UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

EPA Region 5 Records Ctr.
351263

NOV 23 2009

REPLY TO THE ATTENTION OF:
SE-5J

Mr. Maurice R. Prather
4162 Covetree Lane
Batavia, Ohio 45103

Re: Cincinnati Die Cast Site, 4524 West Mitchell Avenue, Cincinnati, Ohio

Dear Mr. Prather:

Enclosed please find a Unilateral Administrative Order issued by the U.S. Environmental Protection Agency under Section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §9601, et seq.

Please note that the Order allows an opportunity for a conference if requested by no later than November 30, 2009, or if no conference is requested, an opportunity to submit comments by no later than December 3, 2009.

If you have any questions regarding the Order, feel free to contact Brian Barwick, Assistant Regional Counsel, at (312) 886-6620 or Steve Renninger, On-Scene Coordinator, at (513) 569-7539.

Sincerely yours,

Richard C. Karl, Director
Superfund Division

Enclosure

cc: Ms. Cindy Haffner
Chief, Division of Emergency & Remedial Response, OEPA

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 5

IN THE MATTER OF:	)	Docket No. V-W- 10 -C-940
	)	
Cincinnati Die Cast Site	)	ADMINISTRATIVE ORDER
	)	PURSUANT TO SECTION 106(a)
	)	OF THE COMPREHENSIVE
	)	ENVIRONMENTAL RESPONSE,
RESPONDENTS:	)	COMPENSATION, AND
	)	LIABILITY ACT OF 1980,
Reuben W. Peppers	)	AS AMENDED, 42 U.S.C.
Maurice R. Prather	)	§9606(a)

I. JURISDICTION AND GENERAL PROVISIONS

This Order is issued pursuant to 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), and delegated to the Administrator of the United States Environmental Protection Agency ("U.S. EPA") by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, and further delegated to the Regional Administrators by U.S. EPA Delegation Nos. 14-14-A and 14-14-B, and to the Director, Superfund Division, Region 5, by Regional Delegation Nos. 14-14-A and 14-14-B.

This Order pertains to property located at 4524 West Mitchell Avenue, Cincinnati, Ohio 45232 (the "Cincinnati Die Cast Site" or the "Site"). This Order requires the Respondents to conduct removal activities described herein to abate an imminent and substantial endangerment to the public health, welfare or the environment that may be presented by the actual or threatened release of hazardous substances at or from the Site.

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

II. PARTIES BOUND

This Order applies to and is binding upon Respondents and Respondents' heirs, receivers, trustees, successors and assigns. Any change in ownership or corporate status of Respondents including, but not limited to, any transfer of assets or real or personal property shall not alter such Respondents' responsibilities under this Order. Respondents are jointly and severally liable for carrying out all activities required by this Order. Compliance or noncompliance by one or more Respondents with any provision of this Order shall not excuse or justify noncompliance by any other Respondent.

Respondents shall ensure that their contractors, subcontractors, and representatives comply with this Order. Respondents shall be responsible for any noncompliance.

III. FINDINGS OF FACT

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

1. The Cincinnati Die Cast Site is located at 4524 W. Mitchell Avenue, Cincinnati, OH. The Site is approximately 1.5 acres in size and is located in a mixed residential/commercial area of Cincinnati, Ohio. There is one building on the Site, constructed in 1929, that is approximately 58,000 square feet.

2. The Site was utilized by the Union Iron and Steel Company from 1937-1976.

3. The Site was owned by the W.P. Butler Company from 1976-1978.

4. On December 27, 1978, the W.P. Butler Company conveyed the property to Maurice R. Prather and Joseph L.H. Kemper.

5. On August 28, 1979, The First National Bank of Cincinnati conveyed Mr. Kemper's interest in the property to Maurice R. Prather.

6. From 1979-1999, 4524 W. Mitchell Avenue was used in the operation of The Cincinnati Die Casting Company, formerly named 4524, Inc., Pryde, Inc., and Superior Tool and Grinding, Inc.

7. Maurice R. Prather owned or was an officer for each of the companies referenced in Paragraph 6.

8. Maurice R. Prather continued to own the property until January 2003 when a Foreclosure Order provided that the property be sold in a judgment in favor of LLP Mortgage, Ltd.

9. Reuben W. Peppers acquired the Site through a sheriff's sale in November 2004 and is the current owner of record for the property according to the Hamilton County Recorder.

10. In December 2004, Rueben W. Peppers contracted with Handex of Ohio to obtain a Phase I Environmental Assessment. This assessment showed the presence of debris piles, stains on the floor and walls, unidentified green and yellow powder, drums of unidentified chemicals, flammable liquids, a drum of urethane or foam, containers of oil, a drum of kerosene, and possible asbestos.

