessary access agreements as quickly as practicable, but in all events, within forty-five (45) days of approval of any work plan for which access is necessary or appropriate. Any such access agreement shall provide for access by the EPA, the EPA's contractors and oversight officials, and the Tribes to move freely in order to conduct actions that the EPA determines to be necessary.

F. The access agreement shall specify that Respondent is not the EPA's representative with respect to any liabilities associated with activities to be performed.

G. Respondent shall provide the EPA's Project Coordinator with fully executed copies of each access agreement entered into by Respondent relating to compliance with this AOC.

H. Respondent shall notify the EPA immediately, if after using its best efforts, Respondent is unable to obtain necessary access agreements within the time required. Best efforts, as used in this paragraph shall include, at a minimum, a certified letter from Respondent to the present owner of such property requesting access agreements to permit Respondent, the EPA, the EPA's contractors and oversight officials, and the Tribes to enter such property, and the offer of payment of reasonable sums of money in consideration of granting access. Respondent shall, within 10 days of its receipt of a denial of access, submit in writing, a description of its efforts to

obtain access. The EPA may, at its discretion, assist Respondent in obtaining access. In the event the EPA obtains access, Respondent shall undertake the Work on such property, and Respondent shall reimburse the EPA for all costs and attorney fees incurred by the United States in obtaining such access.

I. Nothing in this AOC shall be construed to limit the EPA's right of access, entry, inspection, and information gathering pursuant to applicable law, including but not limited to, RCRA and CERCLA.

XII. RECORD RETENTION

A. Respondent shall preserve all documents and information, including raw data, relating to the Work performed under this AOC or relating to any solid waste or hazardous waste found at the Facility addressed by this AOC, for 5 years following completion of the Work required by this AOC.

B. Respondent shall acquire and retain copies of all documents that relate to implementation of this AOC that are in the possession of its employees, agents, accountants, contractors or attorneys.

C. Respondent shall make available to the EPA all employees and persons, including contractors, who engage in activities under this AOC and ensure their cooperation with the EPA with respect to this AOC upon reasonable request of the EPA.

D. After the 5-year retention period and ninety (90) days before any document or information is destroyed, Respondent shall notify the EPA that such documents and information are available to the EPA for inspection, and upon request, shall provide the originals or copies (at no cost to the EPA) of such documents and information to the EPA. Notification shall be in writing and shall reference the effective date, caption, and docket number of this AOC and shall be addressed to Director, Technical Enforcement Program. In addition, Respondent shall provide documents and information retained under this Section at any time before expiration of the retention period at the written request of the EPA.

E. All documents pertaining to implementation of this AOC shall be stored by Respondent in a centralized location at the Facility, or an alternative location mutually approved by Respondent and the EPA, to promote easy access by the EPA or its representatives.

XIII. COMPLIANCE WITH OTHER LAWS

Respondent shall perform all actions required pursuant to this AOC in accordance with all applicable local, Tribal, and Federal laws and regulations. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations in a timely manner so as not to delay the Work required by this AOC.

XIV. DISPUTE RESOLUTION

A. Respondent shall raise any disputes concerning the Work required under this AOC to the EPA Project Manager (excluding any decision document(s) issued by the EPA), in writing, within seven (7) days after receiving written notice from the EPA regarding any aspect of the Work required under this AOC that Respondent disputes. The EPA and Respondent shall expeditiously and informally attempt to resolve any disagreements.

B. The EPA and Respondent Project Coordinators shall first confer in an effort to resolve the dispute. If the Project Coordinators are unable to informally resolve the dispute within three (3) days of the first conference, Respondent shall notify the EPA, within five (5) days, in writing, of its objections. Written objections shall identify Respondent's objections, state the basis for those objections, and provide all data, analyses and information relied upon by Respondent.

C. The EPA and Respondent then have an additional fourteen (14) days from the EPA's receipt of the objections to reach agreement. If an agreement is not reached within this period, Respondent may request in writing, within five (5) days, a determination resolving the dispute by the EPA's Assistant Regional Administrator for the Office of Enforcement, Compliance and Environmental Justice (ARA for ECEJ). The request should provide all information that Respondent believes is relevant to the dispute, in particular, any information that was considered during the prior dispute resolution steps, but not included in the submittal in paragraph B above.

D. If such request is timely submitted, the ARA for ECEJ shall issue a determination in writing. The decision of the ARA for ECEJ shall be incorporated into and become an enforceable part of this AOC and shall no longer be subject to dispute pursuant to this AOC. Respondent shall proceed in accordance with the ARA for ECEJ's decision regarding the matter in dispute, regardless of whether or not Respondent agrees with the decision.

