

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGIONS 3 AND 5

_____)	
IN THE MATTER OF:)	
)	CERCLA Docket No. V-W-23-C-004
East Palestine Train Derailment Site)	
East Palestine, Columbiana County, Ohio)	
)	
Norfolk Southern Railway Company,)	
)	
Respondent)	
)	
Proceeding under Section 106(a))	UNILATERAL ADMINISTRATIVE
of the Comprehensive Environmental)	ORDER FOR REMOVAL ACTIONS
Response, Compensation, and Liability)	
Act, as amended, 42 U.S.C. § 9606(a).)	FIRST AMENDMENT
)	
_____)	

The Unilateral Administrative Order for Removal Actions issued February 21, 2023, shall be amended as follows:

1. Original Paragraph 6 definition of “Site” shall be amended to read:
 6. “Site” shall mean the areal extent of where hazardous substances have come to be located, in Ohio and Pennsylvania, as a result of the Norfolk Southern Railway Company train derailment that occurred on February 3, 2023, at the rail line northeast of East Taggart Street and North Pleasant Drive intersection in East Palestine, Columbiana County, Ohio (Latitude: 40.8360395 Longitude: -80.5222838) and the subsequent emergency response activities including, but not limited to, breached rail cars and the controlled “vent and burn” that occurred on February 6, 2023.

2. Original Paragraph 18 shall be amended to read:
 18. Releases of hazardous substances occurred after the derailment and subsequent fires. Releases to the air occurred when hazardous substances spilled from the rail cars, when smoke from burning rail cars was produced, and hazardous substances including vinyl chloride, phosgene and hydrogen chloride were released. Releases to surface water occurred when liquid product exited rail cars and also when run-off from firefighting efforts at the derailment location moved through a ditch to Sulphur Run, which joins Leslie Run, to Bull Creek, to North Fork Little Beaver Creek, to Little Beaver Creek, and then the Ohio River. Releases to soil occurred (1) when liquid product exited rail cars

after the derailment (2) when run-off from firefighting efforts at the derailment location flowed from the right-of-way to adjoining property, and (3) when ash from the burns landed on soil. Local citizens reported smoke from the burns observed over the State of Ohio and the Commonwealth of Pennsylvania.

3. Original Paragraph 36 shall be amended to read:

36.

e. Develop and implement a plan for the containment and remediation of contaminated surface and sub-surface soils, surface waters and sediments, groundwater and drinking water sources (including private, municipal, agricultural wells);

4. Original Paragraphs 76 and 78 shall be amended to read:

76. In order to ensure completion of the Work, Respondent shall secure financial assurance based upon an initial estimated cost of work (“Estimated Cost of the Work”) from EPA, in an amount equal to the Estimated Cost of the Work. The financial assurance must be one or more of the mechanisms listed below...and satisfactory to EPA. Respondent may use multiple mechanisms if they are limited to trust funds, surety bonds guaranteeing payment, and/or letters of credit.

a. A trust fund...

b. A surety bond...

c. An irrevocable letter of credit...

d. A demonstration by a Respondent that it meets the relevant financial test criteria of Paragraph 79; or

e. A guarantee to fund or perform the Work...

78. Within 20 days after receiving the Estimated Cost of the Work from EPA, Respondent shall submit to EPA proposed financial assurance mechanisms in draft form in accordance with Paragraph 76 for EPA’s review. Within 20 days after EPA’s approval of the form and substance of Respondent’s financial assurance, Respondent shall secure all executed and/or otherwise finalized mechanisms or other documents consistent with the EPA-approved form of financial assurance and shall submit such mechanisms and documents to the EPA regional attorneys: garypie.catherine@epa.gov and dixit.naeha@epa.gov.

It is so ORDERED.

DOUGLAS
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[digitally signed and dated]
Douglas Ballotti
Superfund & Emergency Response Division, Region 5
U.S. Environmental Protection Agency

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Paul Leonard
Superfund & Emergency Response Division, Region 3
U.S. Environmental Protection Agency