11. According to the Cincinnati Fire Department ("CFD") inspection reports, the Site building was utilized as an indoor scrap yard from 2006-2007.

12. The scrap operations ceased in 2007 and the building has since remained unoccupied.

13. On September 30, 2009, the Cincinnati Fire Department and U.S. EPA conducted an inspection at the Site to document Site conditions and obtain waste samples.

14. Debris including drums, batteries, wood, waste piles, scrap wire, electrical equipment, vegetation, and trash are scattered inside the building. Samples from the Site include hazardous substances including cadmium (1.25 milligrams per liter), arsenic (ranging from <24-1293 milligrams per kilogram ("mg/kg")), barium (ranging from 27-382 mg/kg), chromium (ranging from 19-1,224 mg/kg), lead (ranging from 126-12,917 mg/kg), mercury (ranging from .256-<475 mg/kg), selenium (ranging from <6-262 mg/kg), silver (ranging from <12-<13.2 mg/kg), and petroleum (ranging from 259-787,000 mg/kg).

15. The structurally impaired building is approximately 58,000 square feet, with the roof collapsed in numerous areas. The floor is oil stained. Rainwater flows through the building and into Site trenches that potentially migrate to the storm sewer or to the adjacent parking lot. Un-containerized waste piles surround the furnaces and coolant trenches are filled with oil, water, and debris.

16. There is evidence of human trespassing on the Site. In addition, there are residential areas within 300 feet of the location, posing a potential hazard to human health and safety. There are also risks to both human health and the environment through rainwater runoff from the Site which is able to flow into the sewer system and onto adjacent properties.

17. Health and Environmental impacts of some of the major contaminants include:

    (a) *Arsenic* - Exposure to arsenic can be through ingestion, inhalation or through skin absorption. Once absorbed, arsenic is widely distributed throughout the body tissues including the liver, abdominal viscera, bone and skin. Acute arsenic poisoning in humans is usually by accidental or intentional ingestion. Although rare, acute poisoning may be followed by difficulty in swallowing, irritation of the mouth, vomiting and diarrhea, coma and death.

    (b) *Chromium* - Chromium is a naturally occurring element; however, hexavalent chromium is generally produced by industrial processes such as chrome plating and finishing. The health effects of exposure to trivalent and hexavalent chromium has been researched and is well documented. Existing information about chromium, especially hexavalent chromium, is mainly related to worker exposure. Plating industry workers and workers in other industries utilizing chromium are most

susceptible to toxic levels. Hexavalent and trivalent chromium can be toxic at high levels; however, hexavalent chromium is the most toxic. Chromium is also a listed hazardous waste under U.S. EPA Hazardous Waste Number D007. According to the National Institute of Occupational Safety and Health, the immediately dangerous to life and health level for chromium is 250 micrograms per cubic meter.

(c) *Lead* - The effects of lead exposure are more severe for young children and the developing fetus through exposure to a pregnant woman. The harmful effects of lead include premature births, lower birth weight and decreased mental ability in the infant, learning difficulties, and reduced growth in young children. In adults, lead increases blood pressure, induces anemia as a result of the inhibition of hemoglobin synthesis, decreases reaction time, affects memory, and damages the male reproductive system. Lead is also considered by U.S. EPA to be a class B2 or probable human carcinogen.

(d) *Cadmium* - Breathing high levels of cadmium can severely damage the lungs. Eating food or drinking water with very high levels severely irritates the stomach, leading to vomiting and diarrhea. Long-term exposure to lower levels of cadmium in air, food, or water leads to a buildup of cadmium in the kidneys and possible kidney disease. Other long-term effects are lung damage and fragile bones. The Department of Health and Human Services has determined that cadmium and cadmium compounds are known human carcinogens.

18. This Site is not currently on the National Priorities List pursuant to Section 105(a) of CERCLA, 42 U.S.C. §9605(a)(8)(B).

19. Respondents include Maurice R. Prather. Respondent Maurice R. Prather is an individual who was an "owner" under the definition provided in Section 107(a) of CERCLA, 42 U.S.C. §9607(a) who owned the "facility" when a release or threatened release of hazardous substances occurred.

20. Respondents also include Rueben W. Peppers. Respondent Rueben W. Peppers is an individual who was an "owner" under the definition provided in Section 107(a) of CERCLA, 42 U.S.C. §9607(a) who owned the "facility" when a release or threatened release of hazardous substances occurred.

21. On October 14, 2009, U.S. EPA sent a general notice and information request to Rueben W. Peppers. The general notice advised Mr. Peppers of his potential liability with regard to this matter and encouraged him, as a potentially responsible party, to reimburse U.S. EPA for costs incurred to date and to voluntarily perform or finance the response activities that U.S. EPA has determined or will determine are required at the Site.