E. If Respondent does not agree to perform or does not actually perform the Work in accordance with the EPA's decision, the EPA reserves the right in its sole discretion to conduct the Work itself, seek reimbursement from Respondent, seek enforcement of this AOC, seek stipulated penalties, and/or any other appropriate relief. Respondent agrees that any disputes arising under this AOC are not subject to judicial review until such time as the EPA seeks to enforce this AOC.

F. If the EPA and Respondent reach agreement on the dispute at any stage, the agreement shall be set forth in writing and shall, upon signature of both parties, be incorporated into and become an enforceable part of this AOC.

G. The existence of a dispute and the EPA's consideration of matters placed in dispute shall not excuse, toll, or suspend any compliance obligation or deadline required pursuant to this AOC during the pendency of the dispute resolution process except as agreed by the EPA in writing. The invocation of dispute resolution does not stay the accrual of stipulated penalties under this AOC.

XV. PENALTIES

A. Unless there has been a written modification of a compliance date by the EPA, or excusable delay as defined below in Section XVI (Force Majeure), in the event that Respondent fails to comply with any requirement set forth in this AOC, Respondent shall pay stipulated penalties, as set forth below, upon receipt of a written demand by the EPA.

B. Compliance by Respondent shall include commencement or completion, as deemed appropriate by the EPA, of any activity, plan, study or report required by this AOC, and in the manner required by this Consent Order and within the specified time schedules in and approved under this AOC. Stipulated penalties shall accrue as follows:

Period of Failure to Comply	Penalty Per Violation Per Day
1st day through 14th day	\$250
15th day through 29th	\$500
30th day and each day after that	\$1000

C. All stipulated penalties shall begin to accrue the first day that a violation occurs, or the first day after the date that complete performance is due, and shall continue to accrue through the final day of violation. Nothing herein shall prevent the simultaneous accrual of separate stipulated penalties for separate violations of this AOC.

D. All stipulated penalties owed to the EPA under this section shall be due within thirty (30) calendar days of receipt of a demand for payment, unless Respondent invokes the dispute resolution procedures herein. Such demand for payment shall describe the noncompliance and shall indicate the amount of stipulated penalties due.

E. All stipulated penalty payments shall be made by certified check, cashier's check, or wire transfer. Checks shall be payable to the Treasurer of the United States of America and shall be remitted to:

United States Environmental Protection Agency
Fines and Penalties Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Wire transfer payments shall be made to the following:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 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"

F. All payments shall reference the Respondent's name and address, and the EPA Docket Number of this AOC. Copies of the transmittal of payment shall be sent simultaneously to the EPA Project Coordinator at the address in Section VIII. A and to the EPA Regional Hearing Clerk, U.S. EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129.

G. Respondent may dispute the EPA's demand for payment of stipulated penalties for any alleged violation of this AOC by invoking the dispute resolution procedures. Stipulated penalties shall continue to accrue, but are not required to be paid, for any alleged noncompliance which is the subject of dispute resolution during the period of such dispute resolution. To the extent that Respondent does not prevail upon resolution of the dispute, within twenty-one (21) calendar days of receipt of the EPA's written decision, Respondent shall remit its payment of the stipulated penalty as set forth in paragraph B above. .

H. The assessment of stipulated penalties set forth in this section shall not preclude the EPA from pursuing any other remedies or sanctions which may be available to the EPA by reason of Respondent's failure to comply with any of the requirements of this AOC.

I. The EPA in its sole discretion may reduce or waive stipulated penalties.

XVI. FORCE MAJEURE

A. Respondent agrees to perform all requirements under this AOC within the time limits established under this AOC, unless the performance is delayed by a force majeure. For purposes of this AOC, a force majeure is defined as any event arising from the causes beyond the control of Respondent, or any entity controlled by Respondent or Respondent's contractors, which delays or prevents performance of any obligation under this AOC despite Respondent's best efforts to fulfill the obligation. Force majeure does not include financial inability to complete the Work, increased cost of performance, changes in Respondent's business or economic circumstances, or inability to attain media cleanup standards.

B. The requirement that the Respondent exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any potential force majeure event: as it is occurring, and following the potential force majeure event such that the delay is minimized to the greatest extent possible.

C. If any event occurs or has occurred that may delay the performance of any obligation under this AOC, whether or not caused by a force majeure event, Respondent shall orally notify the EPA within forty-eight (48) hours of when Respondent knew or should have known that the event might cause a delay. Such notice shall: identify the event causing the delay, or anticipated to cause delay, and the anticipated duration of the delay; provide Respondent's rationale for attributing such delay to a force majeure event; state the measures taken, or to be taken, to prevent or minimize the delay; estimate the timetable for implementation of those measures; and state whether, in the opinion of Respondent, such event may cause or contribute to an endangerment to public health or the environment. Respondent shall undertake best efforts to avoid and minimize the delay. Failure to comply with the notice provision of this paragraph and to undertake best efforts to avoid and minimize the delay shall waive any claim of force majeure by Respondent. Respondent shall be deemed to have notice of any circumstances of which its contractors had or should have had notice.

D. If the EPA determines that a delay in performance or anticipated delay in fulfilling a requirement of this AOC is or was attributable to a force majeure, then the time period for performance of that requirement will be extended as deemed necessary by EPA. If EPA determines that the delay or anticipated delay has been or will be caused by a force majeure, then EPA will notify Respondent, in writing, of the length of the extension, if any, for performance of such obligations affected by the force majeure. Any such extensions shall not alter Respondent's obligation to perform or complete other tasks required by this AOC which are not directly affected by the force majeure.

E. If EPA disagrees with Respondent's assertion of a force majeure, then Respondent may elect to invoke the dispute resolution provision, and shall follow the procedures set forth in Section XVIII (Dispute Resolution). In any such proceeding, Respondent shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that Respondent's best efforts were exercised to avoid and mitigate the effects of the delay, and that Respondent complied with the requirements of this section. If Respondent satisfies this burden, then EPA will extend the time for performance as EPA determines is necessary.

XVII. RESERVATION OF RIGHTS

A. Notwithstanding any other provisions of this AOC, the United States retains all of its authority to take, direct, or order any and all actions necessary to protect public health or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants, or contaminants, or hazardous or solid waste or constituents of such waste, on, at, or from the Facility, including but not limited to, the right to bring enforcement actions under RCRA, and any other applicable statutes or regulations.

B. The EPA reserves all of its statutory and regulatory powers, authorities, rights, and remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of this AOC, including without limitation the assessment of penalties under Section 7003(b) of RCRA.

C. This AOC shall not be construed as a covenant not to sue, release, waiver, or limitation of any rights, remedies, powers, claims, and/or authorities, civil or criminal, which the EPA has under RCRA, or any other statutory, regulatory, or common law authority of the United States.

D. This AOC is not intended to be nor shall it be construed to be a permit. Respondent acknowledges and agrees that the EPA's approval of Work pursuant to this AOC does not constitute a warranty or representation that such Work will achieve the required cleanup or performance standards. Compliance by Respondent with the terms of this AOC shall not relieve Respondent of its obligations to comply with RCRA or any other applicable local, Tribal, State, or Federal laws and regulations.

E. Notwithstanding any other provision of this AOC, Respondent expressly agrees that no action or decision by the EPA pursuant to this AOC, including without limitation, decisions of the ARA of ECEJ, or any authorized representative of the EPA, shall constitute final agency action giving rise to any right of judicial review prior to the EPA's initiation of a judicial action to enforce this AOC.

F. Respondent agrees not to contest the validity or terms of this AOC, or the procedures underlying or relating to it in any action brought by the United States, including the EPA, to enforce its terms or seek penalties for its violation.

G. Respondent retains its right to assert claims against any third parties with respect to Work, or any other matter addressed by this AOC.

XVIII. OTHER CLAIMS

A. The United States and the EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondent in implementation, or violation, of this AOC.

B. The United States and the EPA will not be deemed a party to any contract, agreement or other arrangement entered into by Respondent or its officers, directors, employees, agents, successors, assigns, heirs, trustees, receivers, contractors, or consultants in carrying out actions pursuant to this AOC.

C. Respondent waives all claims against the United States relating to or arising out of conduct of this AOC, including, but not limited to, contribution and counterclaims.

D. Respondent shall bear its own litigation costs and attorney fees.

E. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive or other appropriate relief relating to the Facility, Respondent shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defense contending that the claims raised by

the United States in the subsequent proceeding were, or should have been, raised in the present matter.