IV. CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the Findings of Fact set forth above, and the Administrative Record supporting these removal actions, U.S. EPA determines that:

1. The Cincinnati Die Cast Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. §9601(9).

2. Cadmium, arsenic, chromium, lead, barium, mercury, selenium, and silver are "hazardous substances" as defined by Section 101(14) of CERCLA, 42 U.S.C. §9601(14).

3. Each Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. §9601(21).

4. Respondent Rueben W. Peppers is the present "owner" of the Cincinnati Die Cast Site, as defined by Section 101(20) of CERCLA, 42 U.S.C. §9601(20). Respondent Rueben W. Peppers is a person who at the time of disposal of any hazardous substances owned or operated the Cincinnati Die Cast Site. Respondent Rueben W. Peppers is therefore a liable person under Section 107(a) of CERCLA, 42 U.S.C. §9607(a).

5. Respondent Maurice R. Prather is a prior "owner" of the Cincinnati Die Cast Site, as defined by Section 101(20) of CERCLA, 42 U.S.C. §9601(20). Respondent Maurice R. Prather is a person who at the time of disposal of any hazardous substances owned or operated the Cincinnati Die Cast Site. Respondent Maurice R. Prather is therefore a liable person under Section 107(a) of CERCLA, 42 U.S.C. §9607(a).

6. The conditions described in the Findings of Fact above constitute an actual or threatened "release" into the "environment" as defined by Sections 101(8) and (22) of CERCLA, 42 U.S.C. §§9601(8) and (22).

7. The conditions present at the Site constitute a threat to public health, welfare, or the environment based upon the factors set forth in Section 300.415(b)(2) of the National Oil and Hazardous Substances Pollution Contingency Plan, as amended ("NCP"), 40 CFR Part 300. These factors include, but are not limited to, the following:

a. Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances, pollutants or contaminants; this factor is present at the Site due to the existence of broken doors and windows which allow easy access from trespassers and open pathways for rainwater to run through the Site to nearby areas.

b. Hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release; this factor is present at the Site due to the existence of open containers and the evidence of human presence in the form of trespassers.

c. High levels of hazardous substances, pollutants, or contaminants in soils largely at or near the surface that may migrate; this factor is present at the Site due to the existence of uncontainerized wastes and trenches containing hazardous substances.

d. Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released; this factor is present at the Site due to the existence of open pathways for rainwater to travel through the Site to other neighboring lands or the storm water system.

e. Threat of fire or explosion; this factor is present at the Site due to the existence of abandoned solvents which have flashpoints as low as 93° F and meet the characteristics for ignitability. In addition, a fire has already occurred in 2007.

f. The unavailability of other appropriate federal or state response mechanisms to respond to the release; this factor supports the actions required by this Order at the Site because the county and state lack the resources to respond to this release.

8. The actual or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the public health, welfare, or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. §9606(a).

9. The removal actions required by this Order are necessary to protect the public health, welfare, or the environment, and are not inconsistent with the NCP and CERCLA.

V. ORDER

Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the Administrative Record for this Site, U.S. EPA hereby orders that Respondents perform the following actions:

1. Notice of Intent to Comply

Respondents shall notify U.S. EPA in writing within one (1) business day after the effective date of this Order of Respondents' irrevocable intent to comply with this Order. Failure of each Respondent to provide such notification within this time period shall be a violation of this Order.

2. Designation of Contractor, Project Coordinator, and On-Scene Coordinator

Respondents shall perform the removal actions themselves or retain (a) contractor(s) to implement the removal actions. Respondents shall notify U.S. EPA of Respondents' qualifications or the name and qualifications of such contractor(s), whichever is applicable, by no later than two (2) business days after the effective date of this Order. Respondents shall also notify U.S. EPA of the name and qualifications of any other contractors or subcontractors

retained to perform work under this Order at least five (5) business days prior to commencement of such work. U.S. EPA retains the right to disapprove of the Respondents or any of the contractors and/or subcontractors retained by the Respondents. If U.S. EPA disapproves a selected contractor, Respondents shall retain a different contractor within two (2) business days following U.S. EPA's disapproval and shall notify U.S. EPA of that contractor's name and qualifications within three (3) business days of U.S. EPA's disapproval.

Within two (2) business days after the effective date of this Order, the Respondents shall designate a Project Coordinator who shall be responsible for administration of all Respondents' actions required by the Order and submit the designated coordinator's name, address, telephone number, and qualifications to U.S. EPA. To the greatest extent possible, the Project Coordinator shall be present on-site or readily available during Site work. U.S. EPA retains the right to disapprove of any Project Coordinator named by the Respondents. If U.S. EPA disapproves a selected Project Coordinator, Respondents shall retain a different Project Coordinator within three (3) business days following U.S. EPA's disapproval and shall notify U.S. EPA of that person's name and qualifications within four (4) business days of U.S. EPA's disapproval. Receipt by Respondents' Project Coordinator of any notice or communication from U.S. EPA relating to this Order shall constitute receipt by all Respondents.

The U.S. EPA has designated Steve Renninger of the Emergency Response Branch, Region 5, as its On-Scene Coordinator ("OSC"). Respondents shall direct all submissions required by this Order to Steve Renninger, On-Scene Coordinator, U.S. EPA Region 5, Emergency Response Branch, 26 West Martin Luther King Drive, G-41, Cincinnati, Ohio, 45268, by certified or express mail. Respondents shall also send a copy of all submissions to Brian Barwick, Assistant Regional Counsel, 77 West Jackson Boulevard, C-14J, Chicago, Illinois, 60604-3590. All Respondents are encouraged to make their submissions to U.S. EPA on recycled paper (which includes significant post-consumer waste paper content where possible) and using two-sided copies.

3. Work to Be Performed

Respondents shall perform, at a minimum, the following response activities:

(a) Develop and implement a Site-specific Health and Safety Plan, including an Air Monitoring Plan, and a Site Emergency Contingency Plan;

(b) Develop and implement a Site Security Plan;

(c) Inventory and perform hazard characterization on all substances contained in containers, drums, waste piles, and tanks;

(d) Consolidate and package all hazardous substances, pollutants and contaminants for transportation and off-site disposal;

(e) Dismantle and decontaminate process equipment, tanks and building components associated with the product process area, as necessary;

(f) Transport and dispose of all characterized or identified hazardous substances, pollutants, wastes, or contaminants to a Resource Conservation and Recovery Act/CERCLA-approved disposal facility in accordance with U.S. EPA's Off-Site Rule (40 CFR § 300.440).

(g) Take any other response actions to address any release or threatened release of a hazardous substance, pollutant or contaminant that the U.S. EPA OSC determines may pose an imminent and substantial endangerment to the public health or the environment.

(h) The removal action must be conducted in a manner not inconsistent with the NCP. The OSC has initiated planning for provision of post-removal Site control consistent with the provisions of Section 300.415(l) of the NCP.

3.1 Work Plan and Implementation

Within ten (10) business days after the effective date of this Order, the Respondents shall submit to U.S. EPA for approval a draft Work Plan for performing the removal activities set forth above. The draft Work Plan shall provide a description of, and an expeditious schedule for, the activities required by this Order. The Work Plan shall include a Quality Assurance Project Plan ("QAPP"). The following documents shall be used for the development of QAPPs for Region 5 Superfund sites:

- The Uniform Federal Policy for Quality Assurance Projects Plans ("UFP-QAPP"), OSWER Directive 9272.0-17. (The QAPP format can be found at http://www.epa.gov/fedfac/documents/qualityassurance.htm.)
- EPA Requirements for Quality Assurance Project Plans EPA QA/R-5, March 2001, Reissued May 2006.

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

- Guidance for the Quality Assurance Project Plans EPA QA/G-5, December 2002.
- Guidance on Choosing a Sampling Design for Environmental Data Collection EPA QA/G-5S, December 2002.

U.S. EPA may approve, disapprove, require revisions to, or modify the draft Work Plan. If U.S. EPA requires revisions, Respondents shall submit a revised draft Work Plan within seven (7) business days of notification. Respondents shall implement the Work Plan as finally approved in writing by U.S. EPA in accordance with the schedule approved by U.S. EPA. Once approved, or approved with modifications, the Work Plan, the schedule, and any subsequent

modifications shall be fully enforceable under this Order. Respondents shall notify U.S. EPA at least 48 hours prior to performing any on-site work pursuant to the U.S. EPA approved Work Plan.

Respondents shall not commence or undertake any removal actions at the Site without prior U.S. EPA approval.

.2 Health and Safety Plan

Within ten (10) business days after the effective date of this Order, the Respondents shall submit a plan for U.S. EPA review and comment that ensures the protection of the public health and safety during performance of on-site work under this Order. This plan shall comply with applicable Occupational Safety and Health Administration regulations found at 29 CFR Part 1910. If U.S. EPA determines it is appropriate, the plan shall also include contingency planning. Respondents shall incorporate all changes to the plan recommended by U.S. EPA, and implement the plan during the pendency of the removal action.