XIX. INSURANCE

A. Prior to commencing Work, Respondent shall secure, and shall maintain in force until the EPA notifies Respondent that it has completed all activities required by this AOC, comprehensive general liability insurance and automobile insurance with limits of at least \$1 million dollars per occurrence with an annual aggregate of at least \$2 million dollars, exclusive of legal defense costs naming the EPA as an additional insured. Prior to commencement of the Work under this AOC, and annually thereafter on the anniversary of the Effective Date of this AOC, Respondent shall provide the EPA with certificates of such insurance and a copy of each insurance policy.

B. If Respondent demonstrates by evidence satisfactory to the EPA that its contractors and subcontractors maintain insurance equivalent to that described above, or insurance covering some or all of the same risks but in an equal or lesser amount, then, upon written approval by the EPA, Respondent need provide only that portion of the insurance described above which is not maintained by the contractors and subcontractors.

C. For the duration of this AOC, Respondent shall satisfy, or shall ensure that their contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of employer's liability insurance and worker's compensation insurance for all persons performing Work on behalf of Respondent.

D. At least seven (7) days prior to commencing Work, Respondent shall certify to the EPA that their contractors and subcontractors have obtained the required insurance.

XX. COST ESTIMATES AND FINANCIAL ASSURANCE

A. Based on information provided to the EPA by Jore, the EPA has concluded that Jore has adequate funds on hand to fund all of the Work the EPA presently expects to be necessary under this AOC. Thus, at this time, no formal cost estimates or financial assurance for the Work is being required by the EPA. Respondent understands and agrees that the EPA may require Respondent to obtain financial assurance for the remaining work if the EPA becomes aware of any change in Respondent's financial status.

B. If Respondent determines it may become unable to fund some or all of the then-remaining Work, Respondent shall inform the EPA of such change in financial condition within two (2) days of such determination. Respondent understands and agrees that it will be in violation of this reporting requirement even when Respondent should have made such a determination (and reported), but did not.

XXI. INDEMNIFICATION

Respondent agrees to indemnify, save and hold harmless the United States, its officials, agents, contractors, employees, and representatives from any and all claims or causes of action: arising from, or on account of, acts or omissions of Respondent, Respondent's directors, officers, employees, agents, successors, assigns, heirs, trustees, receivers, contractors, or consultants in carrying out actions pursuant to this AOC; and for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between Respondent and any persons for performance of Work, including claims on account of construction delays.

XXII. MODIFICATION OF THIS AOC

A. Except for modification of Work, this AOC may only be modified by the mutual agreement of the EPA and Respondent. Any agreed modifications shall be in writing, be signed by both parties, have as their effective date the date on which they are signed by the EPA, and be incorporated into this AOC.

B. No informal advice, guidance, suggestion, or comment by the EPA regarding reports, plans, specifications, schedules, or any other writing submitted by Respondent shall relieve Respondent of its obligation to obtain such formal approval as required by this AOC, and to comply with all requirements of this AOC, unless it is formally modified. Any deliverables, plans, technical memoranda, reports, specifications, schedules and attachments required by this AOC are, upon approval by the EPA, incorporated into and enforceable under this AOC.

C. If at any time during the implementation of the Work, Respondent identifies a need for a compliance date modification or revision of the Work Plan, Respondent shall submit a memorandum documenting the need for the modification or revision to the EPA Project Coordinator. The EPA in its discretion will determine if the modification or revision is warranted and may provide written approval or disapproval. Any approved modified compliance date or Work Plan modification is incorporated by reference into this AOC.

XXIII. TERMINATION AND SATISFACTION

The provisions of this AOC shall be deemed terminated and satisfied by Respondent upon written notice from the EPA that Respondent has demonstrated that all of the terms of this AOC, including any additional work as may be performed pursuant to Section VIII E (Additional Work) and any stipulated penalties demanded by EPA under Section XV (Penalties), have been addressed to the satisfaction of the EPA. Termination of this AOC shall not terminate Respondent's obligation to comply with: Section XI (Sampling, Access, and Data Availability); Section XII (Record Retention); Section XVII (Reservation of Rights); and Section XXI (Indemnification) of this AOC.

XXVII. SIGNATORY AUTHORITY

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

Agreed this 24 day of July, 2013

By: Mick Cheff
Signature

Mick Cheff
Print Name

President
Title

34837 Innovation DR Ronan MT 59864
Company Address

It is so ORDERED and Agreed this 1st day of August, 2013.

By: Kelcey Land For
Kelcey Land, Director
RCRA/CERCLA Technical Enforcement Program

By: James Eppers
James Eppers Supervisory Attorney
Legal Enforcement Program

EFFECTIVE DATE: _____