3.3 Quality Assurance and Sampling

All sampling and analyses performed pursuant to this Order shall conform to U.S. EPA direction, approval, and guidance regarding sampling, quality assurance/quality control ("QA/QC"), data validation, and chain of custody procedures. Respondents shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with the appropriate U.S. EPA guidance. Respondents shall follow, as appropriate, "Quality Assurance/Quality Control Guidance for Removal Activities: Sampling QA/QC Plan and Data Validation Procedures" (OSWER Directive No. 9360.4-01, April 1, 1990), as guidance for QA/QC and sampling. Respondents shall only use laboratories that have a documented Quality System that complies with ANSI/ASQC E-4 2004, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs" (American National Standard, January 5, 1995), and "EPA Requirements for Quality Management Plans (QA/R-2) (EPA/240/B-01/002, March 2001, Reissued May 2006)," or equivalent documentation as determined by U.S. EPA. U.S. EPA may consider laboratories accredited under the National Environmental Laboratory Accreditation Program as meeting the Quality System requirements.

Upon request by U.S. EPA, Respondents shall have such a laboratory analyze samples submitted by U.S. EPA for quality assurance monitoring. Respondents shall provide to U.S. EPA the QA/QC procedures followed by all sampling teams and laboratories performing data collection and/or analysis. Respondents shall also ensure provision of analytical tracking information consistent with OSWER Directive No. 9240.0-2B, "Extending the Tracking of Analytical Services to PRP-Lead Superfund Sites."

Upon request by U.S. EPA, Respondents shall allow U.S. EPA or its authorized representatives to take split and/or duplicate samples of any samples collected by Respondents or their contractors or agents while performing work under this Order. Respondents shall notify

U.S. EPA not less than three (3) business days in advance of any sample collection activity. U.S. EPA shall have the right to take any additional samples that it deems necessary.

3.4 Reporting

Respondents shall submit a monthly written progress report to U.S. EPA concerning activities undertaken pursuant to this Order, beginning thirty (30) calendar days after the date of U.S. EPA's approval of the Work Plan, until termination of this Order, unless otherwise directed by the OSC. These reports shall describe all significant developments during the preceding period, including the work performed and any problems encountered, analytical data received during the reporting period, and developments anticipated during the next reporting period, including a schedule of work to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

Any Respondent that owns any portion of the Site, and any successor in title shall, at least thirty (30) days prior to the conveyance of any interest in real property at the Site, give written notice of this Order to the transferee and written notice of the proposed conveyance to U.S. EPA and the State. The notice to U.S. EPA and the State shall include the name and address of the transferee. The party conveying such an interest shall require that the transferee will provide access as described in Section V.4 (Access to Property and Information).

3.5 Final Report

Within sixty (60) calendar days after completion of all removal actions required under this Order, the Respondents shall submit for U.S. EPA review a final report summarizing the actions taken to comply with this Order. The final report shall conform to the requirements set forth in Section 300.165 of the NCP. The final report shall also include a good faith estimate of total costs incurred in complying with the Order, a listing of quantities and types of materials removed, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destinations of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (e.g., manifests, invoices, bills, contracts, and permits).

The final report shall also include the following certification signed by a person who supervised or directed the preparation of that report:

> Under penalty of law, I certify that, to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of this report, the information submitted is true, accurate, and complete.

4. Access to Property and Information

Respondents shall provide or obtain access as necessary to the Site and all appropriate off-site areas, and shall provide access to all records and documentation related to the conditions at the Site and the activities conducted pursuant to this Order. Such access shall be provided to U.S. EPA employees, contractors, agents, consultants, designees, representatives, and State of Ohio representatives. These individuals shall be permitted to move freely at the Site and appropriate off-site areas in order to conduct activities which U.S. EPA determines to be necessary. Respondents shall submit to U.S. EPA, upon request, the results of all sampling or tests and all other data generated by Respondents or their contractor(s), or on the Respondents' behalf during implementation of this Order.

Where work under this Order is to be performed in areas owned by or in possession of someone other than Respondents, Respondents shall obtain all necessary access agreements within fourteen (14) calendar days after the effective date of this Order, or as otherwise specified in writing by the OSC. Respondents shall immediately notify U.S. EPA if, after using their best efforts, they are unable to obtain such agreements. Respondents shall describe in writing their efforts to obtain access. U.S. EPA may then assist Respondents in gaining access, to the extent necessary to effectuate the response activities described herein, using such means as U.S. EPA deems appropriate.

5. Record Retention, Documentation, Availability of Information

Respondents shall preserve all documents and information, in their possession or the possession of their contractors, subcontractors or representatives, relating to work performed under this Order, or relating to the hazardous substances found on or released from the Site, for six years following completion of the removal actions required by this Order. At the end of this six year period and at least 60 days before any document or information is destroyed, Respondents shall notify U.S. EPA that such documents and information are available to U.S. EPA for inspection, and upon request, shall provide the originals or copies of such documents and information to U.S. EPA. In addition, Respondents shall provide documents and information retained under this Section at any time before expiration of the six year period at the written request of U.S. EPA. Any information that Respondents are required to provide or maintain pursuant to this Order is not subject to the Paperwork Reduction Act of 1995, 44 U.S.C. §3501 et seq.

6. Off-Site Shipments

All hazardous substances, pollutants or contaminants removed off-site pursuant to this Order for treatment, storage or disposal shall be treated, stored, or disposed of at a facility in compliance, as determined by U.S. EPA, with the U.S. EPA Off-Site Rule, 40 CFR §300.440, 58 Fed. Reg. 49215 (Sept. 22, 1993).

7. Compliance With Other Laws

All actions required pursuant to this Order shall be performed in accordance with all applicable local, state, and federal laws and regulations except as provided in Section 121(e) of CERCLA and 40 CFR §300.415(j). In accordance with 40 CFR §300.415(j), all on-site actions required pursuant to this Order shall, to the extent practicable, as determined by U.S. EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements under federal environmental or state environmental or facility siting laws.

8. Emergency Response and Notification of Releases

If any incident, or change in Site conditions, during the activities conducted pursuant to this Order causes or threatens to cause an additional release of hazardous substances from the Site or an endangerment to the public health, welfare, or the environment, the Respondents shall immediately take all appropriate action to prevent, abate or minimize such release, or endangerment caused or threatened by the release. Respondents shall also immediately notify the OSC or, in the event of his/her unavailability, shall notify the Regional Duty Officer, Emergency Response Branch, Region 5 at (312) 353-2318, of the incident or Site conditions.

Respondents shall submit a written report to U.S. EPA within seven (7) business days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release, and to prevent the reoccurrence of such a release. Respondents shall also comply with any other notification requirements, including those in Section 103 of CERCLA, 42 U.S.C. §9603, and Section 304 of the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. §11004.

VI. AUTHORITY OF THE U.S. EPA ON-SCENE COORDINATOR

The OSC shall be responsible for overseeing the implementation of this Order. The OSC shall have the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any work required by this Order, or to direct any other response action undertaken by U.S. EPA or Respondents at the Site. Absence of the OSC from the Site shall not be cause for stoppage of work unless specifically directed by the OSC.

U.S. EPA and Respondents shall have the right to change their designated OSC or Project Coordinator. U.S. EPA shall notify the Respondents, and Respondents shall notify U.S. EPA, as early as possible before such a change is made, but in no case less than 24 hours before such a change. Notification may initially be made orally, but shall be followed promptly by written notice.

VII. PENALTIES FOR NONCOMPLIANCE

Violation of any provision of this Order may subject Respondents to civil penalties of up to $37,500 per violation per day, as provided in Section 106(b)(1) of CERCLA, 42 U.S.C. §9606(b)(1) and as adjusted by 69 Fed. Reg. 7121-27 (Feb. 13, 2004) (codified at 40 C.F.R. § 19.4) pursuant to the Debt Collection Improvement Act of 1996. Respondents may also be subject to punitive damages in an amount up to three times the amount of any cost incurred by the United States as a result of such violation, as provided in Section 107(c)(3) of CERCLA, 42 U.S.C. §9607(c)(3). Should Respondents violate this Order or any portion hereof, U.S. EPA may carry out the required actions unilaterally, pursuant to Section 104 of CERCLA, 42 U.S.C. §9604, and/or may seek judicial enforcement of this Order pursuant to Section 106 of CERCLA, 42 U.S.C. §9606.

VIII. REIMBURSEMENT OF COSTS

Respondents shall reimburse U.S. EPA, upon written demand, for all response costs incurred by the United States in overseeing Respondents' implementation of the requirements of this Order. U.S. EPA may submit to Respondents on a periodic basis a bill for all response costs incurred by the United States with respect to this Order. U.S. EPA's Itemized Cost Summary, or such other summary as certified by U.S. EPA, shall serve as the basis for payment.

Respondents shall remit payment for the demanded amount within thirty (30) days of receipt of the bill. Payment shall be made to U.S. EPA electronically by either Electronic Funds Transfer payment via the Automated Clearinghouse for U.S. currency, or payment on line at the U.S. Department of Treasury website (www.pay.gov) in accordance with current procedures that U.S. EPA Region 5 will provide Respondents[1], and shall be accompanied by a statement identifying the name and address of the party(ies) making payment, the Site name, U.S. EPA Region 5, the Site/Spill ID Number B5TZ, and the U.S. EPA docket number for this action. Respondents shall: 1) complete Respondents' required bank form; 2) include Federal Reserve Bank of New York, ABA #021030004 on the bank form; 3) include the U.S. EPA Account #68010727 on the form; 4) include the SWIFT address FRNYUS33, 33 Liberty Street, New York, NY, 10045; 5) include "D 68010727 Environmental Protection Agency" in Field Tag 4200 of the Fedwire message; and, 6) include a statement identifying the name and address of the party(ies) making payment, the Site name, and the U.S. EPA Region and Site/Spill ID Number B5TZ.

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1 Payments via ACH are to:
PNC Bank, 808 17th Street, NW, Washington, DC 20074
Contact – Jesse White
301-887-6548; ABA = 051036706; Transaction Code 22 - checking
Environmental Protection Agency; Account 310006; CTX Format

When the response costs identified in the above Paragraph are less than $10,000, payment may, in lieu of the described EFT method, be made by certified or cashier's check made payable to "U.S. EPA Hazardous Substance Superfund". Each check, or a letter accompanying each check, shall identify the name and address of the party(ies) making payment, the Site name, U.S. EPA Region 5, the Site/Spill ID Number B5TZ, and the U.S. EPA docket number for this action, and shall be sent to:

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

At the time of payment, Respondents shall send notice that such payment has been made to the Director, Superfund Division, U.S. EPA Region 5, 77 West Jackson Boulevard, S-6J, Chicago, Illinois, 60604-3590 and to Brian Barwick, Assistant Regional Counsel, 77 West Jackson Boulevard, C-14J, Chicago, Illinois, 60604-3590.

The total amount to be paid by Respondents shall be deposited in the Cincinnati Die Cast Site Special Account within the U.S. EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by U.S. EPA to the U.S. EPA Hazardous Substance Superfund.

IX. RESERVATION OF RIGHTS

Nothing herein shall limit the power and authority of U.S. EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent U.S. EPA from seeking legal or equitable relief to enforce the terms of this Order. U.S. EPA also reserves the right to take any other legal or equitable action, as it deems appropriate and necessary, or to require the Respondents in the future to perform additional activities pursuant to CERCLA or any other applicable law.

X. OTHER CLAIMS

By issuance of this Order, the United States and U.S. EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents. The United States or U.S. EPA shall not be a party or be held out as a party to any contract entered into by the Respondents or their directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out activities pursuant to this Order. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this Order.

This Order does not constitute a pre-authorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. §9611(a)(2).

Nothing in this Order constitutes a satisfaction of or release from any claim or cause of action against the Respondents or any person not a party to this Order, for any liability such person may have under CERCLA, other statutes, or the common law, including but not limited to any claims of the United States for costs, damages and interest under Sections 106(a) or 107(a) of CERCLA, 42 U.S.C. §§9606(a), 9607(a).

XI. MODIFICATIONS

Modifications to any plan or schedule may be made in writing by the OSC or at the OSC's oral direction. If the OSC makes an oral modification, it will be memorialized in writing within seven (7) business days; however, the effective date of the modification shall be the date of the OSC's oral direction. The rest of the Order, or any other portion of the Order, may only be modified in writing by signature of the Director, Superfund Division, Region 5.

If Respondents seek permission to deviate from any approved plan or schedule, Respondents' Project Coordinator shall submit a written request to U.S. EPA for approval outlining the proposed modification and its basis.

No informal advice, guidance, suggestion, or comment by U.S. EPA regarding reports, plans, specifications, schedules, or any other writing submitted by the Respondents shall relieve Respondents of their obligations to obtain such formal approval as may be required by this Order, and to comply with all requirements of this Order unless it is formally modified.

XII. NOTICE OF COMPLETION

After submission of the Final Report, Respondents may request that U.S. EPA provide a Notice of Completion of the work required by this Order. If U.S. EPA determines, after U.S. EPA's review of the Final Report, that all work has been fully performed in accordance with this Order, except for certain continuing obligations required by this Order (e.g., record retention), U.S. EPA will provide written notice to the Respondents. If U.S. EPA determines that any removal activities have not been completed in accordance with this Order, U.S. EPA will notify the Respondents, provide a list of the deficiencies, and require that Respondents modify the Work Plan to correct such deficiencies. The Respondents shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the U.S. EPA notice. Failure to implement the approved modified Work Plan shall be a violation of this Order.

XIII. ACCESS TO ADMINISTRATIVE RECORD

The Administrative Record supporting these removal actions is available for review during normal business hours in the U.S. EPA Record Center, Region 5, 77 W. Jackson Blvd., Seventh Floor, Chicago, Illinois. Respondents may contact Brian Barwick, Assistant Regional Counsel, at (312) 886-6620 to arrange to review the Administrative Record. An index of the Administrative Record is attached to this Order.

XIV. OPPORTUNITY TO CONFER

By no later than November 30, 2009, Respondents may request a conference with U.S. EPA. Any such conference shall be held by no later than December 3, 2009. At any conference held pursuant to the request, Respondents may appear in person or be represented by an attorney or other representative.

If a conference is held, Respondents may present any information, arguments or comments regarding this Order. Regardless of whether a conference is held, Respondents may submit any information, arguments or comments (including justifications for any assertions that the Order should be withdrawn against a Respondent), in writing to U.S. EPA by December 3, 2009. This conference is not an evidentiary hearing, does not constitute a proceeding to challenge this Order, and does not give Respondents a right to seek review of this Order. Requests for a conference shall be directed to Brian Barwick, Assistant Regional Counsel, at (312) 886-6620. Written submittals shall be directed as specified in Section V.2 of this Order.

XV. SEVERABILITY

If a court issues an order that invalidates any provision of this Order or finds that Respondents have sufficient cause not to comply with one or more provisions of this Order, Respondents shall remain bound to comply with all provisions of this Order not invalidated by the court's order.

XVI. EFFECTIVE DATE

This Order shall be effective December 3, 2009, unless a conference is requested as provided herein. If a conference is requested, this Order shall be effective one (1) business day after the day of the conference. Within thirty (30) days after the effective date of this Order and every thirty (30) days thereafter until notice of completion of work under Section XII, one or more of the Respondents shall demonstrate to U.S. EPA that they meet one of the financial assurance mechanisms specified in 40 C.F.R. §264.143 for the sufficient estimated costs of work to be performed by the Respondents under this Order.

IN THE MATTER OF:
CINCINNATI DIE CAST SITE
CINCINNATI, OHIO

IT IS SO ORDERED

BY: _____ DATE: 11/23/09

Richard C. Karl
Director
Superfund Division
United States Environmental Protection Agency
Region 5

CINCINNATI DIE CAST SITE
LIST OF RESPONDENTS RECEIVING
NOVEMBER 2009 UNILATERAL ADMINISTRATIVE ORDER

Mr. Reuben W. Peppers
9860 Skyridge Drive
Cincinnati, Ohio 45242

Mr. Maurice R. Prather
4162 Covetree Lane
Batavia, Ohio 45242

ATTACHMENT A

INDEX TO ADMINISTRATIVE RECORD

1. PHASE I ENVIRONMENTAL SITE ASSESSMENT Former General Tool and Die 4524 W. Mitchell Avenue Cincinnati, Ohio, dated December 15, 2004.

2. ACTION MEMORANDUM - Request for a Time-Critical Removal Action at the Cincinnati Die Cast Site, Cincinnati, Hamilton County, Ohio (Site ID #B5TZ), Steve Renninger, On-Scene Coordinator, U.S. EPA, dated November 4, 2009.

3. Compliance Inspection Report, Ohio Department of Commerce, Division of State Fire Marshall, Bureau of Underground Storage Tank Regulations, dated June 4, 2007.

4. Stop Work and Vacate Order for the Property at 4524 W. Mitchell Ave. 2cnd Notice, dated July 24, 2007.

5. Summary of Violations and Inspections at the 4524 W. Mitchell Ave.,dated September 21, 2009.

6. Decision - Public Hearing re: Building and Premises at 4524 W. Mitchell Ave. (Case Number: B200806254), dated February 23, 2009.

7. Letter re: U.S. EPA Requests that Ohio EPA Identify all ARARs for the Cincinnati Die Cast Site, dated October 5, 2009.

8. Letter re: Cincinnati Fire Dept. Request for U.S. EPA Assistance at the Cincinnati Die Cast Site, dated October 6, 2009.

9. Site Assessment Report for the Cincinnati Die Caste Site, Weston Solutions, (pending).

ATTACHMENT B

LIABILITY FILE INDEX

1. PHASE I ENVIRONMENTAL SITE ASSESSMENT Former General Tool and Die 4524 W. Mitchell Avenue Cincinnati, Ohio dated December 15, 2004.

2. General Warranty Deed. W.P. Butler Company, Grantor; Maurice R. Prather and Joseph L.H. Kemper, Grantees; dated December 27, 1978; recorded January 4, 1979.

3. Deed. The First National Bank of Cincinnati, Executor of the Estate of Joseph L.H. Kemper, deceased, Grantor; Maurice R. Prather, Grantee; dated August 28, 1979; recorded October 29, 1979.

4. Sheriff's Deed. Simon L. Lies, Jr., Sheriff of Hamilton County, Ohio, Grantor; Reuben W. Peppers, Grantee; dated November 24, 2004; recorded December 20, 2004.

5. Record of Interview of Maurice R. Prather by Civil Investigator Joseph Kawecki of U.S. EPA dated November 20, 2009.